

# Texas Register

Volume 18, Number 45, June 11, 1993

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Texas Register



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Secretary of State John Hannah, Jr.

Director Dan Procter

Assistant Director Dee Wright

Circulation/Marketing Jill S. Dahnert Roberta Knight

TAC Editor Dana Blanton

TAC Typographer Madeline Chrisner

Documents Section Supervisor Patty Webster

Document Editors Janiene Allen Robert Macdonald

Open Meetings Clerk Jamie Alworth

Production Section Supervisor Ann Franklin

Production Editors/Typographers Carla Carter Janice Rhea Mimi Sanchez

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How to Use the Texas Register

Information Available: The 10 sections of the Texas Register represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

Open Meetings - notices of open meetings.

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

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

How to Cite: Material published in the Texas Register is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 18 (1993) is cited as follows: 18 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "18 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 18 TexReg 3."

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

Texas Administrative Code

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

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

The office of the Secretary of State does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

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.

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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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Name: Adan Villanueva

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Adan



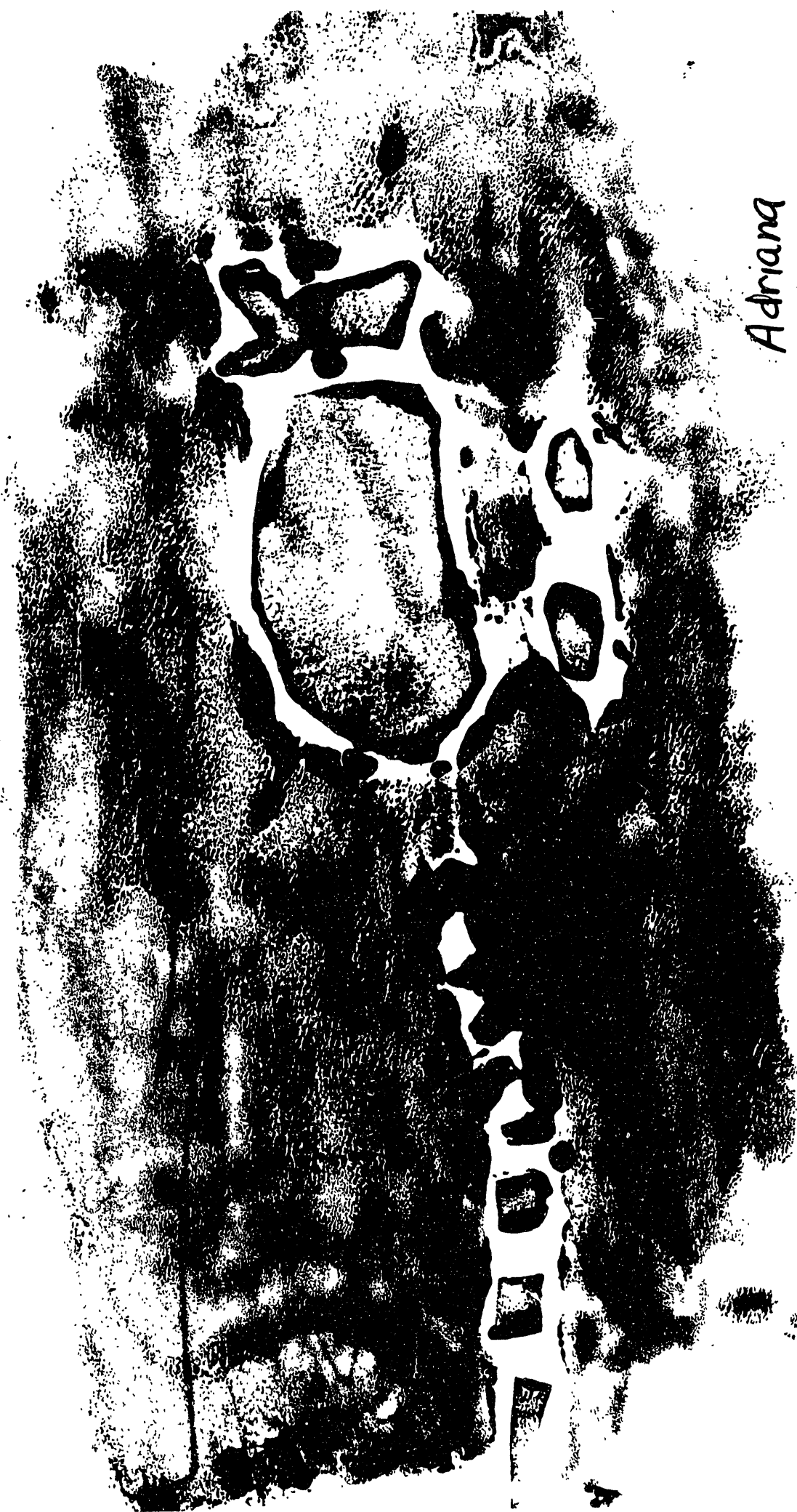


Name: Michael Serpas  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Michael

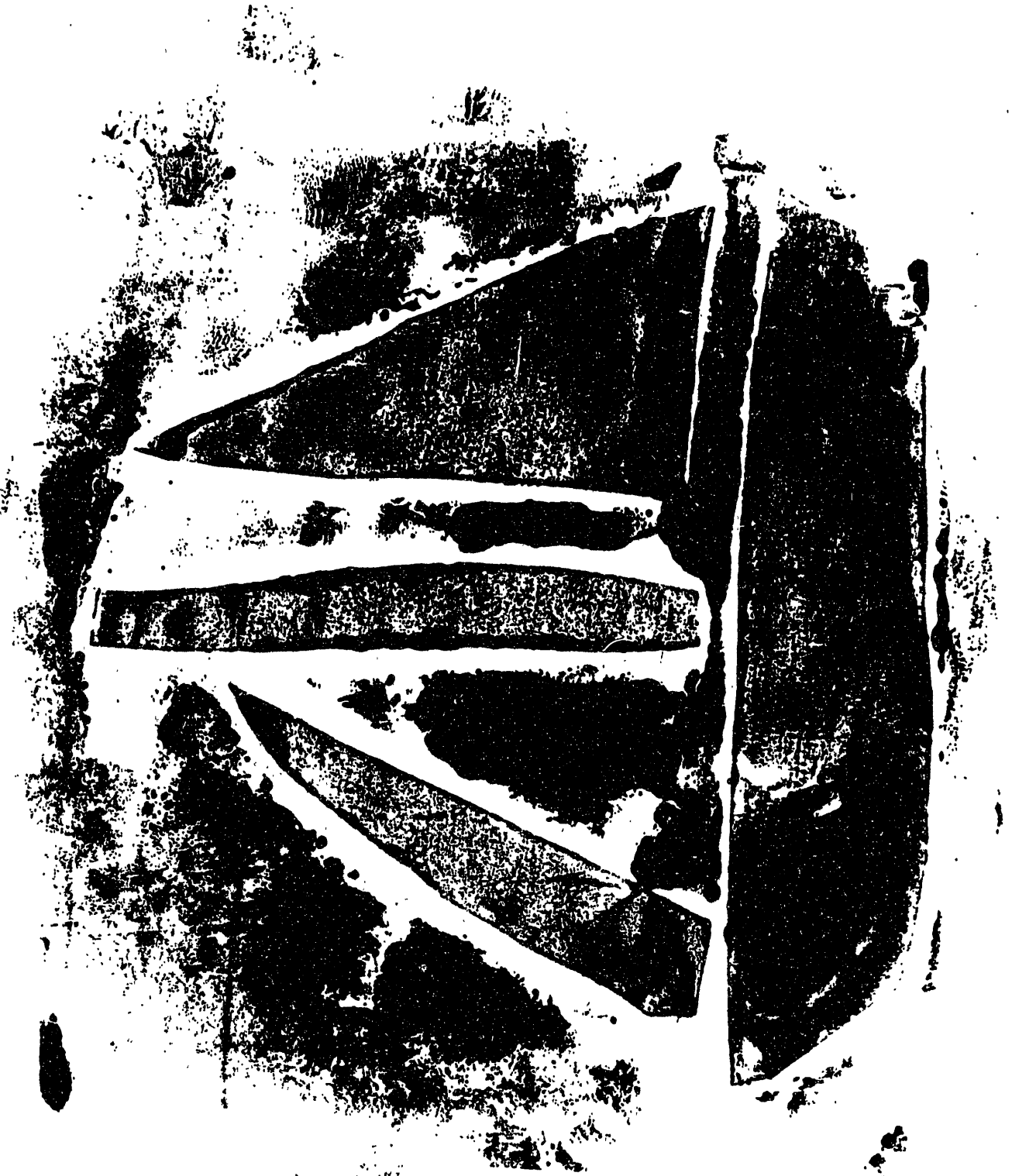


Name: Adriana Serrano  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Adriana

Beth



Name: Beth Bowers

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Aisha



Name: Aisha Mauk

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Andrea Cano  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



# The Governor

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

## Appointments Made May 27, 1993

To be Chairman of the Texas Board of Architectural Examiners for a term at the pleasure of the Governor: Theodore S. Maffitt, Jr. of Palestine. Mr. Maffitt will be replacing Pedro Aguirre of Dallas as Chairman. Mr. Aguirre has resigned from the Board.

## Appointments Made June 1, 1993

To be Criminal District Attorney, Bowie County until the next General Election and until his successor shall be duly elected and qualified. Leon F. Pesek, Jr., 403 Whipoorwill, Wake Village, Texas 75501. Mr. Pesek will be replacing John F. Miller, Jr. of Texarkana, who was elevated to the position of Judge of the 102nd Judicial District Court.

To be a member of the Lamar University System Board of Regents for a term to expire October 4, 1995: David J. Beck, 3652 Inverness, Houston, Texas 77019. Mr. Beck will be filling the unexpired term of Carroll W. Conn, Jr. of Beaumont, who resigned.

To be a member of the Texas State Board of Examiners of Psychologists for a term to expire October 31, 1995: Emily G. Sutter, Ph. D., 15719 Heatherdale, Clear Lake City, Houston, Texas 77059. Dr. Sutter will be filling the unexpired term of Jerome Sherman of Houston, who is deceased.

To be a member of the Texas Board of Architectural Examiners for a term to expire January 31, 1999: Maricela Rodriguez Barr, 2301 Greenlee Drive, Austin, Texas 78703. Ms. Barr will be replacing Thomas W. Parker of Bryan, whose term expired.

To be a member of the Texas Board of Architectural Examiners for a term to expire January 31, 1999: Mary Ann Bryan, 10023 Locke Lane, Houston, Texas 77063. Ms. Bryan will be replacing Earl Broussard, Jr. of Austin, whose term expired.

To be a member of the Texas Board of Architectural Examiners for a term to expire January 31, 1999: Mary French Cable, Star Route, Box 126, Sulphur Springs, Texas 75482. Ms. Cable will be replacing Dee Lynn Aguilar of Fort Worth, whose term expired.

To be a member of the Polygraph Examiners Board for a term to expire June 18, 1995: Rob L. Kimmons, 12454 Honeywood Trail, Houston, Texas 77077. Mr. Kimmons will be filling the unexpired term of Ed Hodges of Dallas, who resigned.

To be a member of the Polygraph Examiners Board for a term to expire June 18, 1997: William H. Quimby, 4719 Cole Avenue, #126, Dallas, Texas, 75205. Mr. Quimby will be replacing Eddie Senigaur of Beaumont, whose term expired.

To be a member of the Texas Optometry Board for a term to expire January 31, 1999: Susan B. Place, O.D., 6504 Elkhurst, Plano, Texas 75023. Dr. Place will be replacing Dr. Floyd L. Thornton of Wichita Falls, whose term expired.

To be a member of the Texas Optometry Board for a term to expire January 31, 1999: Barry Owen Morres, O.D., 4106 Trent, Sugar Land, Texas 77479. Dr. Moores will be replacing Dr. Clinton M. DeWolfe of Blanco, whose term expired.

To be a member of the Texas Optometry Board for a term to expire January 31, 1999: Donnya Elle Stephens, Box 6147, SFASU, Nacogdoches, Texas 75962. Ms. Stephens will be replacing May Kay Walls of Cleburne, whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Pamela J. Daggett, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78701. Ms. Daggett will be replacing Zeek Harris of Austin, whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Patricia Krall Martin, General Services Commission, P.O. Box 13047, Austin, Texas 78711. Ms. Martin will be replacing Ron Arnett of Austin, whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Michael T. Phillips, Texas Commission for the Blind, 4800 North Lamar Boulevard, Austin, Texas 78756. Mr. Phillips is being reappointed.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: R. Wayne Sanders, Texas Rehabilitation Commission, 4900 North Lamar, Austin, Texas 78751-2399. Mr. Sanders will be replacing John Albert Fenoglio of Austin, whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Leticia M. Turner, Panhandle Eastern Corporation, 5400 Westheimer Court, Houston, Texas 77056-5310. Ms. Turner will be replacing Carl Cagle of Corpus Christi, whose term expired.

To be a member of the Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons for a term to expire January 31, 1995: Roger G. Welsch, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. Mr. Welsch is being reappointed.

Issued in Austin, Texas, on June 2, 1993.

TRD-9323724

Ann W. Richards  
Governor of Texas

To be a member of the Polygraph Examiners Board for a term to expire June 18, 1999 to be effective June 19, 1993: Antonio V. Suarez-Barrio, Rural Route 1, Box 203-2, Killeen, Texas 76542-9707. Dr. Suarez-Barrio will be replacing J. Glenn Divinye of Hurst, whose term expires June 18, 1993.

## Appointments Made June 2, 1993

To be a member of the Texas Department of Commerce Policy Board for a term to expire February 1, 1999: Sonia Perez, 609 Xanthisma, McAllen, Texas 78504. Ms. Perez will be replacing Patricia B. Meadows of Dallas, whose term expired.

To be a member of the Texas Southern University Board of Regents for a term to expire February 1, 1999: Rosie Zamora-Cope, 7447 Cambridge, #79, Houston, Texas 77054. Ms. Zamora-Cope will be replacing Percy P. Creuzot of Houston, whose term expired.

To be a member of the Texas Southern University Board of Regents for a term to expire February 1, 1999: Anthony D. Lyons, 1909 Druid Lane, Fort Worth, Texas 76112. Mr. Lyons will be replacing David Gamble of Houston, whose term expired.

To be a member of the Texas Southern University Board of Regents for a term to expire February 1, 1999: Oliver C. Sutton II, 825 North Pine, San Antonio, Texas 78205. Mr. Sutton will be replacing Carole A. Woodard of Galveston, whose term expired.

### **Appointments Made June 3, 1993**

To be a Judge of the 241st Judicial District Court, Smith County, until the next General Election and until his successor shall be duly elected and qualified. Joe Dodson Clayton, 813 Woodland Hills Drive, Tyler, Texas 75701. Judge Clayton will be replacing Judge Joe Tunnell of Tyler, whose retired.

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

TRD-9323768

Ann W. Richards  
Governor of Texas



# Emergency Sections

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

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

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 31. Division of Public Transportation

##### Federal Programs

###### • 43 TAC §31.36

The Texas Department of Transportation adopts on an emergency basis an amendment to §31.36, concerning Section 18 Grant Program. The amendment would delete subsection (c)(3)(C) of this section, which currently prescribes budgeting requirements for Section 18 contractors. The deletion of this requirement allows the contractor more flexibility in its annual budget application.

As a first step in the contracting process, eligible recipients must submit their Fiscal Year 1994 funding requests, which include a project budget, to the Texas Department of Transportation no later than June 15, 1993. Adoption on an emergency basis is therefore necessary due to serious funding constraints facing Section 18 contractors in Fiscal Year 1994 and the need to provide them sufficient budgetary flexibility to avoid disruption of vital public transportation services and the attendant adverse impact on the public welfare and economies of affected communities.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Articles

6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically, to administer the state public transportation fund and state and federal public transportation programs.

##### §31.36. Section 18 Grant Program.

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

(c) Formula allocation. As part of its administration of the Section 18 program, the department is charged with ensuring that there is a fair and equitable distribution of program funds within the state (FTA Circular 9040.1B, Chapter 1, Section 4). Effective September 1, 1989, the department will allocate Section 18 funds to local contractors in the following manner.

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

(3) The balance of the annual Section 18 federal apportionment will be allocated to existing Section 18 contractors on a formula basis as described in subparagraphs (A) and (B) [(C)] of this paragraph. Upon the contractor's completion of and compliance with all application requirements, rules and regulations applicable to the Section 18 program, the department and the contractor will negotiate a contract. All such contracts shall have an effective date of September 1 and shall be

for a 12-month period unless otherwise authorized by the department. Formula allocations for the next fiscal year will be announced by the department no later than June 1. The formula contains two demographic factors and three performance factors, with the allocations computed as follows.

(A)-(B) (No change.)

[(C) For the purpose of the calculations in subparagraph (B) of this paragraph, the department will assume that 10% of each contractor's formula allocation will be dedicated for capital items. However, each contractor will indicate in its annual application budget the actual amount to be allotted to the capital category. Under no circumstances shall administrative expenses exceed 30% of the total (federal Section 18 dollars plus match) sum of administrative and net operating funding.]

Issued in Austin, Texas, on June 2, 1993.

TRD-9323688

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: June 2, 1993

Expiration date: September 30, 1993

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

◆ ◆ ◆



Name: Michael O'Shea

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

# Proposed Sections

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

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

## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 3. Boll Weevil Eradication Program

##### Subchapter A. Election Procedures

###### • 4 TAC §§3.1-3.6

The Texas Department of Agriculture (the department) proposes new §§3. 1-3.6, concerning election procedures for the conducting of elections by the Boll Weevil Eradication Foundation (the foundation). The foundation was established by the enactment by the 73rd Legislature of Senate Bill 30, which added to the Texas Agriculture Code (the Code), Chapter 74, Subchapter D, effective June 1, 1993, which provides for the establishment of a boll weevil eradication program for the State of Texas to be implemented by the foundation and the department. In accordance with the provisions of the Texas Agriculture Code, §74.114, the department proposes procedures for use by the Boll Weevil Eradication Foundation to conduct referenda to establish boll weevil eradication zones and assessment rates and to elect board members to serve on the foundation's board of directors.

The proposed procedures provide general instructions for conducting elections including voter eligibility requirements, requirements for board candidates, procedures for providing notice of the elections, procedures for voting and canvassing of votes, requirements for ballots used in elections, and requirements and procedures for approval of zones, assessment rates, and/or board elections.

Dolores Alvarado Hibbs, Chief Administrative Law Judge, has determined that for the first five-year period the rules are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the sections.

Ms. Hibbs also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the sections will be an efficient, fair, and uniform election process for conducting of elections by the Boll Weevil Eradication Foundation. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. In accordance with Senate Bill 30, the Foundation is respon-

sible for costs of elections conducted under these sections and such costs are not determinable at this time.

Comments on the proposal may be submitted to Katie Dickie, Assistant Commissioner for Producer Relations, P.O. Box 12847, Austin, Texas 78711, and must be received no later than 30 days from the date of the publication of this proposal in the *Texas Register*.

The new sections are being proposed under the Texas Agriculture Code, §74. 114, which requires the department to adopt procedures for conducting of elections by the Boll Weevil Eradication Foundation.

##### §3.1. Voter Eligibility.

(a) Any cotton grower having cotton production in a proposed or established eradication zone is entitled to vote in any referendum concerning the establishment of an eradication zone or rate of assessment for that zone. For purposes of this chapter, a grower is an individual who receives direct income on or after June 1, 1992, from the sale of cotton and who will be responsible for paying an assessment established by the Boll Weevil Eradication Foundation (the foundation), i.e., if proceeds of sale go to the grower, he or she will pay; if proceeds go to an absentee landlord, he or she will pay. The term cotton grower includes the owner of the farm on which the cotton is grown and the owner's tenant or sharecropper, provided that only one vote may be cast representing the same production, e.g., if two acres are owned jointly, both owners cannot vote and both claim two acres: usually the owner paying the assessment will claim both acres, but if are both paying, each may claim one acre.

(b) A cotton grower eligible to vote in the eradication zone referendum and/or assessment referendum is also entitled to elect board members to represent the eradication zone in which the grower's cotton production occurs.

(c) An eligible cotton grower may vote only once in each zone referendum and/or board election. If a grower has production in more than one zone, the grower may vote in each zone in which he or she meets the eligibility requirements for voting provided at subsection (a) of this section.

##### §3.2. Board Candidates.

(a) A representative number of members to the foundation's board of directors shall be elected from each established zone. The number of members from a particular zone will depend on the total number of zones to be established and the total number of board members making up the board. In any event, each established zone shall be represented on the board.

(b) In order to be a candidate for board membership, a person must be eligible to vote in the referendum and must reside in the zone that he or she is seeking to represent.

(c) In order to have his or her name put on the ballot, a person must file with the foundation, or if before certification has occurred, with the commissioner of agriculture, at least 30 days prior to the date of the election, a petition signed by ten eligible voters within the zone to be represented. The form for the petition is to be provided by the foundation, or the commissioner if certification has not occurred.

(d) An eligible voter may vote for a cotton grower whose name does not appear on the ballot by writing that person's name and county of residence on the ballot.

(e) Board candidates are elected by receiving the highest number of votes of all candidates for that board position.

##### §3.3. Conduct of Elections; Notice.

(a) The commissioner will work with the foundation to ensure an efficient and honest election.

(b) The initial election for board members from each proposed eradication zone shall be held concurrently with the initial eradication zone referendum or referendum. The foundation may call additional referenda in a proposed eradication zone in which a referendum has failed, provided that such additional referenda and board elections are held no earlier than the 121st day after the date of the last referendum.

(c) The foundation may conduct an assessment referendum or referenda either in conjunction with the initial board elections and eradication zone referendum or referenda or at a time subsequent to the

initial elections and referendum or referenda.

(d) A board election and referendum or referenda to establish an eradication zone and/or zone assessment must be preceded by at least 45 days notice published in one or more newspapers published and distributed throughout the proposed or established eradication zone or zones. The notice shall be published not less than once a week for three consecutive weeks. In addition, direct written notice of the election shall be given to each county extension agent of the Texas Agricultural Extension Service in the eradication zone or zones at least 45 days before the date of the election, referendum, or referenda.

(e) Notice provided in accordance with subsection (d) of this section shall include:

- (1) the date of the election;
- (2) the manner in which the election is to be conducted (i.e., by mail or physical balloting);
- (3) the purpose of the election;
- (4) if appropriate, information regarding the election of board members, including how to get on the ballot;
- (5) if an assessment referendum or referenda are being conducted, the maximum assessment to be paid by cotton growers having production in the eradication zone and the time for which the assessment will be collected; and
- (6) who to contact for more information.

(f) Except as provided in subsection (h) of this section, a referendum or referenda to establish zones and/or set assessment rates and elect board members shall be conducted by mail ballot, with ballots returned by mail to the principal headquarters of the foundation.

(g) No ballot will be valid if post-marked after midnight on the last day for voting in the board election, referendum or referenda.

(h) An eligible voter may, instead of voting by mail ballot, vote in person before the deadline for voting in the board election, referendum or referenda at the office of the county extension agent of the Texas Agricultural Extension Service in the county in which the cotton grower resides. A county agent shall hold ballots received in accordance with this subsection in trust and at the conclusion of the election immediately forward any ballots received to the principal headquarters of the foundation for canvassing in accordance with §3.5 of this title (relating to Canvassing of Ballots).

(i) Instructions for county agents and voters will be available in each election

from the foundation and approved by the commissioner of agriculture.

#### §3.4. Ballots.

(a) The commissioner will make available instructions for the form of the ballot to be used and ballots shall be approved by the commissioner before being submitted to the voters.

(b) A ballot for conducting an eradication zone referendum or referenda and board election must include, or be accompanied by:

(1) information about the proposed eradication zone, including:

(A) a statement of the purpose of the boll weevil eradication program;

(B) the geographic area included in the proposed eradication zone;

(C) a general summary of rules adopted by the commissioner under the Code, §§74.114, 74.118, and 74.120, including a description of:

(i) cotton grower responsibilities; and

(ii) penalties for noncompliance with rules adopted under Chapter 74, Subchapter A, of the code;

(2) names of board candidates; and

(3) instructions for voting in the board election.

(c) A ballot for conducting an assessment referendum or referenda shall include:

(1) the maximum assessment to be paid by cotton growers having production in the eradication zone;

(2) the time for which the assessment will be collected; and

(3) the purposes for which the assessment will be used.

(d) If an assessment referendum or referenda is held in conjunction with a referendum or referenda to establish an eradication zone or zones and elect a board member for that zone or zones, the ballot shall include all of the information required by subsections (b) and (c) of this section.

(e) To be considered valid, a ballot must bear a signature, the amount of row acreage of cotton farmed for the full calendar year immediately preceding the election year and the address of the grower.

(f) Ballots shall be sent with prepaid return postage.

(g) Proposed ballots and other election materials must be provided to the commissioner for approval no later than 30 days before the election date.

#### §3.5. Canvassing of Ballots.

(a) Ballots in all board elections and referenda will be counted at the headquarters of the foundation by a canvassing committee consisting of a representative of the county judge from the county in which the ballots are counted by the committee, a representative of the Texas Agricultural Extension Service, a representative of the foundation, and a representative of the Texas Department of Agriculture.

(b) In all elections, results will be certified by the canvassing committee and submitted to the commissioner of agriculture for verification.

(c) Votes will be tabulated and recorded by zone, with the following tabulations recorded for each zone:

- (1) total number of valid votes;
- (2) total voting for proposition;
- (3) total voting against proposition;
- (4) percentage voting for proposition;
- (5) total cotton row acreage in zone;
- (6) total cotton row acreage voting for proposition;
- (7) total cotton row acreage voting against proposition;
- (8) percentage of cotton row acreage voting for proposition;
- (9) if applicable, total votes for each board candidate.

(d) Upon completion of canvassing of the ballots, the ballots shall be stored at the department's offices located in Austin, for a period of 30 days. Thereafter, the ballots shall be destroyed.

#### §3.6. Approval of Zones, Assessment Rates, Board Elections.

(a) A referendum or referenda to establish a zone or to set an assessment rate must pass by a favorable vote of at least two-thirds of those voting on the referendum or of growers who farm more than 50% of the total row acreage of cotton in the relevant eradication zone. The total row acreage of cotton in each zone shall be determined by use of the latest available figures from the Texas office of the Agricultural Stabilization and Conservation Service.

(b) If a referendum is not approved, the foundation may not conduct another



referendum in the same zone or zones on that same issue before the 121st day after the date of the election on the failed referendum. In addition, the concurrent election of board members from the proposed eradication zone has no effect.

(c) Board members for each zone shall be elected by majority vote.

(d) After the commissioner has certified the establishing of the eradication zones and foundation board and issued certificates of election to those elected board members, those members may act in accordance with the powers provided to them by the Texas Agriculture Code, Chapter 74, Subchapter D.

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 June 7, 1993.

TRD-9323921

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: July 12, 1993

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

## Chapter 5. Quarantines

### Imported Fire Ant Quarantine

#### • 4 TAC §5.1

The Texas Department of Agriculture proposes an amendment to §5.1, concerning quarantines of newly infested counties. The amendment is proposed to stop the movement of imported fire ants out of currently infested areas of the state and adds Brown, Maverick, Midland, Jones, Kimble, La Salle, Palo Pinto, Stephens, Val Verde, and parts of Ector and Montague counties to the list of quarantined areas.

David Davis, director of plant quality 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. Davis also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to slow the introduction of the imported fire ant into areas of Texas that are currently not infested. 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 Darrell Williams, Plant Quality Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

The amendment is proposed under Texas Agriculture Code, §71.002, which provides the Texas Department of Agriculture with the authority to establish a quarantine against in-state diseases and pests; and §71.007, which authorizes the department to adopt rules necessary for the protection of agricultural and horticultural interests.

#### §5.1. Quarantined Areas.

(a) The Texas Department of Agriculture hereby adopts by reference as quarantined areas those counties in Texas, or portions, thereof, listed as regulated areas in the most current federal imported fire ant quarantine as adopted by the United States Department of Agriculture, as found at 7 Code of Federal Regulations, §301.81-2a.

(b) In addition to the provisions described in subsection (a) of this section, Brown, Maverick, Midland, Jones, Kimble, La Salle, Palo Pinto, Stephens, and Val Verde counties are quarantined areas.

(c) In addition to the provisions described in subsection (a) and (b) of this section, the following parts of Ector and Montague counties are quarantined areas:

(1) Ector County—that part of the county beginning at the intersection of U.S. Interstate Highway 20 and State Highway 302 in the southwest corner, then northerly along State Highway 302 until the intersection of State Highway 302 and West Loop 338, then continuing north on West Loop 338 to East Loop 338, then continuing southeasterly and south along East Loop 338, to the intersection of U.S. Interstate Highway 20 on the southeast corner, then proceeding westerly along U.S. Interstate Highway 20 to the intersection of State Highway 302 and U.S. Interstate Highway 20;

(2) Montague County—that part of the county that is south of State Highway 82.

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 June 2, 1993.

TRD-9323798

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: July 12, 1993

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

## TITLE 7: BANKING AND SECURITIES

### Part II. Banking Department of Texas

#### Chapter 25. Prepaid Funeral Contracts

##### • 7 TAC §25.21

The Banking Department of Texas proposes new §25.21, concerning the Joint Memorandum of Understanding. New §25.21 outlines the statutory requirements of Texas Civil Statutes, Article 4582(b), §4(1). That statute provide that the Joint Memorandum of Understanding shall be promulgated by rule by each of the affected agencies. Any future revisions to the Joint Memorandum of Understanding will be promulgated as amendments to these rules.

Stephanie Newberg, director of special audits, has determined that for the first five-year period rule is in effect there will be no fiscal implications for state government or local government as a result of enforcing or administering the rule and there will be no local employment or the local economy.

Ms. Newberg also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the ability to better regulate prepaid funeral services and insurance, and the ability to provide better services to consumers through better coordination of the complaint processing and regulatory activities of the three agencies. 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, to be considered by the Banking Department of Texas, must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register*, to Sharon Gillespie, Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Articles 4582(b), 548b(2), and 6252-13a, §4 and §5. Texas Civil Statutes, Article 4582(b), §4(1) mandate the Banking Department of Texas, the Texas Funeral Service Commission, and the Texas Department of Insurance to enter into a Joint Memorandum of Understanding and mandate that each agency promulgate the Joint Memorandum of Understanding as a rule. Texas Civil Statutes, Article 548b(2) provide the Banking Department of Texas with authority to prescribe rules incidental to the orderly administration of the prepaid funeral benefits statute (Texas Civil Statutes, Article 548b, §§1-10a). Texas Civil Statutes, Article 6252-13a, §4 and §5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency.

**§25.21. Introduction to Joint Memorandum of Understanding.**

(a) Texas Civil Statutes, Article 4582(b), §4(1) mandate the Banking Department of Texas, the Texas Funeral Service Commission, and the Texas Department of Insurance to adopt by rule a Joint Memorandum of Understanding relating to prepaid funeral services and transactions that:

(1) outlines the responsibilities of each agency in regulating these services and transactions;

(2) establishes procedures to be used by each agency in referring complaints to one of the other agencies;

(3) establishes procedures to be used by each agency in investigating complaints;

(4) establishes procedures to be used by each agency in notifying the other agencies of a compliant or of the investigation of a compliant;

(5) describes actions the agencies regard as deceptive trade practices;

(6) specifies the information the agencies provide consumers and when that information is to be provided; and

(7) sets the administrative penalties each agency imposes for violations.

(b) Any revisions to the Joint Memorandum of Understanding will be adopted by rule by each agency.

(c) The Joint Memorandum of Understanding entered into by the three agencies is found at §25.22 of this title (relating to Joint Memorandum of Understanding.

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 June 2, 1993.

TRD-9323823 Catherine A. Ghiglieri  
Commissioner  
Banking Department of  
Texas

Earliest possible date of adoption: July 12, 1993

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

◆ ◆ ◆  
• 7 TAC §25.22

The Banking Department of Texas proposes new §25.22, concerning the Joint Memorandum of Understanding to be entered into by the Banking Department of Texas, the Texas Funeral Service Commission, and the Texas Department of Insurance under Texas Civil Statutes, Article 4582(b), §4(1). That statute provides that the Joint Memorandum of Understanding shall be promulgated by rule by each of the affected agencies. Any future

revisions to the Joint Memorandum of Understanding will be promulgated as amendments to these rules. New §25.22 contains the Memorandum of Understanding, which describes the statutory responsibilities of the three agencies and the procedures by which the agencies will coordinate their activities. This Joint Memorandum of Understanding sets forth the manner in which the three agencies will coordinate their statutory responsibilities in the area of prepaid funeral services and transactions.

Stephanie Newberg, director of special audits, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state government or local government as a result of enforcing or administering the rule, and there will be no effect on local employment or the local economy.

Ms. Newberg also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the ability to better regulate prepaid funeral services and insurance, and the ability to provide better services to consumers through better coordination of the complaint processing and regulatory activities of the three agencies. 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 considered by the Banking Department of Texas, must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register*, to Sharon Gillespie, Assistant General Counsel, Banking Department of Texas, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Articles 4582(b), 548b(2), and 6252-13a, §4 and §5. Texas Civil Statutes, Article 4582(b), §4(1), mandate the Banking Department of Texas, the Texas Funeral Service Commission and the Texas Department of Insurance to enter into a Joint Memorandum of Understanding and mandates that each agency promulgate the Joint Memorandum of Understanding as a rule. Texas Civil Statutes, Article 548b(2), provide the Banking Department of Texas with authority to prescribe rules incidental to the orderly administration of the prepaid funeral benefits statute (Texas Civil Statutes, Article 548b, §§1-10a). Texas Civil Statutes, Article 6252-13a, §4 and §5, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency.

**§25.22. Joint Memorandum of Understanding.**

(a) Pursuant to Texas Civil Statutes, Article 4582b, §4(1), the Texas Funeral Service Commission (herein referred to as the "TFSC"), the Texas Department of Insurance (herein referred to as the "TDI"), and the Banking Department of Texas

(herein referred to as the "DOB") hereby adopt the following joint memorandum of understanding relating to prepaid funeral services and transactions. The TFSC, TDI, and DOB intend this memorandum of understanding to serve as a vehicle to assist the three agencies in their regulatory activities, and to make it as easy as possible for a consumer with a complaint to have the complaint acted upon by all three agencies, where appropriate. In order to accomplish this end, where not statutorily prohibited, the three agencies will share information between the agencies which may not be available to the public generally under the Open Records Act, Texas Civil Statutes, Article 6252-17a. Such information will be transmitted between agencies with the notation on the information that it is considered confidential, is being furnished to the other agencies in furtherance of their joint responsibilities as state agencies in enforcing their respective statutes, and that it may not be disseminated to others.

(b) Responsibilities of each agency in regulating prepaid funeral services and transactions.

(1) The Texas Funeral Service Commission is responsible for the following.

(A) licensing funeral directors and embalmers, apprentice funeral directors and apprentice embalmers (Texas Civil Statutes, Article 4582b, §3), and funeral establishments Texas Civil Statutes, Article 4582b, §4(A)). The TFSC may refuse to license a person or establishment which violates Texas Civil Statutes, Article 548b, under Texas Civil Statutes, Article 4582b, §3(H)(10).

(B) taking action against any licensee violating article 548b, under Texas Civil Statutes, Article 4582b, §3(H)(10).

(C) taking action against any funeral director in charge and/or funeral establishment for violations of Article 548b, by persons directly or indirectly connected to the funeral establishment, under Texas Civil Statutes, Article 4582b, §4(D)(l)(f) and §4(E).

(2) The Banking Department of Texas is responsible for administering Texas Civil Statutes, Article 548b, including, but not limited to, the following:

(A) issuing permits to sell prepaid funeral services or funeral merchandise pursuant to Texas Civil Statutes, Article 548b, §1 and §3;

(B) approving forms for sales contracts pursuant to Texas Civil Statutes, Article 548b, §2;

(C) canceling or refusing to renew permits pursuant to Texas Civil Statutes, Article 548b, §4; and providing notice of alleged violations to the Attorney General of Texas and to sellers pursuant to Texas Civil Statutes, Article 548b, §9(e) and (f);

(D) approving the release or withdrawal of funds under certain circumstances or for certain purposes, pursuant to Texas Civil Statutes, Article 548b, §5(3), (4), and (5);

(E) providing for reporting requirements and performing examinations under Texas Civil Statutes, Article 548b, §7 and §8(a); and

(F) maintaining a guaranty fund with respect to prepaid funeral benefits owned by trusts, pursuant to Texas Civil Statutes, Article 548b, §8A.

(3) The Texas Department of Insurance is responsible for the following:

(A) regulating licensed insurers that issue or propose to issue life insurance/annuity contracts which may fund prepaid funeral contracts;

(B) regulating individuals/entities that perform the acts of an insurance agent(s) as defined in the Insurance Code, Articles 21.02 and 1.14-1;

(C) regulating insurance/annuity contracts that may fund prepaid funeral contracts;

(D) regulating unfair trade practices relating to the insurance/annuity contracts which may fund prepaid funeral contracts pursuant to the Insurance Code, Article 21.21;

(E) regulating unfair claims settlement practices by insurance companies pursuant to the Insurance Code, Articles 21.21-2;

(c) Procedures used by each agency in exchanging information with or referring complaint to one of the other agencies.

(1) Exchanging information. If, upon receipt of a complaint, or during the course of an investigation, an agency (referred to as the receiving agency) receives any information that might be deemed of value to another of the agencies (referred to as the reviewing agency), the receiving agency will contact the reviewing agency and will forward the relevant information to the reviewing agency at its request.

(2) Referral of complaints for handling. When an agency receiving a complaint refers the complaint to another agency for handling, the receiving agency will contact the complainant in writing informing him or her of the referral, and providing contact information to the reviewing agency, and encouraging the complainant to recontact the receiving agency if she or he has any problem with the reviewing agency's processing of the complaint.

(3) Complaint procedures. The three agencies will work together to establish procedures to ensure complaints will be fully resolved by the reviewing agency.

(d) Procedures to be used by each agency in investigating a complaint.

(1) All agencies.

(A) Each agency will develop an internal complaint procedures manual for violations relating to prepaid funeral services and/or transactions. The manual should at a minimum provide for:

(i) cross-checking the other two agencies' lists of licensees against the investigating agency's list;

(ii) background checks on disciplinary proceedings and license eligibility—including background checks into the two other agencies' complaints, disciplinary proceedings, and licensing process involving the same licensee if any, where not prohibited by law;

(iii) outlining of relevant law for each agency which check-point steps to ensure all relevant information has been obtained from complainant and references to applicable legal provisions;

(iv) identification of necessary data and documents to be obtained from the complainant; and

(v) such other steps deemed necessary for the agency to perform an adequate and appropriate investigation.

(B) Each agency will maintain its centralized complaint resolution process with a long-term goal of integrating the complaint resolution process, which includes the complaint tracking system, with the other agencies in the most effective, cost-efficient manner.

(C) Within four months from the final adoption of the JMOU by rulemaking; the DOB, TFSC and TDI will develop one or more complaint and referral forms that are substantially similar in content and format to be used by each agency in processing complaints relating to prepaid funeral services and/or transactions.

(D) Each reviewing agency will provide periodic, no less than quarterly, status reports on the complaint investigation to the reviewing agency or agencies. In addition, the reviewing agency will contact the complainant to inform him or her of the status of the investigation.

(E) Each agency will develop with the other agency, or other two agencies, a written plan for conducting joint investigations where appropriate which, at a minimum, establishes a case manager for the investigation, establishes the divisions of duties among the agencies, and establishes a time-line for completion of the investigation.

(F) As soon as possible following the final adoption of the JMOU by rulemaking; the DOB, TFSC, and TDI will each ensure its complaint resolution procedure is accessible to the public by reviewing its procedures, forms, brochures, and letters to determine what steps, if any, are needed to remedy problems of accessibility. The DOB, TFSC, and TDI will implement the needed steps as soon as possible thereafter.

(G) The TDI, DOB, and TFSC commit to a long-term goal with a five-year planning horizon to develop an efficient and cost-effective way to ensure that the three agencies can readily exchange information and that there is effective and easy access by each of the three agencies to the information and data held by the other agencies relating to complaints and information regarding licensees in the prepaid funeral services area.

(2) The Texas Funeral Service Commission.

(A) The TFSC, in accordance with Texas Civil Statutes, Article 4582b, §4D(2)(b), will investigate violations of prepaid funeral services only if the investigation does not interfere with or duplicate an investigation conducted by the DOB.

(B) The TFSC will, upon request, assist the DOB and/or the TDI with investigations.

(3) Banking Department of Texas.

(A) Complaints received by the Special Audit Division will be entered into a complaint log and assigned a reference number. If, after agency notice to the subject of the complaint, the complaint is not resolved, the DOB will investigate.

(B) If disciplinary action against a DOB permittee is appropriate, the matter will be referred to the agency's legal staff.

(C) If the complaint involves a matter handled by either the TDI or TFSC, as well as a violation of the DOB statutes or regulations, the DOB will coordinate the investigation with either or both of these agencies, as appropriate. The DOB will, upon request, assist the TFSC and/or TDI with investigations.

(D) In the event that a licensee under the TFSC's jurisdiction is found, after hearing, to have violated one or more provisions of Article 548b, the DOB will inform the TFSC of the violation(s) in writing and provide documentation supporting the occurrence of the violation(s).

(4) Texas Department of Insurance.

(A) Complaints received by the Consumer Services area of TDI will be logged-in and investigated. Other areas of the agency can be called upon for assistance in the investigation of the complaint where appropriate.

(B) If disciplinary action against a licensee of the TDI is found to be appropriate, the matter will be referred to the Compliance Intake Unit of TDI.

(C) If the complaint involves a matter handled by either the DOB or TFSC, as well as a violation of the TDI statutes or regulations, the investigation will be coordinated with either or both of those agencies.

(D) TDI will, upon request, assist the TFSC and/or DOB with investigations.

(e) Actions the Agencies Regard as Deceptive Trade Practices.

(1) The TFSC, the DOB, and the TDI regard as deceptive trade practices those actions found under the Texas Business and Commerce Code, §17.46.

(2) With respect to trade practices within the business of insurance, the TDI regards as deceptive trade practices those actions found under the Insurance Code, Article 21.21, and other articles of the Code and the regulations promulgated by the TDI thereunder.

(f) Information the agencies will provide consumers and when that information is to be provided.

(1) TFSC, DOB, and TDI will continue to provide consumers with the brochure entitled "Facts About Funerals" developed by TFSC (in Spanish and in English). As soon as possible after the final adoption of the JMOU by rulemaking, the agencies will update the brochure to provide information about insolvency, the guaranty funds, and consumer complaints, and make the brochure accessible under the terms of the Americans with Disabilities Act. The agencies will provide other relevant consumer brochures to each other.

(2) TDI will maintain its toll-free number, and TFSC and DOB will each work towards consumer access via a toll-free number. Each agency will include its toll-free number as a prepaid funeral consumer protection resource in the respective agencies' consumer information materials. DOB, TFSC, and TDI will routinely inform consumers of options within the agency's knowledge available to them to resolve the complaint.

(3) TFSC, DOB, and TDI, as state agencies, are subject to the Open Records Act, Texas Civil Statutes, Article 6252-17a. Upon written request, the three agencies will provide consumers with public information which is not exempt from disclosure under that Act. As noted in the preamble to this JMOU, the agencies may, where not statutorily prohibited, exchange information necessary to fulfill their statutory responsibilities among each other, without making such information public information under the Open Records Act.

(g) Administrative penalties each agency imposes for violations.

(1) All Agencies.

(A) DOB, TDI, and TFSC will create a working group to develop recommendations concerning the three agencies working together on enforcement actions using the resources of the Attorney General and/or prosecutorial or investigative agencies, where appropriate.

(B) DOB, TDI, and TFSC will refer DTPA and other such violations to the Federal Trade Commission and/or the Attorney General whenever appropriate.

(2) Texas Funeral Service Commission. The TFSC may impose an administrative penalty, issue a reprimand, or revoke, suspend, or place on probation any licensee who violates Article 548b. The recommended range of administrative penalty for a violation of Article 548b is \$500 to \$5,000. Also, a funeral establishment may be assessed an administrative penalty of \$250 to \$5,000 for each violation of Article 548b by a person directly or indirectly connected to the funeral establish-

ment, under the Title 22, §201.11(a)(6) and (25) (relating to Disciplinary Guidelines).

(3) Banking Department of Texas. The DOB may impose the following administrative penalties.

(A) cancel a permit or refuse to renew a permit pursuant to Texas Civil Statutes, Article 548b, §4.

(B) seize prepaid funeral funds and records of a prior permit holder pursuant to Texas Civil Statutes, Article 548b, §8(b).

(4) Texas Department of Insurance. TDI administrative penalties vary based on the violation; TDI sanctions are imposed under the Insurance Code, Article 1.10.

(h) Meetings for developing cooperative efforts in regulation.

(1) DOB and TDI will develop an insolvency alert among themselves to minimize the drain of trust funds and premiums consistent with their respective statutory provisions. They will also clarify each agency's responsibility to access the respective guaranty fund vis-a-vis the other agency.

(2) DOB, TDI, and TFSC will develop methods to coordinate the efforts of the agencies to articulate the funeral providers' responsibility in the event of seller and/or insurance company insolvency.

(3) Each agency should seek input from the other agencies on any proposed agency regulations relating to prepaid funeral services and/or transactions; and, where appropriate, legislative recommendations concerning prepaid funeral services and/or transactions.

(4) The three agencies will provide lists of their key contact personnel and their telephone numbers to each other.

(5) In order to better accomplish the exchange of information and coordination of regulation described in this Memorandum of Understanding, the appropriate staff of the TFSC, DOB, and TDI shall meet, at a minimum, once a year, to discuss matters of mutual regulatory concern and share updates of the regulations promulgated by the respective agencies.

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 June 2, 1993.

TRD-9323824

Catherine A. Ghiglieri  
Commissioner  
Banking Department of  
Texas

Earliest possible date of adoption: July 12, 1993

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

## TITLE 22. EXAMINING BOARDS

### Part VI. Texas State Board of Registration for Professional Engineers

#### Chapter 131. Practice and Procedure

#### Board of Review of Applica- tion

##### • 22 TAC §131.120

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.120, concerning criminal convictions. The section is amended to change the name of the title of §131.224 in subsection (e)(2).

Charles E. Nemir, P.E., executive director, 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. Nemir also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the correct name of the title of §131.224. There will be no effect on small business as a result of enforcing the rule. 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 Charles E. Nemir, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

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

#### §131.120. Criminal Convictions.

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

(e) The application of any applicant deemed ineligible for registration because of a prior conviction will be proposed for rejection and the applicant will be provided the following information in writing:

(1) (No change.)

(2) notice of the administrative procedure used to conduct an informal conference to show compliance with all requirements of law for registration as a professional engineer, as provided by

§131.224 of this title (relating to [Show Cause Orders and] Complaints), and similar to the proceedings established for registrants under §131.137 of this title (relating to Disciplinary Actions); and

(3) (No change.)

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

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

TRD-9323828

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

Proposed date of adoption: July 28, 1993

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

#### Registration

##### • 22 TAC §131.137

The Texas State Board of Registration for Professional Engineers proposes an amendment to §131.137, concerning disciplinary actions. The section is amended to change the name of the title of §131.224 in subsection (e), and also change the ending section number in the reference to hearings-contested cases in subsection (f) as §131.225 is being repealed.

Charles E. Nemir, P.E., executive director, 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. Nemir also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the correct name of the title of §131.224 and the correct reference to the sections concerning contested case hearings. There will be no effect on small business as a result of enforcing the rule. 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 Charles E. Nemir, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

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

#### §131.137. Disciplinary Actions.

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

(e) A registrant alleged to have violated the law, rules, or standards of conduct will be notified by personal service or by certified or registered mail of the facts or

conduct alleged to be in violation and shall be afforded an opportunity to present arguments and evidence in his own behalf before a determination of censurable conduct is made by the board, as provided in §131.224 of this title (relating to [Show Cause Orders and] Complaints).

(f) Where a violation appears evident, the board will consider instituting disciplinary action by means of scheduling a public hearing in conformance with §§131.181-131.224 [131.225] of this title (relating to Hearings-Contested Cases); however:

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

(g)-(h) (No change.)

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

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

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Charles E. Nemir, P.E.  
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Texas State Board of  
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For further information, please call: (512) 440-7723

#### Hearings-Contested Cases

##### • 22 TAC §§131.181-131.186, 131.189, 131.191-131.195, 131.197, 131.198, 131.201, 131.202, 131.204, 131.215, 131.224, 131.225

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

The State Board of Registration for Professional Engineers proposes the repeal of §§131.181-131.186, 131.189, 131.191-131.195, 131.197, 131.198, 131.201, 131.202, 131.204, 131.215, 131.224, and 131.225, concerning administrative procedures for contested case hearings. The sections are obsolete as a result of the enactment of Texas Civil Statutes, Article 6252-13f.

The repeals will allow the board to adopt new §§131.181-131.186, 131.189, 131.191-131.195, 131.197, 131.198, 131.201, 131.202, 131.204, 131.215, and 131.224, which will conform with the enabling statute and procedures of the State Office of Administrative Hearings.

Charles E. Nemir, P.E., executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Nemir also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the deletion of obsolete rules concerning the administrative procedures for contested case hearings. There will be no effect on small business as a result of enforcing the repeals. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Charles E. Nemir, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

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

§131.181. *Filing of Documents.*

§131.182. *Computation of Time.*

§131.183. *Extensions.*

§131.184. *Agreements To Be in Writing.*

§131.185. *Service in Rulemaking Proceedings.*

§131.186. *Service in Nonrulemaking Proceedings.*

§131.189. *Appearances in Person or by Representative.*

§131.191. *Form and Content of Pleadings.*

§131.192. *Examination by the Executive Director.*

§131.193. *Motions.*

§131.194. *Amendments.*

§131.195. *Publication of Notice in Nonrulemaking Proceedings.*

§131.197. *Contested Proceedings.*

§131.198. *Personal Service.*

§131.201. *Hearing Officer.*

§131.202. *Order of Procedure.*

§131.204. *Formal Exceptions.*

§131.215. *Proposals for Decision.*

§131.224. *Show Cause Orders and Complaints.*

§131.225. *Ex Parte Consultation.*

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 June 4, 1993.

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Charles E. Nemir, P.E.  
Executive Director  
Texas State Board of  
Registration of  
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For further information, please call: (512) 440-7723

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• 22 TAC 131.181-131.186, 131.189,  
131.191-131.195, 131.197, 131.  
198, 131.201, 131.202, 131.204,  
131.215, 131.224

The Texas State Board of Registration for Professional Engineers proposes new §§131.181-131.186, 131.189, 131.191-131.195, 131.197, 131.198, 131.201, 131.202, 131.204, 131.215, and 131.224, concerning administrative procedures for contested case hearings. The new sections are necessary to conform with the enabling statute and procedures of the State Office of Administrative Hearings (Texas Civil Statutes, Article 6252-13f), which will handle contested case hearings for the board.

Charles E. Nemir, P.E., executive director, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Nemir also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be clear and concise rules concerning the administrative procedures for contested case hearing. There will be no effect on small business as a result of enforcing the rules. The anticipated economic cost to persons who are required to comply with the rules as proposed would be the legal fees and personal expenses incurred by the respondents.

Comments on the proposal may be submitted to Charles E. Nemir, P.E., Executive Director, Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

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

§131.181. *State Office of Administrative Hearings.*

(a) Formal contested case hearings will be conducted for the board by the State Office of Administrative Hearings (SOAH), as authorized by Texas Civil Statutes, Article 6252-13f. Hearings will be conducted in accordance with the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a), the rules and regulations of the SOAH, and the Texas Engineering Practice Act and board rules.

(b) An administrative law judge (judge) assigned to the SOAH will perform the duties and responsibilities as described in §§131.181-131.224 of this title (relating to Hearings-Contested Cases).

(c) The judge shall consider any applicable board rules and policies in conducting the hearing. If there is any conflict between the rules of the SOAH and these board rules, these rules will control unless otherwise specifically stated in the SOAH rules. This subsection does not apply if the rules of the board are contrary to or are otherwise precluded by statutory or other controlling law, including Texas Civil Statutes, Article 6252-13f.

§131.182. *Board Responsibilities.* The board will conduct sufficient investigation of complaint matters within its jurisdiction and attempt to resolve cases through authorized informal dispositions in accordance with §131.137(f) of this title (relating to Disciplinary Actions). However, when agreements are not reached or approved, the board must refer contested cases to the State Office of Administrative Hearings for formal hearings. The board shall not attempt to influence the findings of facts or the judge's application of the law in any contested case other than by proper evidence and legal argument. The board may, however, change a finding of fact or conclusion of law made by the judge, or vacate or modify an order issued by the judge, only for reasons of policy and must state in writing the reason and legal basis for the change.

§131.183. *Jurisdiction; Request for Hearing or Law Judge.*

(a) The State Office of Administrative Hearings (SOAH) acquires jurisdiction over a case when the board files a written request for setting of hearing form or request for assignment of an administrative law judge form. A request for setting of hearing or for assignment of an administrative law judge shall be considered filed on the date the request form is received by the SOAH.

(b) The board shall submit to the SOAH one of the following accompanied by copies of all pertinent documents (including but not limited to the complaint, petition, application, or other document de-

scribing board action giving rise to a contested case), along with a written statement of applicable rules and policies: (1) request for setting of hearing; or, (2) request for assignment of a judge. If the board requests a setting for hearing, the SOAH will provide the board with the date, time, and place of such setting. If the board requests an assignment of a judge, the SOAH will assign a judge to consider motions and other prehearing matters. After a cause has been set for hearing pursuant to a request for setting of hearing or has been assigned a judge pursuant to a proper request, any party may move for appropriate relief, including but not limited to discovery and evidentiary rulings, continuances, and settings, which will be ruled on by the SOAH.

#### §131.184. Filings.

(a) Originals or duplicate originals of all notices, pleadings, motions, answers, affidavits and all other filings in a contested case, made in accordance with the Administrative Procedure and Texas Register Act, the Texas Rules of Civil Evidence, or other applicable law, shall be filed with the State Office of Administrative Hearings (SOAH) at the time the SOAH acquires jurisdiction or at the time the instrument is issued and delivered if that time is later than the time the SOAH acquires jurisdiction.

(b) Pursuant to the SOAH rules, a copy of all filings shall be sent by mail or otherwise delivered to all parties or their representative of record.

(c) A certificate of service, signed by the person making the filing, showing the manner of service, stating that the filing has been served on all other parties and identifying those parties shall be contained in or attached to all filings. The certificate is prima facie evidence of service. The following form of certificate will be sufficient in this connection: I hereby certify that I have this \_\_\_ day of \_\_\_\_\_, 19\_\_\_, served copies of the foregoing pleading, upon all other parties to this proceeding, by (here state the manner of service). Signature.

(d) If a filing does not contain a required certificate of service, or otherwise show service on all other parties:

(1) the SOAH may return the filing to the filing party; or

(2) the SOAH may send a notice to all parties stating that the filing does not show service on all parties and will not be considered unless and until SOAH is notified that all parties have been served with the filing; or

(3) the SOAH may, in the interest of economy of effort, send a copy of the filing to all parties.

(e) In computing any period of time prescribed or allowed by board rules, by order of the board, or by any applicable statute, the period shall begin on the day after the act or event considered, and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal state holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal state holiday.

#### §131.185. Stipulations; Agreements.

(a) The parties, by stipulation, may agree to any substantive or procedural matter.

(b) A stipulation may be filed in writing or entered on the record at the hearing.

(c) The judge may require additional development of stipulated matters.

(d) No stipulation or agreement between the parties and their attorneys or representatives with regard to any matter involved in any proceeding before the board or the State Office of Administrative Hearings shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated in an order bearing their written approval. This subsection does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these sections, unless precluded by law.

§131.186. Service. Unless otherwise required by law, service of the following documents shall be made by personal delivery to the party or to the party's representative by certified mail, return receipt requested, hand delivery or via facsimile to the party's address of record:

- (1) notices of hearing;
- (2) default orders;
- (3) prehearing orders;
- (4) proposal for decisions; and
- (5) decisions and orders of the board.

#### §131.189. Appearances in Person or by Representative; Waivers; Default.

(a) An individual may represent himself or herself.

(b) A party may be represented by an attorney authorized to practice law in the State of Texas, or other representative when authorized by law.

(c) A party's representative shall enter his or her appearance with the State Office of Administrative Hearings (SOAH).

(d) A party's representative of record shall be copied on all notices, pleadings, and other correspondence.

(e) A party's attorney of record remains the attorney of record in the absence of a formal withdrawal and an order approving such withdrawal is issued by a judge.

(f) A hearing before the judge is not necessary if all parties agree to the admission of the evidence and waive their right to appear.

(g) A party may waive the right to appear at the hearing unless prohibited by law.

(h) A waiver shall be in writing and filed with the SOAH.

(i) If, after receiving notice of a hearing, a party fails to attend a hearing, the judge may proceed in that party's absence and, where appropriate, may issue a proposal for decision against the defaulting party.

(j) A waiver may be withdrawn by a party on written notice received by the SOAH no later than seven days before the scheduled hearing. The judge may permit withdrawal of a waiver subsequent to that time on a showing of good cause or in the interest of justice. When a waiver is permitted by law, failure of a party to appear personally or by representation after filing written notice of waiver, may not result in a finding of default.

#### §131.191. Form and Content of Pleadings.

(a) Pleadings shall be typewritten or printed upon paper 8-1/2 inches wide and 11 inches long with an inside margin at least 1 inch wide, and exhibits annexed thereto shall be folded to the same size. Reproductions are acceptable, provided all copies are clear and permanently legible.

(b) All pleadings for which no official form is prescribed shall contain:

(1) the name of the party seeking to bring about or prevent action by the board;

(2) a concise statement of the facts relied upon by the pleader;

(3) a prayer stating the type of relief, action, or order desired by the pleader;

(4) any other matter required by statute; and

(5) a certificate of service, as required by §131.184(c) of this title (relating to Filings).

(c) Each application, petition, or complaint which is intended to institute a proceeding before the board shall be accom-

panied by any filing fee prescribed by law and these sections.

**§131.192. Discovery.**

(a) Parties to an administrative hearing before the State Office of Administrative Hearings (SOAH) shall have the discovery rights provided in the Administrative Procedure and Texas Register Act, the Texas Engineering Practice Act and board rules.

(b) Requests for issuances of subpoenas or commissions should be directed to the board.

(c) All discovery requests should be initially directed to the party from which discovery is being sought.

(d) All disputes with respect to any discovery matter shall be filed with and resolved by the SOAH.

(e) All parties will be afforded a reasonable opportunity to file objections or move for a protective order with respect to the issuance of a subpoena or commission.

(f) Copies of discovery requests and documents filed in response thereto shall be filed with all parties, but should not be filed with the SOAH unless directed by the judge or when in support of a motion to compel, motion for protective order, or motion to quash.

**§131.193. Motions; Amendments.**

(a) Unless otherwise provided by these sections:

(1) a party may move for appropriate relief before or during a hearing;

(2) a party shall submit all motions in writing or orally at a hearing;

(3) written motions shall:

(A) be filed no later than 15 days before the date of the hearing, provided, for good cause stated in the motion the judge may permit a written motion subsequent to that time;

(B) state concisely the question to be determined;

(C) be accompanied by any necessary supporting documentation, and if based on matters which do not appear of record, they shall be supported by affidavit; and

(D) be served on each party.

(4) An answer to a written motion shall be filed on the earlier of:

(A) seven days after receipt of the motion; or

(B) on the date of the hearing.

(5) On written notice to all parties or with telephone consent of all parties, the judge may schedule a conference to consider a written motion; or

(6) The judge may reserve ruling on a motion until after the hearing; or

(7) The judge may issue a written decision or state the decision on the record; or

(8) If a ruling on a motion is reserved, the ruling shall be in writing and may be included in the judge's proposed decision; and

(9) The filing or pendency of a motion does not alter or extend any time limit otherwise established by these rules.

(b) Continuances may be granted by the State Office of Administrative Hearings in accordance with the Administrative Procedure and Texas Register Act, the Texas Engineering Practice Act and board rules, and applicable case law. Motions for continuance shall be in writing or stated in record, and shall set forth the specific grounds upon which the party seeks the continuance.

(c) Unless made during a prehearing or hearing, for all motions for continuance, cancellation of a scheduled proceeding or extension of an established deadline filed fewer than ten days before the date or deadline in question, the movant must contact the other party(ies) and must indicate in the motion whether it is opposed by any party(ies). Further, if a continuance to a date certain is sought, the motion must include a proposed date or dates (preferably a range of dates) and must indicate whether the party(ies) contacted agree on the proposed new date(s).

(d) Any pleading may be amended at any time up to seven days prior to hearing and thereafter with approval of the judge; provided, that the complaint or petition upon which notice has been issued shall not be amended so as to broaden the scope.

**§131.194. Prehearing Conferences and Orders.**

(a) When appropriate, the judge may hold a prehearing conference to resolve matters preliminary to the hearing.

(b) A prehearing conference may be convened to address the following matters:

(1) issuance of subpoenas;

(2) factual and legal issues;

(3) stipulations;

(4) requests for official notice;

(5) identification and exchange of documentary evidence;

(6) admissibility of evidence;

(7) identification and qualification of witnesses;

(8) motions;

(9) discovery disputes;

(10) order of presentation;

(11) scheduling;

(12) settlement conferences; and

(13) such other matters as will promote the orderly and prompt conduct of the hearing.

(c) Among other matters, as stated in subsection (b) of this section, an administrative law judge may order:

(1) that the parties discuss the prospects of settlement or stipulations and be prepared to report thereon at the prehearing conference;

(2) that the parties file and be prepared to argue preliminary motions at the prehearing conference;

(3) that the parties be prepared to specify the controlling factual and legal issues in the case at the prehearing conference; and

(4) that the parties make a plain and concise statement of undisputed facts and issues at the prehearing conference.

(d) At the discretion of the judge, all or part of the prehearing conference may be recorded or transcribed.

(e) The judge may, after the office acquires jurisdiction, issue an order requiring a prehearing statement of the case. The parties shall, within 14 days of service, file a statement specifying the parties present position on any or all of the following as required by the judge:

(1) the disputed issues or matters to be resolved;

(2) a brief statement of the facts or arguments supporting the party's position in each disputed issue or matter;

(3) a list of facts or exhibits to which a party will stipulate; and

(4) a description of the discovery, if any, the party intends to engage in and an estimate of the time needed to complete discovery. Parties shall supplement this statement on a timely basis.

(f) The judge may issue a prehearing order reciting the actions taken



or to be taken with regard to any matter addressed at the prehearing conference. The prehearing order shall be a part of the case record. If a prehearing conference is not held, the judge may issue a prehearing order to regulate the conduct of the proceedings.

#### §131.195. Notice of Hearing.

(a) The board shall be responsible for providing notice to all parties as required under the Administrative Procedure and Texas Register Act, §13, and other applicable law.

(b) A judge may issue notice of date, time, and place for hearings.

#### §131.197. Conduct of Hearings.

(a) On a genuine issue in a contested case, each party is entitled to:

- (1) call witnesses;
- (2) offer evidence;
- (3) cross-examine any witness called by a party; and
- (4) make opening and closing statements.

(b) Once the hearing is begun the parties may be off the record only when the judge permits. If the discussion off the record is pertinent, then the judge will summarize the discussion for the record.

(c) Objections shall be timely noted in the record. See Texas Rules of Civil Evidence, §103.

(d) The judge may continue a hearing from time to time and from place to place. If the time and place for the proceeding to reconvene are not announced at the hearing, a notice shall be mailed stating the time and place of hearing.

(e) The judge may question witnesses and/or direct the submission of supplemental data.

(f) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

§131.198. *Formal Exceptions.* Formal exceptions to rulings of the judge during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall have made known to the judge the action he desires.

#### §131.201. Administrative Law Judge.

(a) The judge shall have the authority and duty to:

- (1) conduct a full, fair, and impartial hearing;

(2) take action to avoid unnecessary delay in the disposition of the proceeding; and

(3) maintain order.

(b) The judge shall have the power to regulate the course of the hearing and the conduct of the parties and authorized representative, including the power to:

- (1) administer oaths;
- (2) take testimony;
- (3) rule on questions of evidence;
- (4) rule on discovery issues;
- (5) issue orders relating to hearing and prehearing matters, including orders imposing sanctions that the board may impose;
- (6) admit or deny party status;
- (7) limit irrelevant, immaterial, and unduly repetitious testimony and reasonably limit the time for presentations;
- (8) grant a continuance;
- (9) request parties to submit legal memoranda, proposed findings of fact and conclusions of law; and
- (10) issue proposals for decision pursuant to the Administrative Procedure and Texas Register Act, §15.

(c) A judge shall disqualify himself or herself or shall recuse himself or herself on the same grounds and under the same circumstances as specified in Texas Rules of Civil Procedure, §18b.

(d) A substitute judge may use the existing record and need not repeat previous proceedings, but may conduct further proceedings as are necessary and proper to conclude the hearing and render a proposal for decision.

#### §131.202. Order of Proceedings.

(a) A case shall be called to order by the judge.

(b) The judge shall explain briefly the purpose and nature of the hearing.

(c) The judge may allow the parties to present preliminary matters.

(d) The judge shall state the order of presentation of evidence.

(e) Witnesses shall be sworn or put under affirmation to tell the truth.

#### §131.204. Telephone Hearings.

(a) The judge may, with consent of the parties, conduct all or part of the hearing by telephone, video, or other electronic means, if each participant in the hearing has an opportunity to participate in, hear, and

except when a telephone is used, see the entire proceeding.

(b) All substantive and procedural rights apply to telephone hearings, subject only to the limitations of the physical arrangement.

(c) Documentary evidence. For a telephone hearing documentary evidence to be offered shall be mailed by the proponent to all parties and the office at least five days before the hearing.

(d) Default. For a telephone hearing, the following may be considered a failure to appear and grounds for default, if the conditions exist for more than 10 minutes after the scheduled time for hearing:

- (1) failure to answer the telephone; or
- (2) failure to free the telephone for a hearing; or
- (3) failure to be ready to proceed with the hearing as scheduled.

#### §131.215. Proposals for Decision.

(a) The judge shall prepare a proposal for decision which shall contain:

- (1) findings of fact and conclusions of law, separately stated; and
- (2) if appropriate, a proposed order.

(b) The judge may amend the proposal for decision pursuant to exceptions, briefs and replies to exceptions and briefs without the proposal for decision again being served on the parties.

(c) The judge shall submit the proposal for decision to the board with a copy to each party and his attorney of record.

(d) Upon the expiration of the 20th day following the time provided for the filing of exceptions and briefs as described in §131.216 of this title (relating to Filing of Exceptions, Briefs, and Replies), the proposal for decision may be adopted by written order of the board, unless exceptions and briefs shall have been filed in the manner required.

(e) If deemed warranted, the judge may direct a party to draft and submit a proposal for decision which shall include proposed findings of fact and a concise and explicit statement of the underlying facts supporting such proposed findings developed from the record.

#### §131.224. Complaints.

(a) No revocation or suspension of any certificate of registration is effective unless, prior to the institution of board proceedings, the board gives notice by personal service or by registered or certified mail to

the registrant of facts or conduct alleged to warrant the intended action, and the registrant is given an opportunity to show compliance with all requirements of law for the retention of the certificate.

(b) Rejection of an application for initial registration, based on prior criminal convictions, is not effective unless, prior to the institution of board action, the board gave notice by personal service or by registered or certified mail to the applicant of facts relative to his proposed ineligibility for registration under §131.120 of this title (relating to Criminal Convictions), and the applicant is given an opportunity to show compliance with all requirements of law for registration as a professional engineer.

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

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

- ◆ ◆ ◆
- 22 TAC §§131.187, 131.188, 131.190, 131.196, 131.199, 131.200, 131.203, 131.204-131.214, 131.216-131.219, 131.221-131.223

The Texas State Board of Registration for Professional Engineers proposes amendments to §§131.187, 131.188, 131.190, 131.196, 131.199, 131.200, 131.203, 131.205-131.214, 131.216-131.219, and 131.221-131.223, concerning administrative procedures for contested case hearings. The sections are amended to conform with the enabling statute and procedures of the State Office of Administrative Hearings (Texas Civil Statutes, Article 6252-131), which will handle contested case hearings for the board.

Charles E. Nemir, P.E., executive director, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Nemir also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be clear and concise rules concerning the administrative procedures for contested case hearings. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed would be the legal fees and personal expenses incurred by the respondents.

Comments on the proposal may be submitted to Charles E. Nemir, P.E., Executive Director,

Texas State Board of Registration for Professional Engineers, P.O. Drawer 18329, Austin, Texas 78760.

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

#### §131.187. *Conduct and Decorum.*

(a) Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the board, the administrative law judge [the executive director, the hearing officer], and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Texas State Bar.

(b) Unless otherwise prohibited by federal or state law, all proceedings before the board or conducted by the State Office of Administrative Hearings are open to the public. The judge may remove persons whose conduct impedes the orderly progress of the hearing, and restrict attendance because of the physical limitations of the hearing facility.

#### §131.188. *Classification of Parties.*

Parties to proceedings before the board and the State Office of Administrative Hearings are applicants, protestants, petitioners, complainants, respondents, and intervenors. Regardless of errors as to designations in their pleadings, the parties shall be accorded their true status in the proceeding.

#### §131.190. *Classification of Pleadings.*

Pleadings filed in contested cases [with the board through the executive director] shall be protests, petitions, complaints, answers, replies, motions for rehearing, and other motions. Regardless of any error in the designation of a pleading, it shall be accorded its true status in the proceeding in which it is filed.

#### §131.196. *Certificates of Registration [Licenses].*

When the grant, denial, renewal, revocation, probation, reprimand, or suspension of a certificate of registration [license] is required by statute to be preceded by notice and opportunity for hearing, the provisions of these sections [and law] concerning contested cases apply.

#### §131.199. *Motions for Postponement, Continuance, Withdrawal, or Dismissal of Matters Before the Board.*

Motions for postponement, continuance, withdrawal, or dismissal of matters which have been duly set for hearing, shall be in writing, shall be

filed with the judge [executive director] and distributed to all interested parties, under a certificate of service, not less than five days prior to the designated date that the matter is to be heard. Such motion shall set forth, under oath, the specific grounds upon which the moving party seeks such action and shall make reference to all prior motions of the same nature filed in the same proceeding. Failure to comply with the above, except for good cause shown, may be construed as lack of diligence on the part of the moving party, and at the discretion of the judge [executive director] may result in the dismissal of the matter in issue, with prejudice to refile. Depending on the circumstances, motions for withdrawal or dismissal may be ruled on by the judge or, at his discretion, by the board. [Once a matter has actually proceeded to a hearing, pursuant to the notice issued thereon, no postponement or continuance shall be granted by the hearing officer without the consent of all parties involved, unless the board shall have ordered such postponement or continuance].

#### §131.200. *Place and Nature of Hearings.*

All hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Austin, unless for good and sufficient cause the board or the State Office of Administrative Hearings shall designate another place of hearing in accordance with applicable law.

#### §131.203. *Reporters and Transcript.*

(a) The proceedings, or any part of them, must be transcribed on written request of any party. [When a party makes a written request that proceedings be transcribed, the party shall state in writing his election to furnish his own stenographic reporter or to utilize a reporter employed by the board.] Such written request must be received by the State Office of Administrative Hearings (SOAH) [executive director] not less than ten [15] calendar days before the scheduled date of the hearing. The cost of the original transcript shall be assessed 1/2 to the party requesting the transcription, the remaining 1/2 to the other parties equally. The original transcript shall be delivered to the SOAH [executive director]. The cost of copies of the transcript will be paid by the requesting party.

(b) Suggested corrections to the transcript of the record may be offered within ten days after the transcript is filed in the proceeding, unless the SOAH [hearing officer or the agency] shall permit suggested corrections to be offered thereafter. Suggested corrections shall be served in writing upon each party of record, the official reporter, and the SOAH [hearing officer]. If suggested corrections are not objected to, the judge [hearing officer] will

direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the judge [hearing officer], who shall then determine the manner in which the record shall be changed, if at all.

**§131.205. Dismissal, Settlement Without Hearing.**

(a) The State Office of Administrative Hearings [The board] may entertain motions for dismissal without a hearing for the following reasons: failure to prosecute; unnecessary duplication of proceedings or res adjudicata; withdrawal; moot questions or stale petitions; or lack of jurisdiction.

(b) Upon request of any party and approval by the judge, or in the judge's discretion, a conference may be held to address settlement possibilities. Settlement discussions shall not be made a part of the case record.

**§131.206. Rules of Evidence.**

(a) The judge may limit testimony or any evidence which is [In contested cases,] irrelevant, immaterial, or unduly repetitious [evidence shall be excluded]. In accordance with the Administrative Procedure and Texas Register Act, the rules of evidence as applied in nonjury civil cases in the district courts of this state shall be followed. When necessary, to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The judge [board] shall give effect to the rules of privilege recognized by law. Objections in evidentiary offers may be made and shall be noted in the record. Subject to these requirements, if a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(b) Exclusion of witnesses.

(1) Upon request by any party, the judge shall exclude witnesses other than parties from the hearing room, except when testifying.

(2) The judge may order the witness, parties, attorneys, and all other persons present in the hearing room not to disclose to any witness excluded under this subsection the nature, substance, or purpose of testimony, exhibits, or other evidence introduced during the witness' absence.

(3) A party that is not a natural person may designate an individual to remain in the hearing room, even though the individual may be a witness.

**§131.207. Documentary Evidence.** Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the judge [hearing officer] may limit those admitted to a number which are typical and representative, and may, at his discretion, require the abstracting of the relevant data from the documents and the presentation of the abstracts in the form of an exhibit; provided, however, that before making such requirement, the judge [hearing officer] shall require that all parties of record or their representative be given the right to examine the documents from which such abstracts were made.

**§131.208. Official Notice.**

(a) The judge may take official notice of a fact that is judicially noticeable in accordance with the Administrative Procedure and Texas Register Act [Official notice may be taken of all facts judicially cognizable].

(b) In addition, notice may be taken of generally recognized facts within the area of the board's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material officially noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The special skills of knowledge of the board and its staff may be utilized in evaluating the evidence.

**§131.209. Prepared or Prefiled Testimony.** In all contested proceedings and after service of copies upon all parties of record at such time as may be designated by the judge [executive director or the hearing officer], the prepared, written testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as an exhibit, upon the witness's being sworn and identifying the same. Such witness shall be subject to cross-examination and the prepared testimony shall be subject to a motion to strike in whole or in part.

**§131.210. Limitations on Number of Witnesses.** The judge [executive director or the hearing officer] shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

**§131.211. Exhibits.** Exhibits of documentary character shall be of such size as described [set forth] in §131.191 of this title

(relating to Form and Content of Pleadings), as not unduly to encumber the files and records of the board. There shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to facts material and relevant to the issues involved in a particular proceeding.

(1) Tender and service. The original of each exhibit offered shall be tendered to the reporter for identification; one copy shall be furnished to the judge [hearing officer], and one copy to each other party of record or his attorney or representative.

(2) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, the judge [hearing officer] shall determine whether or not the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the judge [hearing officer] with his ruling, and shall be included in the record for the purpose only of preserving the exception.

(3) After hearing. Unless specifically directed by the judge [hearing officer, or by the board], no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing. In the event the judge [board] allows an exhibit to be filed after the conclusion of the hearing, copies of the late-filed exhibit shall be served on all parties of record.

**§131.212. Offer of Proof.** When testimony is excluded by ruling of the judge [hearing officer], the party offering such evidence shall be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for the record [review by the board]. The judge [hearing officer] may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

**§131.213. Depositions.** The taking and use of depositions in any proceeding shall be governed by the Administrative Procedure and Texas Register Act, §14. [(Texas Civil Statutes, Article 6252-13a, §14)].

**§131.214. Subpoenas.** Under the Administrative Procedure and Texas Register Act, §14, following written request by a party or on its own motion:

(1) subpoenas for the attendance of a witness from any place in the State of Texas at a hearing in a proceeding may be issued by the board, any member thereof, the executive director, or, during the course of a hearing, by the judge [hearing officer];

(2) motions for subpoenas to compel the production of books, papers, accounts, or documents shall be addressed to the board, shall be verified and shall specify as nearly as may be the books, papers, accounts, or documents desired and the material and relevant facts to be proved by them. If the matter sought is relevant, material, and necessary and will not result in harassment, imposition, or undue inconvenience or expense to the party to be required to produce the same, the board, any member thereof, or the judge [executive director] may issue a subpoena, compelling production of books, papers, accounts, or documents as deemed necessary; and

(3) such subpoenas shall be issued only after a showing of good cause and deposit of sums sufficient to insure payment of expenses incident to the subpoenas. Service of subpoenas and payment of witness fees shall be made in the manner prescribed in the Administrative Procedure and Texas Register Act [(Texas Civil Statutes, Article 6252-13a)], except that the mileage and per diem fees for nonparty deponents and witnesses shall be in the amount by law for employees of the State of Texas for intrastate mileage and per diem.

**§131.216. Filing of Exceptions, Briefs, and Replies.** Any party of record may, within 20 days after the date of service of a proposal for decision, file exceptions and briefs to the proposal for decision, and replies to such exceptions and briefs may be filed within 15 days after the date for filing of such exceptions and briefs. A request for extension of time within which to file exceptions, briefs, or replies shall be filed with the board's executive director and the judge, and a copy thereof shall be served on all other parties of record by the party making such request. The judge [executive director] shall promptly notify the parties of his action upon the same and allow additional time only in extraordinary circumstances where the interests of justice so require.

**§131.217. Form and Content of Briefs, Exceptions, and Replies.** Briefs, exceptions, and replies shall conform as nearly as may be possible to the size and form of pleadings as described [set forth] in §131.191 [(1), (2), and (3)] of this title (relating to Form and Content of Pleadings). The points involved shall be concisely stated. The evidence in support of each point shall be abstracted or summarized and/or briefly stated in the form of proposed findings of fact. Complete citations to the page number

of the record or exhibit referring to evidence shall be made. The specific purpose for which the evidence is relied upon shall be stated. The argument and authorities shall be organized and directed to each point properly proposed as a finding of fact in a concise and logical manner. Briefs shall contain a table of contents and authorities. Briefs, prior to the issuance of a proposal for decision, may be filed only when requested or permitted by the judge [hearing officer].

**§131.218. Oral Argument.** Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only at the sound discretion of the board. A request for oral argument shall [may] be stated [incorporated in exceptions, briefs, replies to exceptions, motions for rehearing, or] in a separate pleading [pleadings] filed with the board.

**§131.219. Final Decision and Orders.** All final decisions and orders of the board shall be in writing and shall be signed by a majority of the board members. A final decision shall include findings of fact and conclusions of law, separately stated. [Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.] Parties shall be notified either personally or by mail of any decision or order. On written request, a copy of the decision or order shall be delivered or mailed to any party and to his attorney of record.

**§131.221. Motions for Rehearing.** Except as provided in §131.220 [§131.119] of this title (relating to Administrative Finality [Final Decision and Orders]), a motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed within 20 [15] days after the date of rendition of a final decision or order. Replies to a motion for rehearing must be filed with the board within 30 [25] days after the date of rendition of the final decision or order, and board action on the motion must be taken within 45 days after the date of rendition of the final decision or order. If board action is not taken within the 45-day period, the motion for rehearing is overruled by operation of law 45 days after the date of rendition of the final decision or order. The board may by written order extend the period of time for filing the motions and replies and taking board action, except that an extension may not extend the period for board action beyond 90 days after the date of rendition of the final decision or order. In the event of an extension, the motion for rehearing is overruled by operation of law on the date fixed by the order, or in the absence of a fixed date, 90 days after the date of the final decision or order. The parties may by agree-

ment, with the approval of the board, provide for a modification of the times provided in this section.

**§131.222. Rendering of Final Decision or Order.** The final decision or order must be rendered within 60 days after the date the hearing is finally closed. Because [In] a contested case is heard by a judge with the State Office of Administrative Hearings [other than a majority of the members of the board], the board may prescribe a longer period of time within which the final order or decision of the board shall be issued, normally in keeping with the scheduled quarterly meetings of the board. The extension, if so prescribed, shall be announced at the conclusion of the hearing by the judge after consultation with the board's executive director.

**§131.223. The Record.**

(a) The record in a contested case shall include:

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

(6) any decision, opinion, or report by the judge [officer] presiding at the hearing; and

(7) all staff memoranda or data submitted to or considered by the judge [hearing officer or member of the board] or members of the board who are involved in making the decision.

(b) (No change.)

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

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

TRD-9323832

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

Proposed date of adoption: July 28, 1993

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part XVI. Coastal Coordination Council

#### Chapter 503. Coastal Management Program

##### • 31 TAC §503.1

The Coastal Coordination Council (CCC) proposes new §503.1, to identify the boundary of the Texas Coastal Management Program (CMP) in accordance with state and federal law.

In 1989, the Texas Legislature charged the General Land Office (GLO) with the responsibility of developing a long-range coastal management plan for Texas beaches and state-owned submerged land. Upon the issuance of that directive, the GLO determined that the plan should be the product of grass roots consensus-building. In 1990, a year-long series of public hearings and consensus-building workshops were held along the coast in an effort to identify and assess those issues most crucial to citizens along the Texas Gulf Coast. As a result of this process, the principal areas of identified concerns were coastal erosion, dune protection, wetlands protection, public beach access, and inter-governmental coordination. Based on recommendations received from participants in the hearings and workshops, the GLO drafted proposed legislation to improve management and protection of coastal resources. Enacted by the 72nd Legislature in 1991, the legislation expanded the scope of Texas' coastal management efforts. The legislation directed the General Land Office, in cooperation with other state agencies, to develop a comprehensive, long-term plan to manage activities affecting all coastal natural resources. The legislation amended the Coastal Coordination Act, Natural Resources Code, Subchapter F, to create the CCC, a council with the responsibility to adopt and implement the CMP as developed by the state agencies. The CCC proposes a CMP boundary developed by the GLO in cooperation with other agencies.

One of the goals for the CMP is its submission to the United States Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) for acceptance into the federal Coastal Zone Management Program. On June 7, 1992, Governor Ann Richards gave formal notice to NOAA that Texas intended to develop a coastal management program and submit it for approval and funding under the federal Coastal Zone Management Act (CZMA) of 1972. Governor Richards designated the GLO as the lead agency for this effort. Federal approval of the CMP will provide Texas with two major benefits. First, Texas will become eligible to receive approximately \$2 million annually in federal coastal management funds. Second, through the CMP, Texas can require that federal activities along the Gulf Coast be consistent with state policies.

In order to receive federal approval, the CMP must establish management boundaries in accordance with the requirements of the CZMA of 1972. The CZMA and associated federal regulations define the requirements that must be met in establishing the seaward, inland, and interstate boundaries of the State's coastal zone area.

The establishment of a boundary in accordance with CZMA requirements is a task complicated by the size and ecological variability of the Texas Gulf Coast, the complexity of human activities which impact coastal resources, and the intricacies of institutional arrangements within the state. In order to fully consider these factors as well as satisfy both federal and state requirements, a CMP planning area and study area were delineated within which analyses were conducted to determine the final coastal area boundaries.

The boundary determination process consisted of evaluating the planning and study areas against a set of criteria drawn from the federal and state mandates. An Interagency Coastal Area Boundary (IACAB) Work Group, composed of the staff of the GLO, Railroad Commission of Texas, Texas Department of Transportation, Texas Water Commission, Texas Department of Agriculture, Texas Parks and Wildlife Department, Texas Attorney General's Office, and Texas Water Development Board, was formed to evaluate various boundary options for the area to be managed by the CMP. The proposed boundary rule is the result of the work group's evaluations.

The primary focus of the IACAB Work Group was to ensure that the inland boundary be presented clearly and exactly enough to permit determination of whether an activity or property is located within the management area. Consistent with the federal regulations, the recommended inland boundary was drawn along county lines. As known and recognized boundaries, county lines provide notice to the public, state agencies, and political subdivisions regarding the areas and activities that will be subject to the CMP. The boundary will also provide some degree of assurance to the public, state agencies, and political subdivisions that proposed activities located outside the boundary will not be subject to the CMP. Nothing in the designation of the CMP boundary will preclude the CCC from examining the impact of activities outside the boundary that have a direct impact on the Coastal Management Area. A map depicting the inland boundary accompanies this proposed rule.

Spencer Reid, deputy commissioner of the GLO, 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. Reid also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the mere designation of a coastal program boundary does not determine fiscal impact, but the public benefit that will ensue as a result of a county's inclusion within the boundary will be the county's entitlement to federal grant monies upon federal approval of the CMP. Although a county is included within the boundary, the entire area will not necessarily be subject to the regulations of the CMP. Only those activities addressed in CCC policies will be regulated under the CMP. 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.

Public hearings on the CMP boundary will take place in Houston, Victoria, McAllen, Corpus Christi, and the Beaumont/Port Arthur areas. Specific dates and locations are to be announced.

Comments on the proposed boundary rule may be submitted to William Foster, General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5019, FAX number (512) 463-5233. In order to be considered,

comments on the rules must be received in the GLO within 60 days of publication of the rules.

The new rule is proposed under the Texas Natural Resources Code, §33.204(a), which provides the CCC with the authority to promulgate rules adopting the goals and policies of the CMP.

#### *§503.1. Coastal Management Program Boundary.*

(a) General description of the CMP Boundary. The CMP boundary encompasses all the area within the following Texas counties: Cameron, Willacy, Hidalgo, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Refugio, Calhoun, Victoria, Jackson, Matagorda, Brazoria, Fort Bend, Galveston, Harris, Chambers, Liberty, Jefferson, and Orange. The seaward reach of the boundary extends into the Gulf of Mexico to the limit of state title and ownership under the Submerged Lands Act (43 United States Code, §1301 et seq), three marine leagues.

(b) Particular description of the CMP Boundary. The boundary is more particularly described in terms of the inland boundary, the boundary with the State of Louisiana, the seaward boundary, the boundary with the Republic of Mexico, and the excluded federal lands.

(1) The inland boundary. The inland boundary begins at the western most intersection of Hidalgo County and the border with the Republic of Mexico; thence in a northeasterly direction along the Hidalgo County line until it meets the Brooks County line; thence in an easterly direction along the Hidalgo County line until it meets the Kenedy County line; thence in a northerly direction along the Kenedy County line until it meets the Kleberg County line; thence along the Kleberg County line until it meets the Jim Wells County line; thence in a northerly direction along the Jim Wells County line until it meets the Nueces County line; thence in a northerly direction along the Nueces County line until it meets the San Patricio County line; thence in a northerly direction along the San Patricio County line until it meets the Live Oak County line; thence in a northeasterly direction along the Live Oak County line until it meets the Bee County line; thence in an easterly direction along the Bee County line until it meets the Refugio County line; thence in a northerly direction along the Refugio County line until it meets the Goliad County line; thence in a northeasterly direction along the Goliad County line until it meets the Victoria County line; thence in a northwesterly direction along the Victoria County line until it meets the De Witt County line; thence in a northeasterly direction along the De Witt County line until it meets the Lavaca County line;

thence in a southeasterly direction along the Lavaca County line until it meets the Jackson County line; thence in a northeasterly direction along the Jackson County line until it meets the Colorado County line; thence in a southeasterly direction along the Colorado County line until it meets the Wharton County line; thence in a southeasterly direction along the Wharton County line until it meets the Matagorda County line; thence in a northeasterly direction along the Matagorda County line until it meets the Brazoria County line; thence in a northeasterly direction along the Brazoria County line until it meets the Fort Bend County line; thence in a northwesterly direction along the Fort Bend County line until it meets the Austin County line; thence in a northerly direction along the Austin County line until it meets the Waller County line; thence in an easterly direction along the Waller County line until it meets the Harris County line; thence in a northerly direction along the Harris County line until it meets the Montgomery County line; @thence in an easterly direction along the Montgomery County line until it meets the Liberty County line; thence in a northerly direction along the Liberty County line until it meets the San Jacinto County line; thence in a

northeasterly direction along the San Jacinto County line until it meets the Polk County line; thence in an easterly direction along the Polk County line until it meets the Hardin County line; thence in a southeasterly direction along the Hardin County line until it meets the Jefferson County line; thence in an easterly direction along the Jefferson County line until it meets the Orange County line; thence in a northerly direction along the Orange County line until it meets the Jasper County line; thence in an easterly direction along the Jasper County line until it meets the Newton County line; thence in an easterly direction along the Newton County line until it meets the adjudicated boundary with the State of Louisiana.

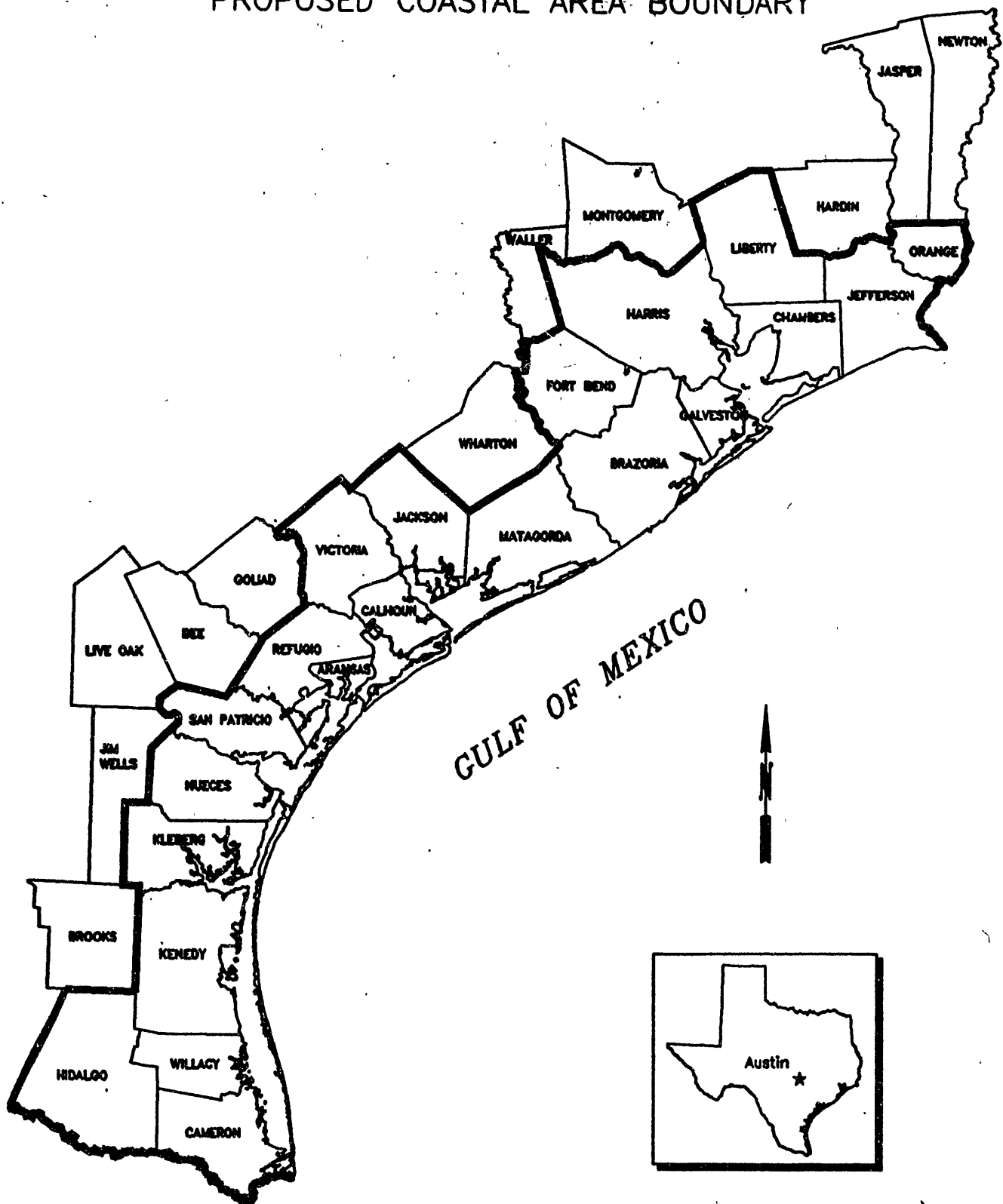
(2) The boundary with the State of Louisiana. The boundary with the State of Louisiana begins at the northernmost intersection of Orange County and the adjudicated boundary between the State of Texas and the State of Louisiana, as established by the United States Supreme Court in *Texas v. Louisiana*, 410 United States 702 (1973); thence in a southerly direction along the adjudicated boundary out into the Gulf of Mexico until it intersects the seaward boundary.

(3) The seaward boundary. The seaward boundary is that line marking the seaward limit of Texas title and ownership under the Submerged Lands Act (43 United States Code, §1301 et seq), as recognized by the United States Supreme Court in *United States v. Louisiana et al*, 364 United States 502 (1960).

(4) The boundary with the Republic of Mexico. The boundary with the Republic of Mexico begins at a point three marine leagues into the Gulf of Mexico where the line marking the seaward limit of Texas title and ownership under the Submerged Lands Act (43 United States Code, §1301 et seq) intersects the international boundary between the United States and the Republic of Mexico, as established pursuant to the Treaty of Guadalupe-Hidalgo (February 2, 1848) between the United States and the Republic of Mexico; thence in a westerly direction along the international border with the Republic of Mexico until it meets that point on the border marking the western most intersection of Hidalgo County.

(5) The excluded federal lands. The excluded federal lands are those lands owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the federal government, its officers or agents.

# TEXAS COASTAL MANAGEMENT PROGRAM PROPOSED COASTAL AREA BOUNDARY



May 21, 1993

Texas General Land Office  
Coastal Division

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 June 7, 1993.

TRD-9323889

Garry Mauro  
Commissioner  
Coastal Coordination  
Council

Proposed date of adoption: August 13, 1993

For further information, please call: (512) 463-5007

## TITLE 34. PUBLIC FINANCE

### Part IV. Employees Retirement System of Texas

#### Chapter 85. Flexible Benefits

##### • 34 TAC §§5.3

The Employees Retirement System of Texas proposes an amendment to §§5.3, concerning Eligibility and Participation. The amendment will allow a state or higher education employee who has elected to not participate in premium conversion to continue this election from year to year without executing a new form each year. The employee may again participate in premium conversion by executing a form to do so.

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

Mr. Nail also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be that administrative procedures will be simplified and state and higher education employees will not have to re-execute a form to not participate in premium conversion each year. 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 William S. Nail, General Counsel, P.O. Box 13207, Austin, Texas 78711-3207.

The amendment is proposed under the Insurance Code, Article 3.50-2, §4(k) which provides the Employees Retirement System of Texas with the authority to promulgate all rules and regulations necessary to implement and to administer and Flexible Benefits (Cafeteria Plan) program for state employees.

##### §§5.3. Eligibility and Participation.

###### (a) Premium conversion.

(1) Eligibility. Any employees initially participating in the Texas Employees Uniform Group Insurance Program un-

der the [Texas] Insurance Code, Article 3.50-2, who has insurance premium expenses, which exceed the state's and institution's contribution for insurance, is eligible to participate in premium conversion and shall be automatically enrolled in the premium conversion plan, unless the employee elects not to participate.

(2) (No change.)

(3) Duration of participation.

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

(D) An employee who is ineligible to participate or who is eligible and elects not to participate in premium conversion and who becomes or remains eligible to participate in a subsequent plan year, will continue to not participate in premium conversion unless the employee executes [and who wish to continue to decline participation must execute] a new TexFlex election form [annually] during the annual enrollment period or under the change in family status rules and elects to participate

(4) (No change.)

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

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

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

TRD-9323766

Charles D. Travis  
Executive Director  
Employee Retirement  
System of Texas

Earliest possible date of adoption: July 12, 1993

For further information, please call: (512) 867-3336

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part VI. Texas Department of Criminal Justice

#### Chapter 152. General Allocation Rules

##### Subchapter A. Institutional Diversion Admissions

###### • 37 TAC §§152.1-152.3

The Texas Department of Criminal Justice proposes amendments to §§152.1-152.3, concerning allocation of admissions to the Texas Department of Criminal Justice.

By separate proposed rule, filed contemporaneously with this proposed rule, the Texas Department of Criminal Justice also proposed to add new §163.45, Allocation Formula for

Community Supervision and Corrections Department Funding. The proposed new §163.45 will create a separate allocation formula for distribution of funding to community supervision and corrections departments (CSCDs). The proposed severance of the two formulas for beds and for funding for CSCDs is authorized by amendments to the Texas Government Code, §499.071, adopted by the 73rd Legislature in Senate Bill 532.

Under the Texas Government Code, §499.071, as amended, the Texas Board of Criminal Justice is required to promulgate a formula for allocation of admissions to the Institutional Division, and is further required to amend that formula annually, the board is required by law to include certain statutory factors in the formula, and has discretion to add other factors. The board is further required to use up-dated data each time it revises the formula. Data base changes would, of course, produce some alterations in the percentages of admissions allocated to each county, even if the board did not propose to alter the factors included in the formula, or the weights assigned to those factors. The proposed amendments to §152.2, Definitions, updates the definition of capacity to include new construction and the adjustments to capacity permissible under the Texas Government Code, §499.101, and the implementing rules as published at §152.11 and §152.12.

The proposed amendment to §152.3(b) adds a new discretionary factor for the county's percentage of the total number of paper-ready felons confined in all jails in all counties during the preceding 12-month period.

This new factor is also in the funding formula set out in §152.3(c), where it is denominated "jail backlog."

The proposed amendments to §152.3(c) published herein for the allocation of admissions include the following proposed changes to the weights to be assigned to the factors which are mandated by statute: the weight for violent index crimes is reduced from 15 to ten; the weight for all index crimes is reduced from 20 to ten; the weight for parole releases is increased from ten to 15.

The proposed amendments to §152.3(c) also include the amendments to the discretionary factors used in the FY 1993 allocation formula. The board proposes the following changes to the discretionary factors: the weight for probation placements is decreased from ten to five; the weight for juvenile probation funding is decreased from ten to five; and the board adds a new factor for the "jail backlog population" and gives that new factor a weight of 20.

David McNutt, Assistant Director of Budget and Management Services for TDCJ, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

The adoption of the proposed amendments will impose additional costs on those counties which lose beds under the new formula, while somewhat reducing costs to those counties that gain beds. Since each county's costs for holding prisoners varies, it is not possible to



ascertain the exact fiscal impact in each county.

Mr. McNutt, also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be an equitable distribution of the capacity of the Institutional Division to receive new prisoners from county custody. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Cathy McVey, Classification Department, Texas Department of Criminal Justice, P.O. Box 99, Huntsville, Texas 77342-0099, (409) 294-6232.

The amendments are proposed under the Texas Government Code, §499.071, which provides the Texas Board of Criminal Justice with authority to adopt an allocation formula for admissions to the Institutional Division.

**§152.1. Purpose.** The Texas Government Code, §499.071, et seq [Texas Civil Statutes, Article 6166a-4], requires the board to adopt and enforce an allocation formula to fairly and equitably allocate to each county the available institutional division admissions until sufficient capacity is available in the institutional division to accept all prisoners eligible for transfer to the institutional division. An annual determination by the board that there is insufficient capacity in the institutional division to accept all prisoners from Texas county jails who are eligible for transfer into the institutional division as soon as they become eligible shall make it necessary to adopt and enforce such a formula.

**§152.2. Definitions and Exceptions.**

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

(1) Available institutional division admissions—The total number of beds available within the institutional division for

intake of prisoners is based upon the estimated rate of release of prisoners from the institutional division, minus .03333 of those beds which is adequate to allow the institutional division to expeditiously receive from the counties any new prisoners who are sentenced to death, or who are recaptured escapees, pre-parole violators, institutional division prisoners returning from federal bench warrants, interstate corrections compact transfers, and out-of-state parole violators. Therefore, the number of admissions available is based upon [an estimated] the rate of prisoner flow through the institutional division, [to maintain the institutional division capacity], plus any new beds added to capacity through the mechanisms permitted under §152.11 and §152.12 of this title (relating to Definitions; Methodology for Changing Maximum System Population).

(2) Institutional division capacity—The total number of beds available for use within the institutional division, in accordance with the limitations on capacity and its use imposed by federal court orders in *Ruiz vs. Lynaugh*, Number H-78-987 (Southern District Texas, Houston Division), and the rules concerning capacity set out at §152.11 and §152.12 of this title. [Available institutional division capacity at the time of the adoption of this section will be no more than 47,273. When the Lewis unit is populated and in operation, available institutional division capacity will be no more than 49,331].

(b) The institutional division may suspend or cancel admissions when the acceptance or transport of prisoners would be unsafe, such as in cases of extremely severe weather or civil disturbance, or would cause noncompliance with federal court orders. The institutional division is not required to make up for admissions so suspended or canceled. On days that the institutional division is closed due to holidays, the number of admissions is decreased by the number of days of closure multiplied by the current number of daily admission. The balance of

admissions for the week is prorated out to the counties based upon their allocated percentage of intake.

**§152.3. Allocation Formula.**

(a) (No change.)

(b) The board has discretion to add other factors which are not mandated by the legislature. In the exercise of that discretion, the board adds the following factors reflecting community effort:

(1) the county's percentage of the state's total number of persons placed on probation during the preceding calendar year, as determined by the Criminal Justice Division of the Texas Department of Corrections. "Probation placements" are defined as including felons placed on regular probation, and felons placed in a special program, either through direct sentencing by the court, persons given shock probation;

(2) the county's percentage of the state's total number of persons completing probation during the preceding calendar year (as determined by the Community Justice Assistance Division) whose probations were terminated either through early discharge or the expiration of the full term of probation;

(3) the county's percentage of the state's total funds expended by counties for juvenile probation services in the most recently audited county fiscal year, as determined by the Texas Juvenile Probation Commission staff;

(4) the county's percentage of the total number of paper-ready felons backlogged in all county jails during the most recently completed 12-months, as determined from reports submitted by the counties to the Texas Jail Standards Commission.

(c) The board assigns the following weight to each statutory and discretionary factor.

**STATUTORY FACTORS**

(1)	Section 152.3(A)(1) - (historical admissions)		10	-
(2)	Section 152.3(a)(2) - (violent index crime)	[15]	<u>10</u>	-
(3)	Section 152.3(a)(3) - (index crime)	[20]	<u>10</u>	
(4)	Section 152.3(a)(4) - (drug crime arrests)		10	
(5)	Section 152.3(a)(5) - (population)		5	
(6)	Section 152.3(a)(6) - (unemployment)		5	
(7)	Section 152.3(a)(7) - (parole releases)	[10]	<u>15</u>	

**DISCRETIONARY FACTORS**

(8)	Section 152.3(b)(1) - (probation placements)	[10]	<u>5</u>	
(9)	Section 152.3(b)(2) - (probation completions)		5	
(10)	Section 152.3(b)(3) - (juvenile probation funding)	[10]	5	
(11)	Section 152.3(b)(4) - (jail backlog)		<u>20</u>	

**TOTAL** 100%

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

(f) This formula gives each county a fixed percentage of institutional division admissions, as follows:

HIGH INTAKE COUNTIES

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
HARRIS	[0.2069609613]	<u>0.2530311461</u>
DALLAS	[0.1718807022]	<u>0.1568331427</u>
TARRANT	[0.0793993617]	<u>0.0811176678</u>
BEXAR	[0.0693234784]	<u>0.0553222441</u>
TRAVIS	[0.0419031667]	<u>0.0420327540</u>
EL PASO	[0.0333402500]	<u>0.0256481534</u>
JEFFERSON	[0.0188554619]	<u>0.0175519950</u>
HIDALGO	[0.0174243043]	<u>0.0144623372</u>
NUECES	[0.0185093680]	<u>0.0183098866</u>
GALVESTON	[0.0133598621]	<u>0.0131822466</u>
CAMERON	[0.0128952698]	<u>0.0120386754</u>
LUBBOCK	[0.0110189336]	<u>0.0105810687</u>

OTHER TEXAS COUNTIES

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
ANDERSON	[0.0018914778]	<u>0.0022125161</u>
ANDREWS	[0.0006793131]	<u>0.0006870964</u>
ANGELINA	[0.0033714110]	<u>0.0034903541</u>
ARANSAS	[0.0010242362]	<u>0.0009365433</u>
ARCHER	[0.0001291225]	<u>0.0001495218</u>
ARMSTRONG	[0.0000229233]	<u>0.0000203091</u>
ATASCOSA	[0.0009901800]	<u>0.0012285593</u>
AUSTIN	[0.0006327374]	<u>0.0006236659</u>
BAILEY	[0.0002508162]	<u>0.0001815137</u>
BANDERA	[0.0003214387]	<u>0.0002745114</u>
BASTROP	[0.0012979692]	<u>0.0013935277</u>
BAYLOR	[0.0001083577]	<u>0.0001584613</u>
BEE	[0.0009936446]	<u>0.0009650171</u>
BELL	[0.0089764689]	<u>0.0082124387</u>
BLANCO	[0.0001400726]	<u>0.0001150689</u>
BORDEN	[0.0000096485]	<u>0.0000075001</u>
BOSQUE	[0.0003925077]	<u>0.0003218238</u>
BOWIE	[0.0039964270]	<u>0.0046607344</u>
BRAZORIA	[0.0077149309]	<u>0.0086102592</u>
BRAZOS	[0.0065623231]	<u>0.0059539420</u>
BREWSTER	[0.0002840951]	<u>0.0002005494</u>
BRISCOE	[0.0000161964]	<u>0.0000292993</u>
BROOKS	[0.0007288702]	<u>0.0012463877</u>
BROWN	[0.0013904058]	<u>0.0014366593</u>
BURLESON	[0.0006116973]	<u>0.0006264802</u>
BURNET	[0.0008156754]	<u>0.0007100083</u>

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
CALDWELL	[0.0011280197]	<u>0.0015829272</u>
CALHOUN	[0.0007969676]	<u>0.0009273114</u>
CALLAHAN	[0.0002181112]	<u>0.0001907600</u>
CAMP	[0.0004260257]	<u>0.0005580521</u>
CARSON	[0.0002459325]	<u>0.0002123549</u>
CASS	[0.0012003324]	<u>0.0010567717</u>
CASTRO	[0.0002883076]	<u>0.0002175697</u>
CHAMBERS	[0.0013158526]	<u>0.0012503999</u>
CHEROKEE	[0.0015854289]	<u>0.0018213307</u>
CHILDRESS	[0.0003033790]	<u>0.0002399601</u>
CLAY	[0.0001915034]	<u>0.0002185025</u>
COCHRAN	[0.0001358171]	<u>0.0001057232</u>
COKE	[0.0000773593]	<u>0.0000764309</u>
COLEMAN	[0.0002820258]	<u>0.0003034288</u>
COLLIN	[0.0086968181]	<u>0.0090458960</u>
COLLINGSWORTH	[0.0001513273]	<u>0.0001270838</u>
COLORADO	[0.0007699623]	<u>0.0007511225</u>
COMAL	[0.0023545411]	<u>0.0018360245</u>
COMANCHE	[0.0003668602]	<u>0.0004001751</u>
CONCHO	[0.0000828930]	<u>0.0000867203</u>
COOKE	[0.0010465402]	<u>0.0008856415</u>
CORYELL	[0.0011717284]	<u>0.0010673290</u>
COTTLE	[0.0000572063]	<u>0.0000486734</u>
CRANE	[0.0001749091]	<u>0.0001456148</u>
CROCKETT	[0.0001628161]	<u>0.0000803656</u>
CROSBY	[0.0001452520]	<u>0.0001161395</u>
CULBERSON	[0.0000871300]	<u>0.0001039426</u>
DALLAM	[0.0002600338]	<u>0.0002754256</u>
DAWSON	[0.0007748665]	<u>0.0006618442</u>
DEAF SMITH	[0.0007757842]	<u>0.0009064714</u>
DELTA	[0.0001369408]	<u>0.0001358411</u>
DENTON	[0.0084434679]	<u>0.0088951867</u>
DEWITT	[0.0005003834]	<u>0.0004884603</u>
DICKENS	[0.0000740915]	<u>0.0000669903</u>
DIMITT	[0.0002120889]	<u>0.0003102986</u>
DONLEY	[0.0001615122]	<u>0.0001322566</u>
DUVAL	[0.0005049439]	<u>0.0004606254</u>
EASTLAND	[0.0007148605]	<u>0.0007099042</u>
ECTOR	[0.0073848760]	<u>0.0065891909</u>
EDWARDS	[0.0000600576]	<u>0.0000352053</u>
ELLIS	[0.0033456520]	<u>0.0036809472</u>
ERATH	[0.0009186351]	<u>0.0008797188</u>
FALLS	[0.0007101440]	<u>0.0006387506</u>
FANNIN	[0.0007402350]	<u>0.0008129145</u>
FAYETTE	[0.0005603656]	<u>0.0006162416</u>
FISHER	[0.0001118221]	<u>0.0000942654</u>
FLOYD	[0.0002332477]	<u>0.0002009336</u>
FOARD	[0.0000362851]	<u>0.0000319367</u>
FORT BEND	[0.0080849759]	<u>0.0076173550</u>
FRANKLIN	[0.0002944677]	<u>0.0003294677</u>
FREESTONE	[0.0006041015]	<u>0.0007135585</u>
FRIO	[0.0005820937]	<u>0.0007640624</u>
GAINES	[0.0004685257]	<u>0.0003867735</u>
GARZA	[0.0002536717]	<u>0.0001938579</u>

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
GILLESPIE	[0.0004226279]	<u>0.0004071874</u>
GLASSCOCK	[0.0000132670]	<u>0.0000194347</u>
GOLIAD	[0.0003013921]	<u>0.0001582556</u>
GONZALES	[0.0006194922]	<u>0.0005342866</u>
GRAY	[0.0011837139]	<u>0.0009397547</u>
GRAYSON	[0.0043157229]	<u>0.0043018031</u>
GREGG	[0.0067332793]	<u>0.0067524999</u>
GRIMES	[0.0006685578]	<u>0.0008379101</u>
GUADALUPE	[0.0023059680]	<u>0.0021747623</u>
HALE	[0.0014088166]	<u>0.0014273944</u>
HALL	[0.0001631026]	<u>0.0001565456</u>
HAMILTON	[0.0002276683]	<u>0.0002441221</u>
HANSFORD	[0.0000926038]	<u>0.0000886095</u>
HARDEMAN	[0.0001910878]	<u>0.0001346174</u>
HARDIN	[0.0014817127]	<u>0.0033219035</u>
HARRISON	[0.0027759855]	<u>0.0025928913</u>
HARTLEY	[0.0000763243]	<u>0.0000798239</u>
HASKELL	[0.0001765681]	<u>0.0001783167</u>
HAYS	[0.0023308694]	<u>0.0023607760</u>
HEMPHILL	[0.0000569117]	<u>0.0000576769</u>
HENDERSON	[0.0025720485]	<u>0.0025268943</u>
HILL	[0.0009443471]	<u>0.0009132498</u>
HOCKLEY	[0.0008660063]	<u>0.0007246522</u>
HOOD	[0.0010575861]	<u>0.0010002142</u>
HOPKINS	[0.0011912535]	<u>0.0018633065</u>
HOUSTON	[0.0006773944]	<u>0.0006808575</u>
HOWARD	[0.0013116023]	<u>0.0013599505</u>
HUDSPETH	[0.0003605136]	<u>0.0003702323</u>
HUNT	[0.0042395697]	<u>0.0028835042</u>
HUTCHINSON	[0.0009499231]	<u>0.0008275975</u>
IRION	[0.0000357933]	<u>0.0000597004</u>
JACK	[0.0001662905]	<u>0.0001726358</u>
JACKSON	[0.0003757814]	<u>0.0006321396</u>
JASPER	[0.0010063371]	<u>0.0011150788</u>
JEFF DAVIS	[0.0000327771]	<u>0.0000234997</u>
JIM HOGG	[0.0003185380]	<u>0.0003912539</u>
JIM WELLS	[0.0017178232]	<u>0.0015086169</u>
JOHNSON	[0.0032420861]	<u>0.0031035228</u>
JONES	[0.0005499250]	<u>0.0006015346</u>
KARNES	[0.0004088207]	<u>0.0004997364</u>
KAUFMAN	[0.0027352843]	<u>0.0026794410</u>
KENDALL	[0.0004096634]	<u>0.0005046451</u>
KENEDY	[0.0000313257]	<u>0.0000136834</u>
KENT	[0.0000092012]	<u>0.0000078901</u>
KERR	[0.0016688643]	<u>0.0015136233</u>
KIMBLE	[0.0001515078]	<u>0.0003239327</u>
KING	[0.0000053762]	<u>0.0000219112</u>
KINNEY	[0.0000787910]	<u>0.0000677905</u>
KLEBERG	[0.0023026558]	<u>0.0020933934</u>
KNOX	[0.0001243653]	<u>0.0001328819</u>
LA SALLE	[0.0002241182]	<u>0.0002121368</u>
LAMAR	[0.0029216227]	<u>0.0029563719</u>
LAMB	[0.0003568936]	<u>0.0003642139</u>
LAMPASAS	[0.0005338554]	<u>0.0004807181</u>

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
LAVACA	[0.0003768772]	<u>0.0003809598</u>
LEE	[0.0004747850]	<u>0.0003795061</u>
LEON	[0.0003198010]	<u>0.0003665994</u>
LIBERTY	[0.0024504122]	<u>0.0029639844</u>
LIMESTONE	[0.0009887474]	<u>0.0010435968</u>
LIPSCOMB	[0.0000491645]	<u>0.0000303779</u>
LIVE OAK	[0.0002857378]	<u>0.0002845649</u>
LLANO	[0.0002674236]	<u>0.0002775458</u>
LOVING	[0.0000024478]	<u>0.0000109520</u>
LYNN	[0.0001991218]	<u>0.0001924530</u>
MADISON	[0.0004864552]	<u>0.0004273600</u>
MARION	[0.0005707350]	<u>0.0004564309</u>
MARTIN	[0.0000979218]	<u>0.0000666200</u>
MASON	[0.0000688847]	<u>0.0000528358</u>
MATAGORDA	[0.0022293779]	<u>0.0024302972</u>
MAVERICK	[0.0011547918]	<u>0.0011440062</u>
MCCULLOCH	[0.0003192405]	<u>0.0003044285</u>
MCLENNAN	[0.0100914139]	<u>0.0088680824</u>
MCMULLEN	[0.0000065987]	<u>0.0000145893</u>
MEDINA	[0.0011738680]	<u>0.0010078740</u>
MENARD	[0.0000962764]	<u>0.0000686433</u>
MIDLAND	[0.0058939308]	<u>0.0065617345</u>
MILAM	[0.0007444655]	<u>0.0010180113</u>
MILLS	[0.0000580939]	<u>0.0000554648</u>
MITCHELL	[0.0003500828]	<u>0.0003041193</u>
MONTAGUE	[0.0004836823]	<u>0.0004708106</u>
MONTGOMERY	[0.0077918103]	<u>0.0078315448</u>
MOORE	[0.0005681389]	<u>0.0004707322</u>
MORRIS	[0.0005327002]	<u>0.0006090004</u>
MOTLEY	[0.0000137534]	<u>0.0000195187</u>
NACOGDOCHES	[0.0021678136]	<u>0.0024875550</u>
NAVARRO	[0.0022284814]	<u>0.0026869788</u>
NEWTON	[0.0003306951]	<u>0.0003279746</u>
NOLAN	[0.0008234827]	<u>0.0007020224</u>
OCHILTREE	[0.0002937930]	<u>0.0002428612</u>
OLDHAM	[0.0000888705]	<u>0.0001274471</u>
ORANGE	[0.0039135012]	<u>0.0036457538</u>
PALO PINTO	[0.0011178620]	<u>0.0010223225</u>
PANOLA	[0.0011429315]	<u>0.0008906596</u>
PARKER	[0.0017168237]	<u>0.0017873058</u>
PARMER	[0.0002421528]	<u>0.0002179645</u>
PECOS	[0.0007121523]	<u>0.0005736778</u>
POLK	[0.0015158498]	<u>0.0018285816</u>
POTTER	[0.0078256208]	<u>0.0064088203</u>
PRESIDIO	[0.0001937738]	<u>0.0001795699</u>
RAINS	[0.0002104811]	<u>0.0002524485</u>
RANDALL	[0.0019673136]	<u>0.0017876550</u>
REAGAN	[0.0001110475]	<u>0.0001071279</u>
REAL	[0.0001249437]	<u>0.0000800608</u>
RED RIVER	[0.0006010016]	<u>0.0005667558</u>
REEVES	[0.0008061307]	<u>0.0007365351</u>
REFUGIO	[0.0003588503]	<u>0.0003228663</u>
ROBERTS	[0.0000130377]	<u>0.0000162801</u>
ROBERTSON	[0.0009543339]	<u>0.0012428142</u>

COUNTY	CURRENT PERCENTAGE	PROPOSED PERCENTAGE
ROCKWALL	[0.0009373214]	<u>0.0009619030</u>
RUNNELS	[0.0003448167]	<u>0.0003903676</u>
RUSK	[0.0017016418]	<u>0.0019831204</u>
SABINE	[0.0002099768]	<u>0.0002309348</u>
SAN AUGUSTINE	[0.0003530051]	<u>0.0003221874</u>
SAN JACINTO	[0.0006516594]	<u>0.0005193996</u>
SAN PATRICIO	[0.0024550487]	<u>0.0026542714</u>
SAN SABA	[0.0001799375]	<u>0.0001059763</u>
SCHLEICHER	[0.0000738499]	<u>0.0000664203</u>
SCURRY	[0.0006318284]	<u>0.0007172302</u>
SHACKELFORD	[0.0000657727]	<u>0.0000812178</u>
SHELBY	[0.0009784915]	<u>0.0008727055</u>
SHERMAN	[0.0001019504]	<u>0.0001009426</u>
SMITH	[0.0077866916]	<u>0.0074965002</u>
SOMERVELL	[0.0002411234]	<u>0.0001345324</u>
STARR	[0.0014239642]	<u>0.0012009715</u>
STEPHENS	[0.0002752641]	<u>0.0002381466</u>
STERLING	[0.0000203717]	<u>0.0000245033</u>
STONEWALL	[0.0000502354]	<u>0.0000571515</u>
SUTTON	[0.0001492542]	<u>0.0000826689</u>
SWISHER	[0.0003317240]	<u>0.0002500789</u>
TAYLOR	[0.0061213557]	<u>0.0065795141</u>
TERRELL	[0.0000340344]	<u>0.0000217750</u>
TERRY	[0.0007635251]	<u>0.0006450319</u>
THROCKMORTON	[0.0000277072]	<u>0.0000370412</u>
TITUS	[0.0009108207]	<u>0.0010682416</u>
TOM GREEN	[0.0052708849]	<u>0.0047293751</u>
TRINITY	[0.0004080518]	<u>0.0005084840</u>
TYLER	[0.0006885511]	<u>0.0006378199</u>
UPSHUR	[0.0010524072]	<u>0.0009903620</u>
UPTON	[0.0001453871]	<u>0.0001179901</u>
UVALDE	[0.0010661274]	<u>0.0008520947</u>
VAL VERDE	[0.0018326705]	<u>0.0013925884</u>
VAN ZANDT	[0.0010002826]	<u>0.0009136825</u>
VICTORIA	[0.0036145087]	<u>0.0036983711</u>
WALKER	[0.0019926707]	<u>0.0022470221</u>
WALLER	[0.0012435139]	<u>0.0014084196</u>
WARD	[0.0005377693]	<u>0.0005487076</u>
WASHINGTON	[0.0010714556]	<u>0.0013172648</u>
WEBB	[0.0075673209]	<u>0.0059135024</u>
WHARTON	[0.0018188351]	<u>0.0019741306</u>
WHEELER	[0.0001202014]	<u>0.0001243996</u>
WICHITA	[0.0072470666]	<u>0.0058068118</u>
WILBARGER	[0.0008035363]	<u>0.0007074041</u>
WILLACY	[0.0006723295]	<u>0.0006958987</u>
WILLIAMSON	[0.0048080005]	<u>0.0040408707</u>
WILSON	[0.0006933353]	<u>0.0007285205</u>
WINKLER	[0.0004243581]	<u>0.0002583254</u>
WISE	[0.0010901405]	<u>0.0008798248</u>
WOOD	[0.0009457495]	<u>0.0010165420</u>
YOAKUM	[0.0003440013]	<u>0.0002339421</u>
YOUNG	[0.0006498372]	<u>0.0005058879</u>
ZAPATA	[0.0002954112]	<u>0.0001714966</u>
ZAVALA	[0.0004076821]	<u>0.0003344597</u>

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 June 7, 1993.

TRD-9323927

Jackee Cox  
General Counsel  
Texas Department of  
Criminal Justice

Proposed date of adoption: September 1, 1993

For further information, please call: (512) 463-9988

## Chapter 155: Reports and Information Gathering

### Subchapter A. Construction Matters

#### • 37 TAC §155.1

The Texas Department of Criminal Justice proposes an amendment to §155.1, concerning Procedures to Determine Prevailing Wage Rates. Specifically, the Department proposes an amendment to §155.1(e)(2)(B), to assure that the Board of Criminal Justice has the power to correct a rate published by the division, if the board receives information which indicates that the prevailing wage rates published by the Contract Construction Division do not reflect prevailing wages in a locality or localities, as required under Texas Civil Statutes, Article 5159a.

David McNutt, assistant director of budget and management services, has determined that the enforcement or administration of this rule will have fiscal implications.

The prevailing wage rates set by state agencies serve to establish the minimum permissible wage that may be paid on a project; the agency rate publication sets a floor rather than a ceiling on the wages that will actually be paid for the work to be done. The actual rates to be paid on a project are established as a result of the market place, and the bargained exchange between contractors or subcontractors and their labor force.

For these reasons, and because the department cannot predict how much construction will actually be done for five years in the future, this fiscal note is confined to immediate impact.

The contract construction division of the TDCJ has obtained projections of the number of work-hours that each skilled labor craft will be required to work to build the Beto I transfer facility now under construction near Palestine. Using those project hours, and adjusting for project differences at the proposed similar project to be built at Chase Field in Bee County, contract construction division staff estimate that \$1,953,988 might be saved in labor costs if the board and staff have authority to reject published survey rates and adopt a rate which more accurately reflects the actual prevailing wages in a locality.

During calendar year 1993, the potential labor cost savings on the Chase Field project are

accordingly estimated to be about \$1,221,000. During calendar year 1994, the potential labor cost savings on the same project are projected to be about \$732,000.

Staff reasonably believe that similar savings may be obtained in future years on like projects.

Mr. McNutt also has determined that for each year of the first five years the rule is in effect the public will benefit from the adoption of this rule, because it will have a more accurate means of establishing the actual prevailing wage rates for state prison construction projects.

Comments on the proposal may be submitted to Larry Fickel, Assistant Director for Contract Construction, Institutional Division, Texas Department of Criminal Justice, P.O. Box 99, Huntsville, Texas 77342-0099.

The amendment is proposed under Texas Civil Statutes, Article 5192a, which require state agencies to ascertain prevailing wages in the localities where such agencies are going to construct state-funded projects. Texas Government Code, §492.013, confers authority upon the Texas Board of Criminal Justice to adopt rules governing the operation of the Texas Department of Criminal Justice.

#### *§155.1. Procedures for Determination of Prevailing Wages.*

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

(e) Use of determination.

(1) (No change.)

(2) Following determination of the Prevailing Wage Rates for a particular project, such Prevailing Wage Rates will not be changed unless:

(A) (No change.)

(B) If the board or the division has reason to believe that survey data do not reflect the prevailing wages in a locality or uniform service region, then the board may direct staff to obtain the most accurate documentation available concerning prevailing wages, and to publish prevailing wage rates that accurately reflect the prevailing wage rates in the locality. [If prior to bid date for that project substantial evidence is presented to the Division that the survey data on which determination was based does not reflect actual prevailing wages in the locality.

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 June 2, 1993.

TRD-9323735

Jackee Cox  
General Counsel  
Texas Department of  
Criminal Justice

Proposed date of adoption: July 16, 1993

For further information, please call: (512) 463-9988

## Chapter 163. Community Justice Assistance Division Rules

### Subchapter C. Programs and Services

#### • 37 TAC §163.45

The Texas Board of Criminal Justice (TBCJ) proposes new §163.45, concerning Allocation Formula for Community Corrections Program funding.

Previously, the Texas Government Code, §499.071, required the TBCJ to adopt a single allocation formula which was to govern both the distribution of admissions to the Institutional Division and the distribution of Community Corrections Program (CCP) funding for community supervision and corrections departments (CSCDs) under the Texas Code Criminal Procedures, Article 42.13, §11(a)(3).

Senate Bill 532, passed during the 73rd Legislature, authorizes the TBCJ to adopt differing allocation formulas for Institutional Division admissions and for CCP funding. Because differing policy purposes and considerations govern the functions of funding and admissions, the TBCJ is therefore proposing two separate allocation formulas. The formula for Institutional Division admissions is being published contemporaneously as amendments to §152.1, et seq.

Under the Texas Government Code, §499.071, as amended by Senate Bill 532, the TBCJ must consider the statutory factors listed at the Texas Government Code, §499.071(a), and may add other discretionary factors for CCP funding.

Under the newly proposed formula for funding, the TBCJ proposes adoption of the following weights for the factors mandated by statute: the weight assigned to historical admissions to the Institutional Division remains unchanged at ten; the weight assigned to violent index crime is to be reduced from 15 to ten; the weight assigned to total index crime is to be reduced from 20 to 15; the weight assigned for drug crime arrests remains unchanged, at ten; the weight assigned to population is to be increased from five to ten; the weight assigned to unemployment remains unchanged at five; the weight assigned to parole releases is to be decreased from ten to five.

The board further proposes to exercise its discretion to add factors to the funding formula by adding a new factor for felons under direct probation supervision, and to give that factor a weight of 35.

The board further proposes to delete from the funding formula the below-listed discretionary factors, which were given the below-indicated weights for FY 1993 funding: probation placements, previously weighted at ten; probation completions, previously weighted at five; and



juvenile probation funding, previously weighted at ten.

Proposed new §163.45(e) is designed to ensure that no entity either receives a drastic increase or decrease in operational funding as a result of these proposed amendments. It provides that no CSCD shall receive an increase in funding of more than 17%, nor a decrease in funding of more than 8.0%, in any state fiscal year as a result of the changes in the allocation funding formula.

David McNutt, assistant director of budget and management services for TDCJ, has determined that these allocation formula rule will not impact state government period the rule or small businesses. No persons will be required to comply; therefore, they will not be affected.

Some counties may receive increased CCP funding under the proposed amendments, while others may receive decreased CCP funding under the amendments.

CJAD has sent all CSCD directors information indicating the impact which the proposals may have on their funding. The information distributed assumed that about \$45,032,000 would be made available for CCP funding.

Whether that amount will actually be available for CCP funding is still to be determined by the TBCJ. Article V, Section 110 of the appropriations bill for FY 1994 (at pp. V-89 and V-90) requires a state-wide savings of about \$100 million in General Revenue spending. According to the Comptroller's Office, that will require that all state agencies save about one-half of 1.0% of their General Revenue appropriations. Further, Article V, Section 160 of the Appropriations Act requires that all state agencies save about one-fourth of 1.0% of their General Revenue appropriations to pay for early retirement.

Aggregated, these require General Revenue savings totaling three-fourths of 1.0%. The TBCJ will have to decide how to apportion these cuts. If they determined that probation funding should bear its prorata share of these cuts with parole and the institutional division, then proposed community corrections funding may be reduced by three-fourths of 1.0%, since such funding is derived from General Revenue. Under the proposed formulas, all CSCD's would share equally in any cuts

which the TBCJ may decide to impose on CCP funding.

Mr. McNutt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule reflects legislative intent to give the TBCJ discretion to use the allocation formula funding for community corrections programs in a way that more nearly reflects program need, without being tied to the allocation formula for institutional division admissions.

This rule will continue in effect only for one year, as the board is required by law to amend the allocation formulas annually. 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 John Newton, Director of Planning and Program Development, Community Justice Assistance Division, Texas Department of Criminal Justice, 8100 Cameron Road, Suite 450B, Austin, Texas 78754-3897.

The new section is proposed under the Texas Government Code, §499.071, as amended by Senate Bill 532, 73rd Legislative Session, and under Article 42.13, §11(a)(3), which require the Texas Board of Criminal Justice to promulgate an allocation formula for the distribution of CCP funds.

#### *§163.45. Allocation Formula for Community Corrections Program.*

(a) Purpose. The Texas Government Code, §499.071(b), requires the Texas Board of Criminal Justice (TBCJ) to adopt and enforce an allocation formula to fairly and equitably allocate community corrections funding to each community supervision and corrections department (CSCD). The statute further requires the TBCJ to use all of the factors listed in the Texas Government Code, §499.071(a), in the funding formula, while giving the TBCJ discretion to add other factors, and to assign weights to each of the statutory and discretionary factors.

(b) Statutory formula factors. In creating the allocation formula for Community Corrections Program funding, the board is required to consider and weigh each of the following factors:

(1) the percentage of prison admissions for the entire state that were allocated to the county in the preceding 12 months;

(2) the percentage of the state's violent index crime that occurred in the county in the preceding 12 months;

(3) the percentage of the state's total index crime that occurred in the county in the preceding 12 months;

(4) the percentage of the state's total arrests under the Texas Controlled Substances Act, the Health and Safety Code, Chapter 481, that occurred in the county or counties in the preceding 12 months;

(5) the percentage of the state's population residing in the county or counties;

(6) the percentage of the state's total unemployment in the county or counties; and

(7) the percentage of all defendants serving sentences for felonies who were paroled from the institutional division, a jail in this state, or a jail or correctional institutional in another state in the preceding 12 months and who were released to reside in the county or counties.

(c) Discretionary factors. The board has discretion to add other factors which are not mandated by the legislature. In the exercise of that discretion, the board adds as a factor the county's percentage of all felony probationers under direct supervision in the state during the preceding 12 months.

(d) Factor weights. The board assigns the following weight to each statutory and discretionary factor.

**STATUTORY FACTORS**

(1)	Section 163.45(b) (1) - (historical admissions)	10
(2)	Section 163.45(b) (2) - (violent index crime)	10
(3)	Section 163.45(b) (3) - (total index crime)	15
(4)	Section 163.45(b) (4) - (drug crime arrests)	10
(5)	Section 163.45(b) (5) - (population)	10
(6)	Section 163,45(b) (6) - (unemployment)	5
(7)	Section 163.45(b) (7) - (parole releases)	5

**DISCRETIONARY FACTORS**

(8)	Section 163.45(c) - (probation supervision)	35
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100

**TOTAL**

(e) Weighted statutory and discretionary factors. These weighted statutory and discretionary factors shall be applied to determine the percentage of total funds appropriated by the Legislature for distribution to each county pursuant to the provisions of the current appropriations bill and the provisions of the Texas Code of Criminal Procedure, Article 42.13, §11(a) (5). No CSCD may obtain a funding increase of more than 17% in any fiscal year as a result of this formula amendment. Nor may any CSCD suffer a funding cut of more than 8.0% in any fiscal year as a result of this formula amendment. Eligibility for participation in such funding shall be contingent upon a county's compliance with other rules of the Department as published at 37 TAC Chapter 163.

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 June 7, 1993.

TRD-9323928

Jackee Cox  
General Counsel  
Texas Department of  
Criminal Justice

Proposed date of adoption: September 1, 1993

For further information, please call: (512) 463-9988



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

**Chapter 421. Standards For  
Certification**

**• 37 TAC §421.5**

The Texas Commission on Fire Protection proposes an amendment to §421.5, concerning the definition for fire protection personnel. The amendment conforms the definition of fire protection personnel to the statutory definition.

Alton Bostick, standards and licensing division director, has determined that for the first five years the rule is in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the amended rule.

Mr. Bostick also has determined that for each year of the first five years that the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be the deletion of obsolete language and an elimination of any conflict with changes to the statutory definition of fire protection personnel. 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 Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is adopted under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the adminis-

tration of its powers and duties; and the Texas Government Code, §419.023, which provides the commission with authority to establish a fire protection personnel advisory committee.

*§421.5. Definitions.*

(a) (No change.)

(b) Definitions [used] include:

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

(14) Fire Protection Personnel-See definition in the Texas Government Code, §419.021. [Any person who is a full-paid permanent employee of a government entity and who is assigned full-time duties in one of the following categories: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft crash and rescue fire fighting, fire training, fire education, fire administration and others employed in related positions necessarily or customarily appertaining thereto].

(15)-(26) (No change.)

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

Issued in Austin, Texas, on June 5, 1993.

TRD-9323872

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512) 873-1700

◆ ◆ ◆  
Chapter 423. Fire Suppression  
Subchapter B. Minimum Standards for Aircraft Crash and Rescue Fire Protection Personnel

• 37 TAC §423.201

The Texas Commission on Fire Protection proposes an amendment to §423.201, concerning minimum standards for aircraft crash and rescue fire protection personnel. The amendment clarifies various terms used in the section by adding definitions of the terms "stand by" and "movement area."

Alton Bostick, standards and licensing division director, 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. Bostick also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a clearer understanding of the personnel to whom the aircraft rescue and fire protection personnel rules apply. 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 James Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is adopted on an emergency basis under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.022, which provides the Commission with authority to establish minimum training standards for fire protection personnel in advanced or specialized fire protection personnel positions.

§423.201. *Minimum Standards for Aircraft Crash and Rescue Fire Protection Personnel.*

(a) The effective date of this section shall be April 1, 1993.

(b) Aircraft rescue and fire protection personnel are employees of a local governmental entity who, as a permanent duty assignment, fight aircraft fires at airports; stand by for potential crash landings; and perform aircraft rescue and firefighting duties.

(c) All personnel identified as aircraft rescue and fire protection personnel must be certified to at least the basic level by the Commission.

(d) As a minimum, all personnel must have completed all requirements specified in §423.203 of this title (relating to

Minimum Standards for Basic Aircraft Rescue and Fire Protection Personnel Certification) prior to being assigned to aircraft rescue and fire suppression duties.

(e) "Stand by" means the act of responding to a designated position in the movement area on the airfield at which initial response fire and rescue units will await the arrival of an aircraft experiencing an announced emergency.

(f) "Movement area" is comprised of all runways, taxiways, and other areas of the airport which are used for taxiing or hover taxiing, take-off, and landing of aircraft, exclusive of loading ramps and aircraft parking areas.

(g)[(e)] All personnel holding any level of aircraft rescue and fire protection personnel certification shall be required to comply with the continuing education specified in §441.9 of this title (relating to Continuing Education Requirements for Aircraft Rescue and Fire Protection Personnel).

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 June 5, 1993.

TRD-9323873 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512) 873-1700

◆ ◆ ◆  
Chapter 425. Fire Protection  
Instructor Certification

• 37 TAC §§425.1, 425.3, 425.5,  
425.7, 425.9

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

The Texas Commission on Fire Protection proposes the repeal of §§425.1, 425.3, 425.5, 425.7, and 425.9 concerning Fire Protection Instructor Certification. The repealed sections are replaced by new sections concerning the same subject matter.

Mr. Alton Bostick, standards and licensing division director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to eliminate obsolete provisions. There will be no effect on small businesses. There is no anticipated

economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes.

§425.7. *Minimum Standards For Master Fire Protection Instructor Certification.*

§425.9. *Minimum Standards for Instructional Specialist Certification.*

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 June 5, 1993.

TRD-9323879 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512) 873-1700

◆ ◆ ◆  
• 37 TAC §§425.1, 425.3, 425.5,  
425.7

The Texas Commission on Fire Protection proposes new §§425.1, 425.3, 425.5, and 425.7, concerning Fire Service Instructor Certification; new §§425.301, 425.303, 425.305, and 425.307, concerning Fire Education Specialist Certification; and new §425.401, concerning Associate Instructor Certification. The new sections replace existing sections concerning the same subject matter. The new sections pertaining to fire education specialists permit fire instructors not employed by fire departments to achieve higher levels of instructor certification. The new section pertaining to associate instructor certification permits certification of instructors who are not in the fire service but have expertise in areas of fire protection or prevention.

Mr. Alton Bostick, standards and licensing division director, has determined that for the first five years the rules are in effect there will be fiscal implications for state governments as a result of enforcing or administering the amended sections. It is estimated that the commission will receive an additional \$2,400 each year of the first five-year period the rules are in effect, as a result of additional applications for higher levels of fire educational specialist certification and associate instructor certification and renewals. There will be no effect on local government for the first five-year period the section will be in effect, unless a local government that employs a fire

instructor voluntarily chooses to pay the \$20 certification fee for higher levels of certification.

Mr. Bostick also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be to provide incentives for more fire instructors to obtain advanced levels of certification and thereby increase the level of expertise of instruction of fire protection personnel. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rules as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes.

#### §425.1. Minimum Standards For Basic Fire Service Instructor Certification.

(a) Fire Service Instructor certificates will be issued by the commission when an individual completes the training and teaching requirements designated in the various certification levels. Complete course descriptions are on file in the commission office for all instructor courses listed in this section.

(b) In order to be certified as a Basic Fire Service Instructor the individual must:

(1) be permanent, fully paid, full-time fire protection personnel as defined in §425.5 of this title (relating to Definitions);

(2) have a minimum of three years full time experience relating to fire protection in one or more or any combination of the following:

(A) a paid fire department;

or

(B) a department of a state agency, education institution, or political subdivision providing protection training and related responsibilities;

(3) be a high school graduate or possess a GED certificate;

(4) be approved by his/her fire chief or training officer;

(5) possess at least an active basic certificate from the commission in one of the following disciplines:

(A) structural fire protection personnel;

(B) aircraft crash and rescue fire protection personnel;

(C) marine fire protection personnel;

(D) fire inspection personnel;

(E) fire and arson investigation personnel.

(6) have completed "Instructional Techniques for Company Officers" or 15 class hours of teacher instructional training courses; and

(7) submit an instructor application, with documentation to verify the aforementioned requirements, to the commission for processing.

(c) Approved areas of instruction shall include the following.

(1) Possession of one or more active certifications listed in §425.1(b)(5) will be considered as documentation of knowledge/expertise to instruct in all of the subject areas identified in the curricula in which the certificate(s) are held.

(2) Individuals desiring to instruct in basic and advanced subjects they have not previously been approved for must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training shall be attached to and submitted with a Course/School Prior Approval Form (CFP-T) when making application for course approval by the commission. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

(A) a copy of a commission approved certificate of completion bearing the course approval number and course identification number;

(B) semester courses of equivalent training identified on college transcripts; or

(C) complete written documentation of equivalent training for staff review.

(d) The Basic Fire Service Instructor Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I.

#### §425.3. Minimum Standards For Intermediate Fire Service Instructor Certification.

(a) In order to be certified as an Intermediate Fire Service Instructor, the individual must:

(1) have completed all the requirements listed in §425.1(b) of this title (relating to Minimum Standards for Basic Fire Service Instructor Certification), except for subsection (b)(6) (Note: Basic Fire Service Instructor Certification is not a prerequisite for Intermediate Fire Service Instructor Certification.); and

(2) have completed a commission approved "Methods of Teaching" course consisting of at least 40 class hours or three college semester hours or the National Fire Academy course, "Instructional Methodology."

(b) The Intermediate Fire Service Instructor Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I and Fire Instructor Level II. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level II must meet the requirements for Fire Service Instructor I.

#### §425.5. Minimum Standards For Advanced Fire Service Instructor Certification.

(a) In order to be certified as an Advanced Fire Service Instructor the individual must:

(1) hold as a prerequisite an Intermediate Fire Service Instructor certificate;

(2) be a full-time, fully paid member of a fire department, as defined in §421.5 of this title (relating to Definitions) and have, as a minimum, five years of experience in one or more or any combination of the following:

(A) a paid fire department;

or

(B) a department of a state agency, education institution, or political subdivision, devoting full time to fire service training and related responsibilities; and

(3) successfully complete the following commission-approved instructor training courses:

(A) A commission-approved "Instructional Aids" course of at least 40 hours or 3 college semester hours (the National Fire Academy course, "Instructional Methodology," can be substituted for "Methods of Teaching" and "Instructional Aids"); and

(B) A commission-approved course in "Analysis and Course Making" consisting of at least 40 class hours or 3 college semester hours; and

(C) A commission approved course in "Organization and Use of Instructional Materials" consisting of at least 40 hours or 3 college semester hours. (The National Fire Academy course "Course Development" can be substituted for "Analysis and Course Making" and "Organization and Use of Instructional Material".)

(b) The Advanced Fire Service Instructor Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level III. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level III must meet the requirements for Fire Service Instructor II.

*§425.7. Minimum Standards For Master Fire Service Instructor Certification.*

(a) In order to be certified as a Master Fire Service Instructor the individual must:

(1) hold as a prerequisite an Advanced Instructor certification; and

(2) hold as a prerequisite a Master Structural Fire Protection Personnel Certification, a Master Aircraft Crash and Rescue Fire Protection Personnel Certification, Master Inspector Certification, or Master Fire and Arson Investigator Certification.

(b) The Master Fire Service Instructor Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level IV only if Fire Administration I and Fire Administration II (college level) are completed. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level IV must meet the requirements for Fire Service Instructor Level III.

*§425.301. Minimum Standards For Basic Fire Education Specialist Certification.*

(a) Fire Education Specialist certificates will be issued by the commission when an individual completes the training and teaching requirements designated in the various certification levels. Complete course descriptions are on file in the commission office for all instructor courses listed in this section.

(b) In order to be certified as a Basic Fire Education Specialist the individual must:

(1) be a full-time, fully paid employee of a department of a state agency, an

education institution, or political subdivision providing fire protection training and have a minimum of three year's full-time experience in one or more or any combination of the following:

(A) a paid fire department;

or

(B) a department of a state agency, an education institution, or political subdivision fire protection training;

(2) be a high school graduate or possess a GED certificate;

(3) be approved by his/her employer, department head, or coordinator;

(4) have completed "Instructional Techniques for Company Officers" or 15 class hours of teacher instructional training courses; and

(5) submit an instructor application, with documentation to verify the aforementioned requirements, to the commission for processing.

(c) Approved Areas of Instruction Shall Include:

(1) Individuals shall provide acceptable proof of training at the time of application in each subject area they desire to provide instruction in. Individuals must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

(A) a copy of a commission-approved certificate of completion bearing the course approval number and course identification number;

(B) college semester courses of equivalent training identified on college transcripts; or

(C) complete written documentation of equivalent training for staff review.

(2) Individuals desiring to instruct in basic and advanced subjects they have not previously been approved for must meet the requirements of §425.301(c)(1) for acceptable proof of training. Proof of training shall be attached to and submitted with a Course/School Prior Approval Form (CFP-T) when making application for course approval by the commission.

(d) The Basic Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I.

*§425.303. Minimum Standards For Intermediate Fire Education Specialist Certification.*

(a) In order to be certified as an Intermediate Fire Education Specialist, the individual must:

(1) have completed all the requirements listed under §425.301(b) of this title (relating to Minimum Standards for Basic Fire Education Specialist Certification) except for paragraph (5) (Note: Basic Fire Education Specialist certification is not a prerequisite for Intermediate Fire Education Specialist Certification.); and

(2) have completed a commission-approved "Methods of Teaching" course consisting of at least 40 class hours or three college semester hours, or the National Fire Academy course, "Instructional Methodology".

(b) The Intermediate Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I and Fire Instructor Level II. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level II must meet the requirements for Fire Service Instructor I.

*§425.305. Minimum Standards For Advanced Fire Education Specialist Certification.*

(a) In order to be certified as an Advanced Fire Education Specialist must:

(1) hold as a prerequisite an Intermediate Fire Education Specialist certificate;

(2) be a full-time, fully paid employee of a department of a state agency, an educational institution or political subdivision devoted full-time to fire service training and related responsibilities, and have a minimum of five years' full-time experience in one or more or any combination of the following:

(A) a paid fire department;

or

(B) a department of a state agency, an education institution or political subdivision devoting full time to fire service training and related responsibilities; and

(3) successfully complete the following commission approved instructor training courses:

(A) A commission-approved "Instructional Aids" course of at least 40 hours or three college semester hours (the National Fire Academy course, "Instruc-

tional Methodology" can be substituted for "Methods of Teaching" and "Instructional Aids"); and

(B) A commission-approved course in "Analysis and Course Making" consisting of at least 40 class hours or three college semester hours; and

(C) A commission-approved course in "Organization and Use of Instructional Materials" consisting of at least 40 hours or three college semester hours. (The National Fire Academy course "Course Development" can be substituted for "Analysis and Course Making" and "Organization and Use of Instructional Material".)

(b) The Advanced Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level III. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level III must meet the requirements for Fire Service Instructor II.

*§425.307. Minimum Standard: For Master Fire Education Specialist Certification.*

(a) In order to be certified as a Master Fire Education Specialist the individual must:

(1) hold as a prerequisite an Advanced Fire Education Specialist certification; and

(2) acquire one of the following combinations of college education and the listed years of experience in a paid fire department, or department of a state agency, education institution, or political subdivision devoted full time to fire service training and related responsibilities

(A) An associate degree or 60 college semester hours either of which must include 12 college semester hours in fire science, and 12 years of experience; or

(B) An associate degree or 60 college semester hours, either of which must include at least 15 college semester hours in fire science subjects, and at least nine years of experience; or

(C) An associate degree in fire science and at least six years of experience; or

(D) A baccalaureate degree or 120 college semester hours, either of which must include at least 15 college semester hours in fire science subjects, and at least six years of experience; or

(E) A masters degree, which must include at least 15 college semester hours in fire science hours, and at least four years of experience.

(b) The Master Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level IV only if Fire Administration I and Fire Administration II (college level) are completed. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level IV must meet the requirements for Fire Service Instructor III.

*§425.401. Minimum Standards For Associate Instructor Certification.*

(a) The Associate Instructor certificate is designed for individuals that are not full-time, fully paid fire protection personnel, employees of a department of a state agency, an educational institution or political subdivision devoting full time to fire service training or related responsibilities and who do not qualify for instructor certification in the other instructor categories.

(b) In order to be certified as an Associate Instructor the individual must:

(1) have completed a commission-approved "Methods of Teaching" course consisting of at least 40 class hours or three college semester hours; and

(2) submit an instructor application approved by a fire chief, training officer, or coordinator; and

(3) submit an instructor application, with documentation to verify the aforementioned items to the commission for processing.

(c) Approved areas of instruction shall include:

(1) Individuals shall provide acceptable proof of training at the time of application in each basic and advanced subject area they desire to provide instruction in. Individuals must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

(A) a copy of a commission-approved certificate of completion bearing the course approval number and course identification number;

(B) semester courses of equivalent training identified on college transcripts; or

(C) complete written documentation of equivalent training for staff review.

(2) Individuals desiring to instruct in basic and advanced subjects they

have not previously been approved for must meet the requirements of §425.301(c)(1) for acceptable proof of training. Proof of training shall be attached and submitted with a Course/School Prior Approval Form (CFP-T) when making application for course approval 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.

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Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

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Subchapter C. Fire Education  
Specialist Certification

• 37 TAC §§425.301, 425.303,  
425.305, 425.307

The new section is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes.

*§425.301. Minimum Standards For Basic Fire Education Specialist Certification.*

(a) Fire Education Specialist certificates will be issued by the commission when an individual completes the training and teaching requirements designated in the various certification levels. Complete course descriptions are on file in the commission office for all instructor courses listed in this section.

(b) In order to be certified as a Basic Fire Education Specialist the individual must:

(1) be a full-time, full paid employee of a department of a state agency, an education institution or political subdivision providing fire protection training and have a minimum of three years full time experience in one or more or any combination of the following:

(A) a paid fire department;  
or

(B) a department of a state agency, an education institution or political subdivision-fire protection training;

(2) be a high school graduate or possess a GED certificate;

(3) be approved by his/her employer, department head or coordinator;

(4) have completed "Instructional Techniques for Company Officers" or 15 class hours of teacher instructional training courses; and

(5) submit an instructor application, with documentation to verify the aforementioned requirements, to the commission for processing.

(c) Approved areas of instruction shall include the following.

(1) Individuals shall provide acceptable proof of training at the time of application in each subject area they desire to provide instruction in. Individuals must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

(A) a copy of a commission approved certificate of completion bearing the course approval number and course identification number;

(B) College semester courses of equivalent training identified on college transcripts; or

(C) complete written documentation of equivalent training for staff review.

(2) Individuals desiring to instruct in basic and advanced subjects, they have not previously been approved for, must meet the requirements of §425.301(c)(1) for acceptable proof of training. Proof of training shall be attached to and submitted with a Course/School Prior Approval Form (CFP-T) when making application for course approval by the commission.

(d) The Basic Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I.

*§425.303. Minimum Standards For Intermediate Fire Education Specialist Certification.*

(a) In order to be certified as an Intermediate Fire Education Specialist, the individual must:

(1) have completed all the requirements listed under §425.301(b) of this title (relating to Minimum Standards for

Basic Fire Education Specialist Certification) except for paragraph (5) (Note: Basic Fire Education Specialist certification is not a prerequisite for Intermediate Fire Education Specialist Certification.); and

(2) have completed a commission approved "Methods of Teaching" course consisting of at least 40 class hours or three college semester hours, or the National Fire Academy course, "Instructional Methodology."

(b) The Intermediate Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level I and Fire Instructor Level II. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level II must meet the requirements for Fire Service Instructor I.

*§425.305. Minimum Standards For Advanced Fire Education Specialist Certification.*

(a) In order to be certified as an Advanced Fire Education Specialist must:

(1) hold as a prerequisite an Intermediate Fire Education Specialist certificate;

(2) be a full-time, full paid employee of a department of a state agency, an educational institution or political subdivision-devoting full time to fire service training and related responsibilities and have a minimum of five years full-time experience in one or more or any combination of the following:

(A) a paid fire department;

(B) a department of a state agency, an education institution or political subdivision-devoting full time to fire service training and related responsibilities; and

(3) successfully complete the following commission approved instructor training courses:

(A) a commission approved "Instructional Aids" course of at least 40 hours or three college semester hours (the National Fire Academy course, "Instructional Methodology" can be substituted for "Methods of Teaching" and "Instructional Aids"); and

(B) a commission approved course in "Analysis and Course Making" consisting of at least 40 class hours or three college semester hours; and

(C) a commission approved course in "Organization and Use of Instructional Materials" consisting of at least 40 hours or three college semester hours. (The National Fire Academy course "Course Development" can be substituted for "Analysis and Course Making" and "Organization and Use of Instructional Material.")

(b) The Advanced Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level III. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level III must meet the requirements for Fire Service Instructor II.

*§425.307. Minimum Standards For Master Fire Education Specialist Certification.*

(a) In order to be certified as a Master Fire Education Specialist the individual must:

(1) hold as a prerequisite an Advanced Fire Education Specialist certification; and

(2) acquire one of the following combinations of college education and the listed years of experience in a paid fire department, or department of a state agency, education institution, or political subdivision-devoting full time to fire service training and related responsibilities:

(A) an associate degree or 60 college semester hours either of which must include 12 college semester hours in fire science and 12 years of experience; or

(B) an associate degree or 60 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least nine years of experience; or

(C) an Associate Degree in Fire Science and at least six years of experience; or

(D) a baccalaureate degree or 120 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least six years of experience; or

(E) a masters degree which must include at least 15 college semester hours in fire science hours and at least four years of experience.

(b) The Master Fire Education Specialist Certification meets requirements of NFPA 1041, Standard for Fire Service Instructor Professional Qualifications, for Fire Instructor Level IV only if Fire Administra-

tion I and Fire Administration II (college level) are completed. Instructors wanting to meet NFPA 1041 for Fire Service Instructor Level IV must meet the requirements for Fire Service Instructor III.

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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Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

## Subchapter D. Associate Instructor Certification

### • 37 TAC §425.401

The new section is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes.

#### §5.401. Minimum Standards For Associate Instructor Certification.

(a) The Associate Instructor certificate is designed for individuals that are not full-time, full paid fire protection personnel, employees of a department of a state agency, an educational institution or political subdivision—devoting full time to fire service training or related responsibilities and who do not qualify for instructor certification in the other instructor categories.

(b) In order to be certified as an Associate Instructor the individual must:

(1) have completed a commission approved "Methods of Teaching" course consisting of at least 40 class hours or three college semester hours; and

(2) submit an instructor application approved by a fire chief, training officer or coordinator; and

(3) submit an instructor application, with documentation to verify the aforementioned items to the commission for processing.

(c) Approved areas of instruction shall include the following.

(1) Individuals shall provide acceptable proof of training at the time of application in each basic and advanced sub-

ject area they desire to provide instruction in. Individuals must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

(A) a copy of a commission approved certificate of completion bearing the course approval number and course identification number;

(B) College semester courses of equivalent training identified on college transcripts; or

(C) complete written documentation of equivalent training for staff review.

(2) Individuals desiring to instruct in basic and advanced subjects they have not previously been approved for, must meet the requirements of §425.301(c)(1) for acceptable proof of training. Proof of training shall be attached and submitted with a Course/School Prior Approval Form (CFP-T) when making application for course approval 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.

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## Chapter 427. Training Facilities

### Subchapter A. Minimum Standards for Structure Recruit Training

#### • 37 TAC §§427.1, 427.3, 427.5, 427.7, 427.9, 427.11, 427.13

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

The Texas Commission on Fire Protection proposes the repeal of §§427.1, 427.3, 427.5, 427.7, 427.9, 427.11, and 427.13, concerning structure recruit training facilities for paid fire protection personnel and §§427.201, 427.

203, 425.205, 427.207, 427.209, 427.211, 427.213, 427.215, and 427.217, concerning aircraft fire protection personnel training facilities. The repealed sections are replaced by new sections concerning the same subject matter. The new sections consolidate provisions relating to training facilities for structure fire protection personnel and aircraft rescue fire protection personnel into one chapter.

Mr. Alton Bostick, standards and licensing division director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the promotion of quality control of instruction of fire protection personnel in certified training facilities, and a more efficient organization of facility requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.028(b)(1); which provides the commission the authority to certify facilities operated for training fire protection personnel.

§427.1. Minimum Standards For Recruit Training Facilities For Fire Protection Personnel.

§427.3. Apparatus-Structure Training Facility.

§427.5. Equipment-Structure Training Facility.

§427.7. Reference Material-Structure Training Facility.

§427.9. Testing and Records-Structure Training Facility.

§427.11. Staff-Structure Training Facility.

§427.13. General Information-Structure Training Facility.

§427.201. Minimum Standards For Recruit For Aircraft Crash and Rescue Fire Protection Personnel Training Facilities.

§427.203. Apparatus-Aircraft Crash and Rescue Training Facility.



§427.205. *Equipment—Aircraft Crash and Rescue Training Facility.*

§427.207. *Reference Material—Aircraft Crash and Rescue Training Facility.*

§427.209. *Training Records—Aircraft Crash and Rescue Training Facility.*

§427.211. *Testing Procedures—Aircraft Crash and Rescue Training Facilities.*

§427.213. *Staff Requirements—Aircraft Crash and Rescue Training Facilities.*

§427.215. *Commission Action—Aircraft Crash and Rescue Training Facilities.*

§427.217. *Revocation and Suspension Procedures—Aircraft Crash and Rescue Training Facilities.*

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 June 5, 1993.

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Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

## Chapter 427. Certified Training Facilities

- 37 TAC §§427.1, 427.3, 427.5, 427.7, 427.9, 427.11, 427.13, 427.15, 427.17, 427.19, 427.21

The Texas Commission on Fire Protection proposes new §§427.1, 427.3, 427.5, 427.7, 427.9, 427.11, 427.13, 427.15, 427.17, 427.19, and 427.21, concerning certified training facilities for paid fire protection personnel. The new sections replace existing sections concerning the same subject matter. The new sections consolidate provisions relating to training facilities for structure fire protection personnel and aircraft rescue fire protection personnel into one chapter. In addition, the new sections are also applicable to training facilities for marine fire fighters, fire inspectors, and fire and arson investigators.

Mr. Alton Bostick, standards and licensing division director, has determined that for the first five years the rules are in effect there will be fiscal implications for state governments as a result of enforcing or administering the new rules. There will be no effect on state government as a result of administering or enforcing these rules. The rules which implement guidelines for training facilities for fire

inspectors, arson investigators, and marine fire fighters will have no effect on local governments, as course approvals have already ensured that the guidelines were met. There will be a small increase in personnel costs for training facilities which utilize guest instructors, because the new rules require that a certified instructor be present during instruction by a guest instructor. However, the effect of this requirement may be offset by more flexible requirements for certification as an Associate Instructor.

Mr. Bostick 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 enforcing the rules as proposed will be the promotion of quality control of instruction of fire protection personnel in certified training facilities, and a more efficient organization of facility requirements. The anticipated economic cost to businesses or persons who are required to comply with the sections as proposed will be the same as those estimated for local governments.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.028(b)(1), which provides the commission the authority to certify facilities operated for training fire protection personnel.

### §427.1. Minimum Standards For Certified Training Facilities For Fire Protection Personnel.

(a) A training facility that provides basic instruction, for certification, to fire protection personnel in any of the following disciplines must be certified by the Texas Commission on Fire Protection:

- (1) structural fire protection personnel;
  - (2) aircraft crash and rescue fire protection personnel;
  - (3) marine fire protection personnel;
  - (4) fire inspector;
  - (5) fire and arson investigator;
- and
- (6) fire protection personnel instructor.

(b) A certified training facility may be approved to instruct in any one, or all of the basic fire protection personnel curriculums. Minimum requirements for each curriculum must be met to receive certification.

(c) Minimum requirements for certification as a certified training facility shall include facilities, apparatus, equipment, reference materials, and records to support a quality education and training program. The

resources must provide for classroom instruction, demonstrations, and practical exercises for the trainees to develop the knowledge and skills required for basic fire protection personnel certification.

(d) The facilities and training shall be performance oriented, when required. Practical performance training with maximum participation by trainees shall be an integral part of the training program. The evaluation process for each phase of training will emphasize, as required, performance testing to determine if the trainee has acquired the knowledge and skills to achieve the required level of competency as required by the respective curriculum.

(e) It must be clearly understood that the minimum standard for training facilities are applicable only as the title implies and does not address the additional training facility resources which are required for the continuing in-service training essential to the development and maintenance of a well-coordinated and effective fire service organization.

(f) An organization, installation, or facility must submit a written application for certification as a certified training facility to the commission. Such application will include descriptions and addresses of physical facilities together with inventory of apparatus, equipment, and reference material to be utilized in conducting the basic curriculum as specified by the commission. It is not required that the equipment be owned by, permanently assigned to, nor kept at a training facility, but must be readily available for instructional purposes. A training facility must submit a letter of commitment authorizing the use of resources not controlled by the training facility from provider of said resources. Photographs of resources, annotated to reflect their identity must be included with the application.

(g) All training must be submitted to the commission for approval prior to the commencement of the training. A "Course/School Prior Approval Submission Form", CFP-T, must be submitted to the commission at least 20 days prior to the proposed starting date of the training.

(h) A certified training facility must submit a written request to the commission to be issued, at no charge, one Commission Certification Curriculum Manual which is to be utilized by the certified training facility instructors. The certified training facility instructors are responsible for ensuring that all subjects are taught as required by the respective curriculum. Additional copies of the Commission Certification Curriculum Manual may be purchased from the commission. Certified training facilities that renew their certification will receive appropriate updates, at no charge, to the Commission Certification Curriculum Manual.

**§427.3. Facilities.** The following minimum resources, applicable to the curricula, are required for certification as a certified training facility. These facilities may be combined or separated utilizing one or more structures. In either event the facilities must be available and used by the instructor and trainees.

(1) A training tower equivalent to two or more stories in height. The term "training tower" as used in these standards is a structure suitable for training in the practical application of ladder evolutions, rescue drills, hose advancement, and rope work. (It is important to note these key requirements may not be compatible with the requirements for key rate credit. Cities planning to build or modify a training tower should carefully check the criteria for key rate credit prior to expending funds for such a facility.)

(2) A facility for classroom instruction shall have seating capacity for anticipated trainees conducive for an effective learning environment.

(3) Area for practical application of principles and procedures of fire fighting, hose loading, pumper operation, to include friction loss, nozzle reaction, fire stream patterns, and GPM discharge utilizing various layouts for hand lines and master stream appliances.

(4) An enclosed area or room for use in practical training with self-contained breathing apparatus. This may be a smoke and fire room or enclosed area which can be charged with smoke-producing devices to provide a realistic training environment.

(5) A building suitable for live fire training and meeting the requirements of the Basic Fire Suppression Curriculum shall be available for use by the instructors to teach live fire training. National Fire Protection Association 1403, Standard on Live Fire Training Evolutions in Structures shall be used as a guide when conducting live fire training.

(6) Facilities to conduct live fire training as required by the applicable chapter of the Commission Certification Curriculum Manual adopted in Chapter 443 of this Title.

#### **§427.7. Apparatus.**

(a) Certified Training Facility-Approved for Basic Structural Fire Protection Personnel.

(1) A pumper apparatus fully equipped as required by the Basic Fire Suppression Curriculum shall be readily available for use by the instructors for instructional purposes.

(2) Ladders or a ladder truck as required by the Basic Fire Suppression Cur-

riculum shall be readily available for use by the instructors for instructional purposes.

(b) Certified Training Facility-Approved for Basic Aircraft Rescue and Fire Protection Personnel. Fire apparatus that is equipped to perform aircraft crash and rescue operations as required by the Basic Aircraft Rescue and Fire Protection Curriculum must be readily available for use by the instructors for instructional purposes.

**§427.9. Protective Clothing.** Each and every set of protective clothing, including proximity clothing, that will be used during the course of instruction for a commission approved basic fire protection personnel curriculum shall comply with §435.1(b) of this title (pertaining to Protective Clothing).

**§427.11. Equipment.** The following minimum equipment, that is applicable to the curriculum(s) the training facility is certified to teach, are required for certification as a certified training facility. The equipment must be available for use by the certified training facility.

(1) self-contained breathing apparatus in sufficient numbers to enable each trainee to wear the equipment for at least the life of one breathing air tank during the training (Note: Must comply with §435.3(2) of this title relating to self-contained breathing apparatus.)

(2) standard class room equipment to include chalkboard, speaker rostrum, supportive instructional aids available, including audio/visual projection equipment. The use of cutaways, models, flip charts, and other visual aids are recommended to enhance effectiveness of the instruction (Note: The instructor needs to ensure all necessary equipment is available for trainees to use regarding the basic performance skills as identified in appropriate curriculum and to comply with §427.9 of this title (relating to Testing and Records)); and

(3) other equipment and tools required by the applicable curriculum.

**§427.13. Reference Material.** A reference library is required. The library must contain the publications required to conduct research and develop lesson plans covering the material required in the applicable basic curriculum.

#### **§427.15. Records.**

(a) Training records shall be maintained by the training facility which reflect:

(1) who was trained, subject, instructor, and date of instruction. (Note: individual records are required rather than class records.); and

(2) individual trainee test scores to include performance testing.

(b) All training records must be maintained for a minimum of three years.

#### **§427.17. Testing Procedures.**

(a) A system for evaluating the effectiveness of the instruction, and the comprehension of the trainee is required.

(b) If performance skills are part of the applicable curriculum, performance testing shall be done and records kept to indicate that each trainee has demonstrated an ability to consistently perform, individually and as a member of a team, all tasks and operations associated with the training. Such tests shall also demonstrate each trainee's ability to perform in a safe manner and at a level of competency which contributes to the successful achievement of the purpose for which the task or operation is being performed.

(c) Performance testing should be utilized to the maximum extent practical. The performance skills contained in the applicable basic curriculum shall be utilized to satisfy performance skills requirements. Each trainee shall be prepared to demonstrate any performance skill before a commission representative as may be required in Chapter 439 of this title (relating to Examinations for Certification).

(d) Written tests shall be designed to encompass the contents of the subjects being taught and phrased in a manner which can be readily understood by a trainee whose comprehension is at a level consistent with the academic level of the material being presented.

(1) Periodic written tests serve the dual purpose of permitting the instructor to evaluate the effectiveness of the instruction and the comprehension of the trainees. The instructor must determine that each trainee understands and comprehends the subject matter being presented. Trainees must maintain a grade average of not less than 70% for all periodic testing administered during the course.

(A) A minimum of eight periodic written tests shall be administered during the course for certification of Structural Fire Protection Personnel, covering the subjects listed in the Basic Fire Suppression Curriculum.

(B) A minimum of four periodic written tests shall be administered during the course for certification of Aircraft Crash and Rescue Fire Protection Personnel, Marine Fire Protection Personnel, Fire Inspectors, and Fire and Arson Investigator, covering the subjects listed in the applicable curriculum.

(2) Comprehensive Written Tests shall be administered utilizing one of the following options:

(A) A midterm and a final comprehensive written test shall be administered, if this option is utilized. The first or midterm comprehensive test shall be given no later than midway through the curriculum and shall relate to subjects presented from the beginning of the training until the date of test. The final comprehensive test shall be given at the conclusion of the training curriculum and shall relate to subject matter presented from the beginning of the training until the date of the test. Each trainee must maintain a grade average of not less than 70% for the two comprehensive tests. A trainee may be allowed one retest at the discretion of the training facility.

(B) A final comprehensive test shall be administered at the conclusion of the course and shall cover all subjects listed in the basic firefighter curriculum. Each trainee must score a grade of not less than 70% on the final examination. A trainee may be allowed one retest, at the discretion of the training facility.

(3) The tests in §427.17(d)(1) and (2) shall be in addition to the commission examination required in Chapter 439.

(e) A master copy of written tests will be maintained for review by commission representatives. The certified training facility shall maintain copies of all tests for a minimum of three years.

#### §427.19. Staff.

(a) A training officer, as a minimum, must possess an Intermediate Fire Service Instructor Certification (Refer to §425.3 of this title, pertaining to Intermediate Fire Service Instructor). A newly appointed training officer must, as a minimum, possess an Intermediate Fire Service Instructor Certification within one year from date of appointment.

(b) A coordinator, as a minimum, must possess an Intermediate Fire Education Specialist Certification (Refer to §425.303 of this title, pertaining to Intermediate Fire Education Specialist Certification). A newly appointed coordinator must, as a minimum, possess an Intermediate Fire Education Specialist Certification within one year from date of appointment.

(c) All instructors, except guest instructors, must as a minimum possess a Basic Fire Service Instructor Certification, as provided in §425.1 of this title, a Basic Volunteer Fire Fighter Instructor Certification as provided in §475.1 of this title, a

Basic Fire Education Specialist Certification as provided in §425.301 of this title, or an Associate Instructor Certification as provided in §425.401 of this title. The instructor or instructors that will be providing instruction must be approved by the commission to instruct in the applicable curriculum or subjects.

(d) The lead instructor, as a minimum, shall possess an Intermediate Fire Service Instructor Certification (Refer to §425.3 of this title, pertaining to Intermediate Fire Service Instructor) or an Intermediate Fire Education Specialist Certification (Refer to §425.303 of this title pertaining to Intermediate Fire Education Specialist Certification).

(e) Guest instructors, including fire protection personnel utilized on a limited basis, are not required to be certified as instructors. A guest instructor is defined as an individual with special knowledge, skill, and expertise in a specific subject area who has the ability to enhance the effectiveness of the training. Guest instructors can teach under the endorsement of and in the presence of the instructor responsible for the subject being taught.

(f) The commission encourages all certified training facility staff to upgrade their instructor certification by completing the appropriate instructor training courses and other education requirements set forth for higher levels of instructor certifications.

#### §427.21. General Information.

(a) All Texas certified training facilities shall meet these minimum requirements. No training credit will be recognized from a Texas training facility that has not been certified by the commission. The commission shall take action on an application for certification of a training facility within 90 days from receipt of same.

(b) Certified training facilities are subject to inspection by the commission at any time during regular business hours.

(c) A certified training facility is encouraged to upgrade and improve the physical facilities, equipment, and reference material on a continuing basis.

(d) In order to retain the certification as a certified training facility, schools desiring to make substantial changes in the facility or other conditions under which the school was approved shall coordinate such plans with the commission.

(e) The commission shall be notified, in writing, within 10 days of any change in the certified training facility training officer or coordinator.

(f) The commission may revoke the certification of a training facility when, in the judgment of the commission, the training facility:

(1) is inadequate and fails to

provide the quality of training for which the facility was approved;

(2) fails to comply with commission rules and/or these minimum standards; or

(3) fails to submit required reports in a timely manner or submits false reports to 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 June 5, 1993.

TRD-9323880

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512) 873-1700

## Subchapter B. Minimum Standards for Aircraft Fire Protection Personnel Training Facilities

### Training Facility

• 37 TAC §§427.201, 427.203, 427.205, 427.207, 427.209, 427.211, 427.13

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.028(b)(1), which provides the commission the authority to certify facilities operated for training fire protection personnel.

§427.201. Minimum Standards For Recruit For Aircraft Crash and Rescue Fire Protection Personnel Training Facilities.

§427.203. Apparatus-Aircraft Crash and Rescue Training Facility.

§427.205. Equipment-Aircraft Crash and Rescue Training Facility.

§427.207. Reference Material-Aircraft Crash and Rescue Training Facility.

§427.209. Training Records-Aircraft Crash and Rescue Training Facility.

§427.211. Testing Procedures-Aircraft Crash and Rescue Training Facilities.

§427.213. Staff Requirements-Aircraft Crash and Rescue Training Facilities.

*§427.215. Commission Action -Aircraft Crash and Rescue Training Facilities.*

*§427.217. Revocation and Suspension Procedures-Aircraft Crash and Rescue Training Facilities.*

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-9323877 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

◆ ◆ ◆  
**Chapter 435. Fire Fighter  
Safety**

• 37 TAC §435.1

The Texas Commission on Fire Protection proposes an amendment to §435.1, concerning protective clothing for fire protection personnel. The amendment adds language concerning requirements for proximity fire fighting clothing used by aircraft rescue fire protection personnel to address a new National Fire Protection Association standard for proximity clothing. The proposed amendment identifies the date the standard became effective.

Alton Bostick, standards and licensing division director, has determined that there are no fiscal implications for state and local government as a result of enforcing or administering the amended rule.

Mr. Bostick also has determined that for each year of the first five years that the rule as proposed is in effect the public benefit anticipated as a result of enforcing the section as proposed will be to provide clarification of the requirements for proximity clothing used by aircraft rescue fire protection personnel. There will be no effect on small businesses. There are no anticipated additional costs for persons who are required to comply with the rule as proposed due to the fact that the protective clothing is required by statute to comply with the applicable NFPA standard in effect at the time the equipment is purchased or contracted.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78760-2286.

The amendment is proposed under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties and the Government Code, §419.042, which provides the Commission with authority to adopt standards for protective clothing and SCBA.

*§435.1. Protective Clothing.* The employing entity shall:

(1) purchase, provide, and maintain a complete set of protective clothing for all fire protection personnel that are assigned to fire suppression duties or provide an adequate clothing allowance and require the fire protection personnel to purchase and maintain a complete set of protective clothing. A complete set of protective clothing shall consist of those items listed in the Texas Government Code, §419.021, which states, "Protective clothing" means garments, including turnout coats, bunker coats, boots, gloves, trousers, helmets, and protective hoods, worn by fire protection personnel in the course of performing fire-fighting operations;

(2) ensure that all protective clothing which are used by fire protection personnel assigned to fire suppression duties, comply with the minimum standards of the National Fire Protection Association.

(A) The National Fire Protection Association standard applicable to protective clothing is the standard in effect at the time the entity contracts for new, rebuilt, or used protective clothing.

(B) An entity may continue to use protective clothing in use or contracted for before a change in the National Fire Protection Association standard, unless the commission determines that the protective clothing constitutes an undue risk to the wearer, in which case the commission shall order that the use be discontinued and shall set an appropriate date for compliance with the revised standard.

(C) Fire fighter boots purchased or contracted for prior to May 16, 1988, are not required to meet the minimum standards for protective clothing.

(D) Protective hoods purchased or contracted for prior to August 16, 1991, are not required to meet the minimum standards for protective clothing.

(E) Protective clothing for proximity fire fighting purchased or contracted for prior to August 14, 1992, are not required to meet the standards for protective clothing.

(3) maintain and provide upon request by the Commission, a departmental standard operating procedure regarding the use of protective clothing, during fire suppression operations.

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 June 5, 1993.

TRD-9323881 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512) 873-1700

◆ ◆ ◆  
**Chapter 437. Fees**

• 37 TAC §437.3, 437.5, 437.9,  
437.13

The Texas Commission on Fire Protection proposes amendments to §§437.3, 437.5, and 437.9, and new §437.13, concerning certification and renewal fees, curriculum manual fees, and examination fees. The amendments to §437.3 and §437.5 require approved training facilities to pay an annual certification fee of \$20. The amendment to §437.9 establishes an annual fee of \$12 to receive current revisions to the curriculum manual. New §437.13 establishes a \$15 fee for the basic certification written examination.

Alton Bostick, standards and licensing division director, has determined that there will be fiscal implications to state and local governments as a result of enforcing or administering the rule. For each year of the first five-year period that the rules will be in effect it is anticipated that the commission will receive an increase in revenue of approximately \$2,000 in certification and renewal fees for training facilities, \$720 in curriculum manual subscription fees, and \$16,890 in testing fees. Local governments that maintain fire protection personnel training facilities regulated by the commission will have an additional annual cost of \$20 for facility certification and \$15 for each examinee for basic certification tests.

Mr. Bostick also has determined that for each year of the first five years that the rules as proposed are in effect the public benefit anticipated as a result of enforcing the rules as proposed will be to make current curriculum information available to the fire service, to provide funds for inspection of training facilities to insure their quality, and to allocate the cost of examinations to those individuals and entities which use those services. The cost for small business will be the same as for local governments. The cost of compliance with these rules for persons who operate training facilities for fire protection personnel will be the same as the cost for local governments.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments and new section are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.026, which authorizes the commission to establish fees relating to certification and basic certification tests.

**§437.3. Fees-Certification.**

(a)-(i) (No change.)

(j) A facility that provides training for any certification in subsection (e) of this section must be certified by the commission. A training facility that is certified by the commission to instruct in one or more disciplines shall be charged only one certification fee.

**§437.5. Fees-Renewal.**

(a) The annual renewal fee shall be \$20.00 and shall be assessed for each certified employee of an entity and certified training facility. If an individual holds more than one certificate, the Commission may collect only one \$20 renewal fee which will renew all certificates held by the individual.

(b)-(l) (No change.)

**§437.9. Fees-Commission Certification Curriculum Manual.**

(a) A fee of \$30 will be charged for each set of the Commission Certification Curriculum Manual. A \$12 annual subscription fee will be charged to receive revisions.

(b) (No change.)

**§437.13. Fees-Basic Certification Examination.**

(a) A fee of \$15 shall be charged for each basic certification written examination.

(b) Basic certification examination fees will not be combined with any other fees, such as renewal fees, fees for commission manuals, and copying fees.

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

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TRD-9323882

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

**Chapter 439. Examinations For Certification**

**• 37 TAC §439.7**

The Texas Commission on Fire Protection proposes an amendment to §439.7, concerning procedures for examinations for certification. The amendment provides guidelines for

the conduct of examinations of classes with less than eight examinees, outline equipment required to be furnished by the examinee for a performance examination, and provides for the issuance of a certificate of completion of the basic certification examination.

Alton Bostick, standards and licensing division director has determined that there will be fiscal implications for state and local governments as a result to enforcing or administering the rule as amended. The amendment will result in a small increase in revenue if classes smaller than eight examinees are required to pay a minimum fee of \$120. However, this increase may be offset by a reduction in the number of smaller classes. The effect on local government will depend on the size of classes taking the basic certification tests. Classes of eight or more are unaffected by the rule change, whereas the smaller classes will see an increase of cost per examinee from \$15 to \$120 depending on the size of the class.

Mr. Bostick also has determined that for each year of the first five years the rule as proposed are in effect the public benefit anticipated as a result of enforcing the section as proposed will be a more efficient allocation of costs of examination and assurance that examinees for performance testing have appropriate equipment. There will be no effect on small businesses. The possible economic cost of complying with the rule for persons and business that conduct training of fire protection personnel will be the same as that estimated for local governments.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is adopted under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.032(b), which authorizes the commission to establish qualifications relating to basic certification tests.

**§439.7. Procedures.**

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

(d) To apply for a commission examination, the designated training officer or coordinator of the entity providing the training must complete that portion of the "Course/School Prior Approval Submission Form (CFP-T)" pertaining to commission examinations. The CFP-T form must be submitted to the commission 20 days prior to the proposed starting date of the course. The commission will set the time and place of the examination. A reasonable attempt shall be made to schedule the examination as soon as possible after the completion of the applicable course and at a place agreeable to the provider of training.

(1) Commission examinations, or retakes, for less than eight examinees shall be conducted in Austin, or other place designated by the commission. The

commission shall coordinate with the provider of training as to the time of the examination.

(2) Commission examinations, or retakes, for less than eight examinees shall be conducted in accordance with this section, provided that entity providing the training agrees to pay an examination fee equal to amount that would be charged for eight examinees.

(3) If a performance test is part of the commission examination, examinees that are required to take the commission examination in Austin, or other place designated by the commission, shall be required to furnish a complete set of protective clothing that complies with §435.1(2) of this title (relating to Protective Clothing). Examinees are encouraged, but not required, to provide a self-contained breathing apparatus that complies with §435.3(2) of this title (relating to Self-Contained Breathing Apparatus) that the examinee is familiar with and an extra full cylinder.

(e) If the designated training officer or coordinator of the entity providing the training determines that the time and/or place of the examination as set by the commission is not acceptable for good cause, he may request the commission to reschedule or relocate the examination providing the request is received at least 20 days prior to the original scheduled time of the examination or the new proposed time, whichever would result in the earliest notification. The commission shall give all such request due consideration and may reschedule or relocate the examination as necessary.

(f)-(m) (No change.)

(n) An examinee that successfully completes the applicable curriculum and the required commission basic certification examination shall be issued a certificate of completion from the provider of training. The certificate of completion shall, as a minimum, identify the provider of training, the course ID number, the course approval number, hours of instruction, date issued (date commission basic certification examination was successfully passed), name of instructor, and the name of the person completing the course.

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 June 6, 1993.

TRD-9323883

Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

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For further information, please call: (512) 873-1700

For further information, please call: (512) 873-1700

must complete a commission approved basic volunteer fire fighter curriculum. An approved basic volunteer fire fighter curriculum shall consist of one of the following:

◆ ◆ ◆  
**Chapter 443. Adoptions by Reference**

◆ ◆ ◆  
**Chapter 473. Volunteer Fire Fighter**

◆ ◆ ◆  
**• 37 TAC §443.1**

◆ ◆ ◆  
**• 37 TAC §473.1**

The Texas Commission on Fire Protection proposes an amendment to §443.1, concerning the adoption by reference of the Basic Fire Suppression Curriculum. The amendment adopts a revised edition of Chapter 1, Basic Fire Suppression Curriculum.

The Texas Commission on Fire Protection proposes an amendment to §473.1, concerning requirements for volunteer fire fighter certification. Subsection (b)(5) adds language to clarify that approval of a training program under this subsection includes approval of training facilities and instructors recognized by the program. In addition, subsection (d) is amended to expressly exempt out-of-state training, military training, and training through the State Firemen's and Fire Marshals' Association of Texas from the requirements for facility approval. Finally, new subsection (e) is added to provide for certification as a volunteer fire fighter of persons holding certification as paid fire protection personnel under Chapter 423 of this title.

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

(5) Completion of a commission-approved training program that meets or exceeds the standards set for an approved basic volunteer fire fighter curriculum. [and] Approval of a training program under this subsection constitutes approval of training facilities and instructors recognized by the program. Upon successful completion of the training program, the applicant must successfully pass the commission examination as specified in Chapter 479 of this title (relating to examinations for volunteer fire fighter certification).

Alton Bostick, standards and licensing division director, has determined that for the first five years the rule is in effect there will be no fiscal implications for state and local governments as a result of enforcing or administering the amended rule.

John Jandt, volunteer program director, has determined that there will be fiscal implications for state and local government as a result of enforcing or administering this rule. The effect on the commission will be a reduction in the anticipated revenue from certification of training facilities (\$1,000) and volunteer fire fighter instructors (\$2,500) for each year of the first five years the change is in effect. The effect on local government will be a corresponding reduction in certification fees paid to the commission.

(c) (No change.)

(d) The commission-approved basic volunteer fire fighter curriculum must be taught through a training facility that has been certified by the commission as provided in Chapter 477, of this title (relating to Volunteer Fire Fighter Training Facilities) or Chapter 427, subchapter A, of this title (relating to Structure Recruit Training Facilities), except as provided in §471.7(d) of this title (relating to Minimum Standards for Participation) or subsection (b)(2)-(5) of this section.

Mr. Bostick also has determined that for each year of the first five years that the rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule proposed will be the deletion of obsolete language and an elimination of any conflict with changes to the statutory definition of fire protection personnel. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Mr. Jandt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the reduction in certification fees paid by volunteer fire departments; a reduction in administrative record keeping; and elimination of unnecessary duplicate training of fire fighters previously trained. There is no anticipated increase in economic costs to persons or small businesses required to comply with the rule as proposed.

(e) A person who holds any level of Structure Fire Protection Personnel Certification issued by this commission as provided for in Chapter 423 subsection A, of this title (relating to Minimum Standards for Structure Fire Protection Personnel Certification) may be certified as a Basic Volunteer Fire Fighter. If the certificate has been inactive for more than one year, the persons must take the commission examination as provided for in §479.1 of this title (relating to Requirements-General. A person who has completed a Structure Fire Protection Personnel Certification Recruit School prior to January 1, 1993, and has not been certified as provided for in Chapter 423, subchapter A, may be certified as a Basic Volunteer Fire Fighter upon completion of the two additional modules as provided for in §473.3 of this title (relating to Adoption by Reference) and successful completion of the examination provided for in Chapter 479 of this title (relating to Examinations for Volunteer Fire Fighter Certification).

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

Comments on the proposal may be submitted to Armando O'cana, Volunteer Fire Fighter Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

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

The amendment is adopted under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and the Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.071(e), which provides the Texas Commission on Fire Protection with authority to establish rules for qualifications relating to education, training programs, continuing education, and testing procedures for the volunteer certification program.

Issued in Austin, Texas, on June 6, 1993.

**§443.1. Basic Fire Suppression Curriculum.**

**§473.1. Minimum Standards for Basic Volunteer Fire Fighter.**

(a) The effective date of this section shall be April 1, 1992.

(a) (No change.)

(b) The Commission on Fire Protection adopts by reference Chapter 1, Basic Fire Suppression Curriculum, of the Commission's document titled "Commission Certification Curriculum Manual" as amended April 14 [January 13], 1993.

(b) In order to be certified under this chapter, a basic volunteer fire fighter

(c) (No change.)

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

Issued in Austin, Texas, on June 6, 1993.

Issued in Austin, Texas, on June 6, 1993.

TRD-9323884 Jack Woods  
General Counsel  
Texas Commission on Fire Protection

TRD-9323885 Jack Woods  
General Counsel  
Texas Commission on Fire Protection

Proposed date of adoption: July 12, 1993

Proposed date of adoption: July 12, 1993  
For further information, please call: (512)  
873-1700

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**Chapter 475. Volunteer Fire  
Fighter Instructor and  
Instructor Training**

• 37 TAC §475.1

The Texas Commission on Fire Protection proposes an amendment to §475.1, concerning minimum standards for basic volunteer fire fighter instructor certification. The amendment permits persons holding a Level II instructor certification from the State Firemen's and Fire Marshal's Association of Texas on or before September 1, 1993, to apply for a commission basic instructor certificate, moving the deadline from December 31, 1992.

John Jandt, volunteer program director, 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. Jandt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be an increase in the number of persons qualified to instruct volunteer fire fighters. 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 Armando O'cana, Volunteer Fire Fighter Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.071(e), which provides the Texas Commission on Fire Protection with authority to establish rules for qualifications relating to education, training programs, continuing education, and testing procedures for the volunteer certification program.

*§475.1. Minimum Standards For Basic Volunteer Fire Fighter Instructor Certification.*

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

(c) Prior to September 1, 1993, an individual may be certified as a basic volunteer fire fighter instructor if he or she possesses as a minimum a State Firemen's and Fire Marshals' Association of Texas Intermediate Fire Fighter certificate and a Level II Instructor certificate on or before September 1, 1993 [December 31, 1992], and provides documentation of completion of all of the hours of each competency as outlined in the Basic Volunteer Structure Fire Fighter Curriculum Manual for which the instructor desires to instruct.

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 June 5, 1993.

TRD-9323888 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Proposed date of adoption: July 12, 1993

For further information, please call: (512)  
873-1700

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**Chapter 489. Volunteer Fire  
Department Inspections**

• 37 TAC §489.3

The Texas Commission on Fire Protection proposes an amendment to §489.3, concerning volunteer fire department inspection reports. The amendment removes all reference to mandatory language to underline the voluntary nature of inspections of volunteer fire departments. Although volunteer fire departments will be encouraged to take corrective action, the commission has no jurisdiction to compel compliance.

John Jandt, volunteer program director, 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. Jandt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be an increase in the number of volunteer fire departments that request voluntary inspections. 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 Armando O'cana, Volunteer Fire Fighter Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties; and §419.071(e), which provides the Texas Commission on Fire Protection with authority to establish rules for qualifications relating to education, training programs, continuing education, and testing procedures for the volunteer certification program.

*§489.3. Report of Inspection.* The commission inspector shall furnish a report to the volunteer fire department indicating areas of compliance and non-compliance. The volunteer fire department may [shall] submit a schedule of corrective action to the commission [within 30 days to address the areas of non-compliance. The schedule of corrective action shall not exceed one-year from the date of the report indicating non-compliance]. The participating volunteer

fire department may request a follow-up inspection to determine compliance.

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 June 6, 1993.

TRD-9323887 Jack Woods  
General Counsel  
Texas Commission on Fire  
Protection

Earliest possible date of adoption: July 12, 1993

For further information, please call: (512)  
873-1700

◆ ◆ ◆  
**TITLE 40. SOCIAL SER-  
VICES AND ASSIS-  
TANCE**

**Part I. Texas Department  
of Human Services**

**Chapter 10. Family Self-  
Support Services**

**Child Care Management Ser-  
vices Statewide Implementa-  
tion**

• 40 TAC §10.3433

The Texas Department of Human Services (DHS) proposes an amendment to §10.3433, concerning cost reimbursement in child care management services (CCMS) contracts. The purpose of the amendment is to allow a negotiated fee to be used in the CCMS cost reimbursement budget.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that CCMS will have the flexibility to use the most cost effective method of providing employee benefits. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Ann Glenn at (512) 450-3943 in DHS's Self-support Services. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-134, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 44, which authorizes the department to administer public assistance and day care programs.

*§10.3433. Cost Reimbursement in Child Care Management Services (CCMS) Contracts.*

(a) (No change.)

(b) The CCMS contractor submits bills for costs incurred monthly under the negotiated budget according to the billing schedule specified in the CCMS contract with DHS. For individual budget items deemed not materially significant by DHS in relation to the total cost reimbursement budget, DHS may allow the CCMS contractor to bill a stipulated amount each month subject to DHS approved terms and conditions of fiduciary accountability, periodic review, and reconciliation.

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 June 7, 1993.

TRD-9323899 Nancy Murphy  
Section Manager, Policy and Document Support  
Texas Department of Human Services

Proposed date of adoption: September 1, 1993

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

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

**Eligibility**

• 40 TAC §48.2911

The Texas Department of Human Services (DHS) proposes an amendment to §48.2911, concerning family care, in its Community Care for Aged and Disabled (CCAD) chapter. The purpose of the amendment is to require clients to pursue eligibility for Medicaid-funded attendant care services or be denied eligibility for family care services.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed section will be in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period the section will be in effect is an estimated additional cost of \$1,330,319 in fiscal year (FY) 1994. There will be an estimated reduction in cost of \$4,309,033 in FY 1995; \$6,642,753 in FY 1996; \$7,085,961 in FY 1997; and \$7,574,469 in FY 1998.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that limited Title XX funding will only be spent on those clients who are not eligible for Medicaid-funded attendant care services. There will be no effect on local government or small

businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Armando Delgado at (512) 450-3217 in DHS's Community Care Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-129, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

*§48.2911. Family Care.*

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

(d) To be eligible for family care, the individual must not be eligible to receive attendant care services funded through Medicaid.

(e)[(d)] Establishment of a priority level is made by the community care case manager and is based on an assessment of the client's circumstances and on discussions with the client and others actively involved with the client. A Priority 1 family care client is an individual who is dependent upon the services of the family care attendant for the performance of certain personal care tasks and whose health, safety, or well-being may be jeopardized if services on a normally-scheduled service shift were not provided. An individual is considered a Priority 1 family care client if the following criteria are met.

(1) The individual is completely unable to perform one or more of the following activities without hands-on assistance from another person:

- (A) transferring himself into or out of bed or a chair or on or off a toilet;
- (B) feeding himself;
- (C) getting to or using the toilet;
- (D) preparing a meal; or
- (E) taking self-administered prescribed medications.

(2) During a normally-scheduled service shift, no one is readily available who is capable of providing, and who is willing to provide, the needed assistance other than the family care attendant.

(3) The DHS Community Care case manager determines that there is a high

likelihood the individual's health, safety, or well-being would be jeopardized if family care services were not provided on a single given shift.

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 June 7, 1993.

TRD-9323898 Nancy Murphy  
Section Manager, Policy and Document Support  
Texas Department of Human Services

Proposed date of adoption: September 1, 1993

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

◆ ◆ ◆  
**Chapter 50. Day Activity and Health Services**

**Reimbursement Methodology for Day Activity and Health Services**

• 40 TAC §50.6903

The Texas Department of Human Services (DHS) proposes an amendment to §50.6903, concerning reimbursement rate determination, in its Day Activity and Health Services (DAHS) chapter. The purpose of the amendment is to change the method used to determine the reimbursement rate. The proposed method will better reflect the costs incurred in the DAHS industry.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed rule will be in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government for the first five-year period the rule will be in effect is an estimated additional cost of \$11,316 in fiscal year (FY) 1993; \$51,880 in FY 1994; \$63,694 in FY 1995; \$74,276 in FY 1996; and \$84,858 in FY 1997. There will be no effect on local government as a result of enforcing or administering the rule.

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

Questions about the content of the proposal may be directed to Mary Anne Howard at (512) 450-4050 in DHS's Provider Reimbursement Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-086, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*. A copy of the proposal is being sent to each DHS field



office where it will be available for public comment.

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

§50.6903. *Reimbursement Rate Determination.* The Texas Department of Human Services (DHS) determines rate reimbursement in the following manner.

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

(5) Rate setting methodology. Effective June 1, 1993, DHS [The department] determines the recommended reimbursement rate by the following computation. DHS [The department] ranks from low to high all provider agencies' projected costs [per unit of service] in each cost area. The [weighted] median cost from each projected cost area is then determined. The total that is reached from adding the [weighted] median costs [medians] from all six cost areas becomes the recommended reimbursement rate.

(6)-(7) (No change.)

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

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

TRD-9323746 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: September 1, 1993

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

◆ ◆ ◆  
**Chapter 56. Family Planning**  
**Subchapter C. Provider Program Requirements**

◆ ◆ ◆  
• 40 TAC §56.302

The Texas Department of Human Services (DHS) proposes an amendment to §56.302, concerning types of providers, in its Family Planning chapter. The purpose of the amendment is to include advanced nurse practitioners among those who may provide family planning medical services to eligible clients under Title XIX and to include additional examples of agency clinics.

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

ing the section.

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the addition of advanced nurse practitioners will expand family planning services for the indigent population, thereby reducing the numbers of unexpected Medicaid-covered births. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to Beth Weber at (512) 338-6460 in DHS's Family Planning/Genetic Services Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-121, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§56.302. *Types of Providers.*

(a) Eligible clients under Title XIX may receive family planning medical services from the following providers:

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

(3) agency clinics such as planned parenthood agencies, community action agencies, university or medical schools, hospital districts, natural family planning agencies, independent agencies, public health service grantees including health departments with family planning clinics and mobile teams.

(4) advanced nurse practitioners.

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

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323897 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: August 1, 1993

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

**TITLE 43. TRANSPORTATION**

**Part I. Texas Department of Transportation**

**Chapter 31. Division of Public Transportation**

**Federal Programs**

• 43 TAC §31.36

*(Editor's Note: The Texas Department of Transportation proposes for permanent adoption the amended section it adopts on an emergency basis in this issue. The text of the amended section is in the Emergency Rules section of this issue.)*

The Texas Department of Transportation proposes an amendment to §31.36, concerning Section 18 Grant Program. The amendment would delete subsection (c) (3)(C) of this section, which currently prescribes budgeting requirements for Section 18 contractors. The deletion of this requirement allows the contractor more flexibility in its annual budget application.

As a first step in the contracting process, eligible recipients must submit their Fiscal Year 1994 funding requests, which include a project budget, to the Texas Department of Transportation no later than June 15, 1993. The amendment is therefore necessary due to serious funding constraints facing Section 18 contractors in Fiscal Year 1994 and the need to provide them sufficient budgetary flexibility to avoid disruption of vital public transportation services and the attendant adverse impact on the public welfare and economies of affected communities.

Richard G. Christie, director of public transportation, 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. Christie has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed rule.

Mr. Christie also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be additional budgeting flexibility for rural transit systems that provide needed public transportation services. There is no anticipated economic cost to persons or small businesses who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

The new rule is proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more spe-

cifically, to administer the state public transportation fund and state and federal public transportation programs.

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 June 2, 1993.

TRD-9323689

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: July 12, 1993

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

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# 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 II. Banking Department of Texas

#### Chapter 25. Prepaid Funeral Contracts

##### • 7 TAC §25.18

The Banking Department of Texas adopts new §25.18, concerning prepaid funeral services and merchandise, with changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 15).

The new rule is needed to provide definitions for new §25.19 and new §25.20.

The new rule defines terms used in rules governing notification of the public and selection of successors to assume the rights and obligations of cancelled prepaid funeral services and merchandise sellers permits, and the making and processing of claims against the Prepaid Funeral Guaranty Fund.

No comments were received during the statutory 30-day comment period.

The new rule is adopted under Texas Civil Statutes, Article 548b, §2, which provide that the laws governing sale of prepaid funeral services or funeral merchandise shall be administered by the State Banking Department and that the Department is authorized to prescribe reasonable rules and regulations concerning all other matters incidental to the enforcement and orderly administration of these laws.

§25.18. *Definitions Applicable to §25.19 and §25.20.* The following terms, when used in §25.19 and §25.20, shall have the following meanings, unless the context clearly indicates otherwise.

Commissioner—The Commissioner of the Banking Department of Texas or the Commissioner's designee.

Council or Guaranty Fund Advisory Council—The Prepaid Funeral Contract Guaranty Fund Advisory Council created by the Texas Banking Code, Article 548b, §8A(c), to supervise operation and maintenance of the Prepaid Funeral Contract Guaranty Fund.

Department—The Banking Department of Texas.

Guaranty Fund—The Prepaid Funeral Contract Guaranty Fund created, operated, and maintained pursuant to the Texas Bank-

ing Code, Article 548b, §8A, to guarantee performance of prepaid funeral contracts. The Guaranty Fund arises from assessments on sellers of prepaid funeral contracts pursuant to the Texas Banking Code, Article 548b, §8A(a) (Cf., definition of "seized funds" below.).

Funeral provider—An individual, firm, partnership, corporation, or association licensed by the Texas Funeral Service Commission to provide funeral services and merchandise in the State of Texas.

Maturity—The date of death of the purchaser or other person designated in the prepaid funeral contract for whom the funeral services and merchandise described in the prepaid contract are to be provided.

Non-permit holder—An individual, firm, partnership, corporation, or association which is licensed by the Texas Funeral Service Commission to provide funeral services and merchandise in the State of Texas but which does not hold a permit to sell prepaid funeral services and merchandise in the State of Texas.

Permit—A permit issued by the Commissioner pursuant to the Texas Banking Code, Article 548b, §3, to an individual, firm, partnership, corporation, or association desiring to sell prearranged or prepaid funeral services and merchandise in the State of Texas.

Permit holder—An individual, firm, partnership, corporation or association that holds a permit to sell prearranged or prepaid funeral services and merchandise in the State of Texas.

Prepaid funeral contract—A written contract and written amendments thereto, sold by a permit holder to provide prepaid funeral services and merchandise in the State of Texas.

Prepaid funeral funds—Those funds paid or collected on prepaid funeral contracts, including earnings, and deposited as provided for in the Texas Banking Code, Article 548b, §5(2).

Purchaser—An individual who has purchased prepaid funeral services or merchandise in the State of Texas from a permit holder on a written contract.

Seized funds—Funds arising from seizures of prepaid funeral contract funds under the Texas Banking Code, Article 548b, §8 (Cf., definition of "Guaranty Fund" above.).

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 June 2, 1993.

TRD-9323820

Catherine A. Ghiglieri  
Commissioner  
Banking Department of  
Texas

Effective date: June 25, 1993

Proposal publication date: January 1, 1993

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

##### • 7 TAC §25.19

The Banking Department of Texas adopts new §25.19, concerning prepaid funeral services and merchandise, without changes to the proposed text as published in the January 1, 1993, issue of the *Texas Register* (18 TexReg 15).

The new rule is needed to provide for continued delivery of prepaid funeral services and merchandise under provisions of Vernon's Texas Civil Statutes, Article 548b (Article 548b, the Texas Banking Code) in the event that the permit of the seller from which prepaid funeral services and merchandise were originally purchased is cancelled.

The new rule provides detailed procedures for notification of the public of the cancellation and for the selection through a competitive bid process of successors to assume rights and obligations of cancelled permit holders.

No comments were received during the statutory 30-day comment period.

The new rule is adopted under Texas Civil Statutes, Article 548b, §2, which provide that the laws governing sale of prepaid funeral services or funeral merchandise shall be administered by the State Banking Department and that the Department is authorized to prescribe reasonable rules and regulations concerning all other matters incidental to the enforcement and orderly administration of these laws.

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 June 2, 1993.

TRD-9323821

Catherine A. Ghiglieri  
Commissioner  
Banking Department of  
Texas

Effective date: June 25, 1993

Proposal publication date: January 1, 1993

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

◆ ◆ ◆  
• 7 TAC §25.20

The Banking Department of Texas adopts new §25.20, concerning claims against the Prepaid Funeral Guaranty Fund, with changes to the proposed text as published in the January 19, 1993, issue of the *Texas Register* (18 TexReg 351).

The new rule is needed to provide for claims against the Prepaid Funeral Guaranty Fund.

The new rule provides that claims against the Prepaid Funeral Contract Fund may be made to the Commissioner of Banking and that the Commissioner may process and settle such claims within the limit of authority delegated by the Prepaid Funeral Guaranty Fund Advisory Council and above that limit will take the claims to the Council for approval. Hearings are provided for in the event that claimants are dissatisfied.

No comments were received during the 30-day comment period.

The new rule is adopted under Texas Civil Statutes, Article 548b, §2, which provide that the laws governing sale of prepaid funeral services or funeral merchandise shall be administered by the State Banking Department and that the Department is authorized to prescribe reasonable rules and regulations concerning all other matters incidental to the enforcement and orderly administration of these laws.

*§25.20. Guaranty Fund Claims Filing Procedures and Eligibility for Payment Standards.*

(a) Who may make a claim. Unless expressly precluded from making a claim against the Guaranty Fund in subsection (b) of this section, the following parties and their heirs, successors, and assignees may make a claim against the Guaranty Fund.

(1) purchasers of prepaid funeral service and merchandise contracts from licensed permit holders;

(2) those selected to assume obligations and liabilities of a cancelled permit holder in the event they assumed those obligations and liabilities under a contract that expressly authorizes them to make a claim against the Guaranty Fund.

(b) Who cannot make a claim. All other claims, including claims submitted by the following parties and their heirs, successors, and assignees, will be denied.

(1) those who hold a contract that matured prior to the date of origin of the Guaranty Fund;

(2) those who purchased prepaid funeral goods and services from a vendor that did not obtain a prepaid funeral con-

tract permit issued by the Department of Banking; and

(3) those who purchased prepaid funeral goods and services under a plan such as the one litigated in the case of *Sexton v. Mount Olivet Cemetery Association*, 720 S.W. 2d 129 (Tex. App.-Austin 1986) (specifically including, but not limited to, any prepaid funeral goods and services purchased from Mount Olivet Cemetery Association).

(c) Any claim submitted against either the Guaranty Fund or against any seized prepaid funeral contract funds by current or former prepaid funeral contract permit holders or their successors shall not be honored until any money that they or their predecessors owe to the Guaranty Fund or to any prepaid funeral contract funds has been offset against the claim. This provision shall not apply to a successor permit holder that purchased contracts of a cancelled permit holder from the Commissioner. Claims by such a successor permit holder shall be governed by the contract under which assets and liabilities of the cancelled permit holder were assumed.

(d) Claims by individual purchasers will be handled on a case-by-case basis.

(e) Claims approval process and right to reconsideration.

(1) Delegation of authority to commissioner. The Guaranty Fund Advisory Council may delegate to the Commissioner the authority to settle and determine all claims against the Guaranty Fund up to such amount and with such restrictions as the Council may from time to time determine. These limits and restrictions shall be reflected in the minutes of the meetings of the Council.

(2) Appeals to the guaranty fund advisory council. Unless an appeal is expressly waived in a settlement agreement, any action by the Commissioner approving, modifying, or denying claims against the Guaranty Fund may be appealed to the Guaranty Fund Advisory Council by submitting a request for review to the Guaranty Fund Advisory Council within 30 days of receipt of notice of the Commissioner's action; otherwise the action of the Commissioner shall be final and not subject to review. Such request shall be addressed to the Guaranty Fund Advisory Council in care of the Commissioner and filed with the Commissioner on or before the close of business on the last day of the 30-day period.

(3) Hearings on claims. Either the Commissioner or the Guaranty Fund Advisory Council may direct that an administrative hearing be held on any claim in order to clarify the facts or law pertinent to

its disposition. No claim shall be reduced or denied without affording the claimant an opportunity for a hearing; provided, however, that if a hearing has been held, or offered by the Commissioner and waived by the claimant, the Guaranty Fund Advisory Council need not offer another opportunity for a hearing. All hearings shall be conducted in compliance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

(f) Information required to be supplied by a claimant. A claimant shall provide the following information.

(1) a copy of the prepaid funeral contract and any amendments thereto;

(2) evidence of the status of the account, including whether the account is paid in full, the amount owed thereon and whether payments are current or delinquent;

(3) name of the seller;

(4) date of purchase;

(5) a certified copy of the death certificate of the purchaser or assignee, if applicable;

(6) a notarized statement setting forth any special circumstances that may bear on the claim; and

(7) any other information requested by the Department.

(g) Information to be supplied by the Department in connection with a claim submitted by a permit holder or its legal representative.

(1) The Department shall supply the Guaranty Fund Advisory Council with all requested information pertinent to the claim.

(2) The Department shall provide the Guaranty Fund Advisory Council with its recommendations and analysis of the claim.

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 June 2, 1993.

TRD-9323822

Catherine A. Ghiglieri  
Commissioner  
Banking Department of  
Texas

Effective date: June 25, 1993

Proposal publication date: January 19, 1993

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

# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part I. Texas Department of Human Services

### Chapter 2. Medically Needy Program

#### Program Requirements

##### • 40 TAC §2.1006

The Texas Department of Human Services (DHS) adopts an amendment to §2. 1006, concerning requirements for application, in its Medically Needy Program (MNP) chapter.

The justification for the amendment is to comply with a policy clarification from the Health Care Financing Administration (HCFA). The policy clarification mandates that MNP clients be exempted from the Aid to Families with Dependent Children (AFDC) program transfer-of-resources eligibility requirement.

The amendment will function by enabling more needy children to qualify for Medicaid benefits.

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. The amendment is adopted to be effective July 1, 1993, to comply with federal requirements.

#### §2.1006. Requirements for Application.

(a) Citizenship. Citizenship requirements for Medically Needy Program (MNP) applicants are the same as requirements for Aid to Families with Dependent Children (AFDC) applicants outlined in the AFDC rules.

(b) Resources. Resource limits and types of countable and exempt resources for MNP are the same as those outlined in the Texas Department of Human Services' AFDC rules in Chapter 3 of this title (relating to Income Assistance Services) with the following exceptions:

(1) the policy of receiving benefits up to six months pending a good faith effort to sell real property does not apply to the MNP; and

(2) the policy for transferring resources to qualify for assistance does not apply to the MNP.

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

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323896

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

Effective date: July 1, 1993

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

### Chapter 3. Income Assistance Services

#### Subchapter MM. Aid to Families with Dependent Children-Unemployed Parent Program

##### • 40 TAC §3.3906

The Texas Department of Human Services (DHS) adopts an amendment to §3. 3906, concerning Aid to Families with Dependent Children (AFDC)-Unemployed Parent Medicaid Assistance Only (MAO), in its Income Assistance Services chapter.

The justification for the amendment is to comply with a policy clarification from the Health Care Financing Administration (HCFA). The policy clarification mandates that AFDC-UP MAO clients be exempted from the AFDC program transfer-of-resources eligibility requirement.

The amendment will function by enabling more needy children to qualify for Medicaid benefits.

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. The amendment is adopted to be effective July 1, 1993, to comply with federal requirements.

#### §3.3906. Aid to Families with Dependent Children-Unemployed Parent (AFDC-UP) Medicaid Assistance Only (MAO).

(a) (No change.)

(b) Eligibility. Clients must meet all AFDC-UP eligibility requirements while receiving AFDC-UP MAO, except the policy for transferring resources to qualify for assistance does not apply. Clients who have been receiving AFDC-UP MAO and who then become ineligible are not eligible for Type Program (TP) 07 or TP 37 Medicaid.

(c) (No change.)

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323895

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

Effective date: July 1, 1993

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

### Chapter 4. Medicaid Programs-Children and Pregnant Women

#### Eligibility Requirements

##### • 40 TAC §4.1006

The Texas Department of Human Services (DHS) adopts an amendment to §4. 1006, concerning requirements for application, in its Medicaid Programs-Children and Pregnant Women (CPW) chapter.

The justification for the amendment is to comply with a policy clarification from the Health Care Financing Administration (HCFA). The policy clarification mandates that CPW clients be exempted from the AFDC program transfer-of-resources eligibility requirement.

The amendment will function by enabling more needy children to qualify for Medicaid benefits.

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. The amendment is adopted to be effective July 1, 1993, to comply with federal requirements.

§4.1006. Requirements for Application. To be eligible for the Medicaid Programs for Children and Pregnant Women (CPW) Program, clients must meet the following requirements.

(1) Citizenship. Citizenship requirements for CPW applicants are the same as requirements for Aid to Families with Dependent Children (AFDC) applicants outlined in DHS's AFDC rules in Chapter 3 of this title (relating to Income Assistance Services).

(2) Resources. Resource limits and types of countable and exempt resources for CPW are the same as those outlined in DHS's AFDC rules, with the following exceptions.

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

(E) The AFDC and Food Stamp policy for transferring resources to qualify for assistance does not apply to the CPW program.

(3)-(9) (No change.)

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323894

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

Effective date: July 1, 1993

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

## Chapter 48. Community Care for Aged and Disabled

The Texas Department of Human Services (DHS) adopts amendments to §§48.2201, 48.2403, 48.2406, and 48.2501 and adopts new §§48.2216, 48.2217, and 48.2416, without changes to the proposed text as published in the April 2, 1993, issue of the *Texas Register* (18 Tex Reg 2188).

The justification of the amendments and new sections will be expanded eligibility for waiver services.

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

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

The amendment to §48.2201(a)(6) will function by allowing an individual who is financially eligible for Medicaid if residing in a Medicaid-certified institution to qualify for HCS waiver services.

The amendment to §48.2403 will function by deleting the requirement that an applicant must be directly discharged from a nursing facility in order to receive Home and Community-Based Services-OBRA.

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

The department received comments from the Visiting Nurse Association and an individual. The Visiting Nurse Association stated that these rules are in the best interests of the clients. The individual expressed concerns that some clients may have to make copayments. The Health Care Financing Administration requires the state to use the copayment requirements whenever spousal

impoverishment provisions are used in financial eligibility determination. Under this rule, no waiver client will have to make copayments.

## Home and Community-Based Services

- 40 TAC §§48.2201, 48.2216, 48.2217

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

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323893

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

Effective date: July 1, 1993

Proposal publication date: April 2, 1993

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

## 1915(c) Medicaid Home and Community-Based Waiver Services for Persons with Mental Retardation and/or Related Conditions Requiring Alternatives to Nursing Facility Placement

- 40 TAC §§48.2403, 48.2406, 48.2416

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

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323892

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

Effective date: July 1, 1993

Proposal publication date: April 2, 1993

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

## Waiver Program for Medically Dependent Children

- 40 TAC §48.2501

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

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323891

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

Effective date: July 1, 1993

Proposal publication date: April 2, 1993

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

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 1. Administration

#### Conditional Grant Program

- 43 TAC §1.403

The Texas Department of Transportation adopts an amendment to §1.403, without changes to the proposed text as published in the April 13, 1993, issue of the *Texas Register* (18 TexReg 2470).

Senate Bill 352, 72nd Legislature, Regular Session, 1991, required the department to establish and administer a conditional grant program to provide financial assistance to minority students who exhibited in the student's secondary school performance an aptitude for engineering, who intend to become civil engineers, and who will work for the department for two years following graduation.

Section 1.403 provides that for a student to continue to be eligible to receive conditional grant funds, he or she must maintain an overall grade point average of 2.50 and receive credit for not fewer than 12 hours each semester toward the student's degree program. The amendment adds another provision to subsection (b) by providing that if, during not more than one semester, a student fails to meet the grade point or credit hour require-

ments of the section, he or she will continue to maintain eligibility on condition that the student must receive credit for not fewer than 12 hours each semester and attain a semester grade point average of 2.5 during all semesters thereafter until the student graduates.

On April 25, 1993, the department held a public hearing in accordance with Texas Civil Statutes, Article 6252-13a, §5, to receive comments, views, and/or testimony concerning the proposed amendment. While no comments were received at the hearing the department did receive one comment regarding the proposed amendment to §1.403 concerning continued Eligibility in the Conditional Grant Program. The following comments/questions were of a general nature to the program and not specific to the amendment: what did Senate Bill 352 tell the department to do about minorities; what constitutes a minority; and why does the program single out certain classes of people over others? The department's response follows.

Senate Bill 352, 72nd Legislature, 1991, required the department to make conditional grants to eligible minority students who intend to become civil engineers and who will work for the department for two years after graduation. The definition of a minority student as codified in 43 TAC §1.402 is as follows:

Minority student—A person who has racial or ethnic identification with one of the following groups.

(1) *Black*—All persons having origins in any of the black racial groups of Africa (not of Hispanic origin).

(2) *Hispanic*—All persons of Mexican, Puerto Rican, Cuban, Central or South American, or Spanish culture or origin, regardless of race.

(3) *Asian or Pacific Islander*—All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(4) *American Indian/Alaskan Native*—All persons having origins in any of the original peoples of North American, and who maintain cultural identification through tribal affiliation or community recognition.

The definition of minority is consistent with the definitions found in: Texas Civil Statutes, Article 6669a, relating to department hiring of minorities; Title 23, Code of Federal Regulations, Section 230.305, relating to state highway agency equal employment opportunity programs; and the department's Human Resources Manual.

Historically, minorities were not employed in the civil engineering professions and few minorities studied or graduated with civil engineering degrees. The Conditional Grant Program will help to remedy historical underrepresentation of minorities in civil engi-

neering professions and increase the number and percentage of minorities who will work in the department's workforce.

The amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and Chapter 56, Subchapter H of the Education Code, which requires the department to adopt rules implementing a conditional grant program.

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

Issued in Austin, Texas, on June 1, 1993.

TRD-9323690 Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: June 23, 1993

Proposal publication date: April 13, 1993

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

### Conditional Grant Program

#### • 43 TAC §1.409

The Texas Department of Transportation adopts the repeal of §1.409, without changes to the proposed text as published in the February 9, 1993, issue of the Texas Register (18 TexReg 833).

The Education Code, Chapter 56, Subchapter H, requires the department to establish and administer a conditional grant program to provide financial assistance to minority students who exhibited in the student's secondary school performance an aptitude for engineering and who intend to become civil engineers and work for the department for two years following graduation.

Repeal of this section is necessary because of the contemporaneous final adoption of new §1.409, which incorporates the provisions of the repealed section as rewritten and expanded to further clarify the scholarship repayment schedule for a student who is declared in default.

No comments were received on the proposed repeal.

The repeal is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and Chapter 56, Subchapter H of the Education Code which requires the department to adopt rules implementing a conditional grant program.

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

Issued in Austin, Texas, on June 1, 1993.

TRD-9323691 Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: June 23, 1993

Proposal publication date: February 9, 1993

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

The Texas Department of Transportation adopts new §1.409, without changes to the proposed text as published in the February 9, 1993, issue of the Texas Register (18 TexReg 833).

The Education Code, Chapter 56, Subchapter H, requires the department to establish and administer a conditional grant program to provide financial assistance to minority students who exhibited in the student's secondary school performance an aptitude for engineering and who intend to become civil engineers and work for the department for two years following graduation.

Section 1.409 establishes a new plan for repayment of the scholarship by a student who is declared in default by providing for a schedule of 120 monthly installment payments, a six-month grace period, and a temporary reduction or deferral of payments and/or extension of the payment period in the case of catastrophic illness or family emergency. The new section replaces existing §1.409, which is simultaneously being repealed.

No comments were received on the proposed new section.

The new section is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, the Education Code, Chapter 56, and Subchapter H, which requires the department to adopt rules implementing a conditional grant program.

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

Issued in Austin, Texas, on June 1, 1993.

TRD-9323692 Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: June 23, 1993

Proposal publication date: February 9, 1993

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

Chapter 25. Division of  
Maintenance and Operations

Oversize and/or Overweight  
Permits

• 43 TAC §25.62

The Texas Department of Transportation adopts an amendment to §25.62, without changes to the proposed text as published in the April 6, 1993, issue of the *Texas Register* (18 TexReg 2293).

The Texas Department of Transportation by Minute Order Number 100714, dated March 25, 1992, acknowledged advice from the Texas Department of Commerce, the Chairman of the Railroad Commission of Texas, the Office of the Governor, and other officials that the economic health and welfare of Texas at the time required the consideration of certain economic factors when issuing oversize permits, and therefore amended §25.62 to allow the issuance of an oversize permit when the transport of more than one commodity in a single load creates or makes greater an illegal dimension of length, width, or height. That amendment will expire on June 1, 1993. The commission has now determined that conditions underlying the amendment continue to exist and are likely to continue for an indefinite future period, thereby requiring the continued effectiveness of the rule at least through December 31, 1994.

The amendment delays the expiration date of subsection (f)(1)(B)(vii) from June 1, 1993, to

December 31, 1994, §25.62 prescribes the procedure for securing a permit pursuant to Texas Civil Statutes, Article 6701a, to operate overweight or oversize vehicles on the state highway system. Statutory limits on the width, length, height, and weight of such vehicles are established in Texas Civil Statutes, Article 6701d-11. Texas Civil Statutes, Article 6701a authorizes the department to issue special permits when those statutory limits are exceeded, but only on condition that the commodities to be transported cannot be reasonably dismantled and that the department determines that operation will be without material damage to the highway. The statute contains other provisions for permit application, fees, form, content, special conditions, and penalties.

On April 19, 1993, the department held a public hearing in accordance with Texas Civil Statutes, Article 6252-13a, §5, to receive comments, views, and/or testimony concerning the proposed amendment. A representative of Gifford-Hill-American, Inc., commented in favor of the rule. The commenter favors the adoption of the amendment that extends the rule's expiration date to at least December 31, 1994, which is the expected completion date for the Ivie Water Transmission Line for which GHA has been obtaining oversize permits for transporting multiple commodity loads. The Ivie Water Transmission Line will serve seven major cities in West Texas. The commenter stated that as a result of the enactment of the original rule in June 1992, his company has added a total of 104 new jobs to the Texas economy.

The rule was promulgated as an exception to standard permit procedures in order to respond to special needs and conditions of the state's economic recovery and development. If it appears that those needs and conditions will continue beyond the expiration date of December 31, 1994, the department will give due consideration to appropriate extensions on or before that time.

No comments were received against the amendment.

The amendment is adopted under Texas Civil Statutes, Article 6666 and 6701a, 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, and specifically to issue permits for the movement of oversize and/or overweight loads over the state highway system.

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 June 4, 1993.

TRD-9323834

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Effective date: June 25, 1993

Proposal publication date: April 26, 1993

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



# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

**Emergency meetings and agendas.** Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

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

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

## Texas Department of Agriculture

Thursday, June 17, 1993, 10:30 a.m. The Texas Sheep and Goat Commodity Board of the Texas Department of Agriculture will meet in the Texas Sheep and Goat Raisers' Association Board Room, 233 West Twohig, San Angelo. According to the complete agenda, the board will hear opening remarks; review and discuss approval of the minutes of May 18, 1993, meeting, review and discuss approval of fiscal affairs, review cash flow report, review expenses to date; reports of officers; discuss and act on new business, review of telephone messages received by the office, suggestions and/or contacts made with directors; unfinished business, bonding and insurance, brainstorming, ideas, and fact-finding regarding project possibilities; discuss other business; discuss and act on scheduling of the next meeting; and adjourn.

Contact: Minnie Savage, 233 Twohig, San Angelo, Texas 76902-3543, (915) 659-8777.

Filed: June 4, 1993, 9:51 a.m.

TRD-9323795

## Texas Board of Architectural Examiners

Friday, June 11, 1993, 10:00 a.m. The Texas Board of Architectural Examiners will meet at the Holiday Inn/Northwest Plaza, Spicewood Room, 8901 Business Park Drive, Austin. According to the agenda summary, the board will call the meeting to order; recognize guests; take roll call; hear chairman's remarks; consider and possibly act on the following categories:

discuss approval of minutes; consent on director's report; committee matters; University of Texas at Arlington, program in landscape architecture; personal appearances; examinations; rules and regulations; legislative matters; renewals; conferences/meetings; hear public comment; meet in executive session to discuss/consider legal advice in accordance with Texas Open Meetings Act, Article 6252-17, §2(e); employment of staff positions in accordance with Texas Open Meetings Act, Article 6252-17, §2(g); and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Carolyn Lewis at (512) 458-1363 two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78757, (512) 458-1363.

Filed: June 3, 1993, 2:54 p.m.

TRD-9323769

## Texas Department of Commerce

Thursday, June 17, 1993, 10:00 a.m. The Capital Certified Development Corporation Board of Directors of the Texas Department of Commerce will meet at the Anson Jones Building, Suite 221, 410 East Fifth Street, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of the minutes of March 26, 1993, board meeting; treasurer's and loan activity reports; discussion and authorization to execute Memorandum of Under-

standing; establish policies for new general membership; discuss and establish a director's nominating committee; approve new general members; present and select outside legal counsel; authorize the extension of contract of services agreement; discuss upcoming events; any other old and new business and report status of 501(c)(3) applications; and adjourn. NOTICE: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Eileen Kelly at (512) 320-9649 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Eileen Kelley (512) 320-9649 if you need assistance in having English translated into Spanish.

Contact: Colleen Rowland, 410 East Fifth Street, Austin, Texas 78701, (512) 320-9649.

Filed: June 4, 1993, 8:50 a.m.

TRD-9323788

## Texas Commission for the Deaf and Hearing Impaired

Thursday, June 17, 1993, 2:00 p.m. The Fiscal Affairs Committee of the Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, #200, Austin. According to the complete agenda, the committee will meet to review agency fiscal operations.

Contact: Loyce Kessler, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: June 7, 1993, 8:43 a.m.

TRD-9323871

Friday, June 18, 1993, 8:00 a.m. The Programs and Activities Committee of the Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, #200, Austin. According to the complete agenda, the committee will meet to begin plans for the development and restructuring of the agency Services to Older Hearing Impaired Texans Program.

Contact: Loyce Kessler, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: June 7, 1993, 8:43 a.m.

TRD-9323870

Friday, June 18, 1993, 8:00 a.m. The Policies and Procedures Committee of the Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, #200, Austin. According to the complete agenda, the committee will meet to review needed changes in agency policies.

Contact: Loyce Kessler, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: June 7, 1993, 8:43 a.m.

TRD-9323869

Friday, June 18, 1993, 9:30 a.m. The Board of the Texas Commission for the Deaf and Hearing Impaired will meet at 1524 South IH-35, #200, Austin. According to the complete agenda, the board will call the meeting to order; hear chairperson's report; discuss approval of the minutes; subcommittee reports; Interim Executive Director's report including approval of position announcement/search procedures for new executive director, discussion of tuition waiver policy to be developed, re-writing of the direct services contracts, legislative update, update on contract negotiations with the Texas Commission for the Blind, the new appropriations bill as related to the agency and appointing of new commissioners to subcommittees; budget/financial report; board for evaluations of interpreters report including recommendations for certification, approval of appointment of new evaluator, appointment of board member to fill third vacancy and clarification of conflict of interest issue introduced at last meeting; sharing of information items; scheduling of next commission meeting; and adjourn.

Contact: Loyce Kessler, 1524 South IH-35, #200, Austin, Texas 78704, (512) 444-3323.

Filed: June 7, 1993, 8:43 a.m.

TRD-9323868

## Texas Education Agency

Friday, June 11, 1993, noon. The State Board of Education (SBOE) of the Texas Education Agency will meet in Room 1-104, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the emergency revised complete agenda, the board will add the following item to the agenda: Transfer of the Texas Education Agency from the Teacher Retirement System (TRS) to the Employees Retirement System (ERS). This item will be included as part of the Report of the Commissioner of Education. The emergency meeting is necessary because the agency finds it is of urgent public necessity for this item to be added on an emergency basis as a result of House Bill 2711, §43 (73rd Texas Legislature, Regular Session), concerning the transfer of membership from the TRS to the ERS. The commissioner of education, after consultation with the SBOE, may make the election for employees of the Central Education Agency. Notice of an election must be filed with the ERS not later than the 60th day preceding the effective date of the transfer of membership, which for employees of the Central Education Agency is September 1, 1993. This issue must be dealt with at the June SBOE meeting for this transfer to be effective September 1, 1993.

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

Filed: June 4, 1993, 3:46 p.m.

TRD-9323855

Tuesday, June 15, 1993, 10:00 a.m. The Software Advisory Committee (SAC) of the Texas Education Agency (TEA) will meet at the Austin Convention Center (Liveoak Room), 500 East First Street, Austin. According to the agenda summary, the committee will discuss software issues with representatives of the Software Publishers Association, State Board's Software Advisory Committee, and Advisory Committee for Technology Standards (Software Subcommittee) to meet the following state mandates: Texas Education Code, Chapter 14, Subchapter A, §14.004(3)-The Software Advisory Committee shall cooperate with designers and publishers of computer software in developing and making available computer software suited to classroom use; and Texas Education Code, Chapter 14, Subchapter C, §14.047-The Advisory Committee for Technology Standards shall recommend guidelines or standards for the quality, technical specifications, functions, security, and other features of software and courseware provided to school districts.

Contact: Karen Kahan, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9064.

Filed: June 7, 1993, 4:59 p.m.

TRD-9323982

Thursday-Friday, June 24-25, 1993, 8:30 a.m. and 8:00 a.m. respectively. The Texas Successful Schools Award System (TSSAS) Advisory Committee of the Texas Education Agency will meet in Room 3-103, William B. Travis Building, 1701 North Congress Avenue, Austin. According to the agenda summary, the committee will discuss approval of the minutes; review/summarize purposes of current system; status report on applications submitted for TSSAS monetary award consideration; status report on selections for non-monetary High Performance Award and Outstanding Performance Effort under the excellence category; staff recommendations for committee's application review process regarding the Performance Gain Award and the Performance Gain Outstanding Effort Recognition Award; review/approval of application rating form; meet in executive session(s) to review/rate applications received from schools (in accordance with Texas Education Code, §34.007, Confidentiality, which states that all information and reports received by the commissioner of education from school districts is confidential and may not be disclosed in any public or private proceeding); resumption of open meeting for progress report on application review process occurring during executive session(s) [executive session(s) resumes as necessary]; committee recommends schools to be selected for TSSAS monetary awards and recognition and approves non-monetary award selections; update on status of arrangements for July 17 awards ceremony; and adjourn.

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

Filed: June 7, 1993, 11:07 a.m.

TRD-9323931

## Advisory Commission on State Emergency Communications

Tuesday, June 15, 1993, 2:00 p.m. The Executive Committee of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the complete agenda, the committee will call the meeting to order; hear public comments; discuss commission activities; poison control legislation; PBX legislation, and its impact on ACSEC operations (staffing for Poison Control Program); service fee rates; ACSEC strategic planning work session in July; ACSEC committee and commission July meeting agendas; and adjourn.

Contact: Jim Goerke, 1101 Capital of

Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911. Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 327-1911 at least two working days prior to the meeting.

Filed: June 7, 1993, 4:45 p.m.

TRD-9323977

### Texas Employment Commission

Tuesday, June 15, 1993, 9:00 a.m. The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to consider *Mary Kasinger and Olevia Cogburn v. Texas Employment Commission, Wanda F. Konkle and Bess Butler* and relocation of agency headquarters; possibly take actions, if any, resulting from executive session; consider new legislation and possible action with respect thereto; Internal procedures of commission appeals; consider and act on higher level appeals in unemployment compensation cases listed on Commission Docket 24; and set date of next meeting.

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

Filed: June 7, 1993, 3:57 p.m.

TRD-9323949

### Texas Department of Health

Thursday, June 17, 1993, 10:00 a.m. The Primary Health Care Services Program Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, Room M-653, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss approval of the minutes from the previous meeting; discuss and possibly act on: legislative update; fiscal year 1994 grant application continuation; community participation in Primary Health Care Services Program projects; Integrated Client Encounter System; ongoing project training orientation/area workshops; and selection of next meeting date.

Contact: John Dombroski, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7673. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: June 3, 1993, 10:38 a.m.

TRD-9323750

Wednesday, June 30, 1993, 10:00 a.m. The HIV Services Advisory Committee of the Texas Department of Health will meet at the Texas Department of Health, Room T-607, 1100 West 49th Street, Austin. According to the complete agenda, the committee will discuss approval of the minutes of the January 26-27, 1993 meeting; discuss and possibly act on: program review and regional positions; conference update and evaluation; future information; second year Housing Opportunities for People With AIDS overview; update on the state budget; annual legislative report; client services issues (increasing insurance cap; and financial criteria eligibility); and hear public comment.

Contact: Betty Cooper, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7207. For ADA assistance, call Richard Butler (512) 458-7488 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: June 3, 1993, 10:38 a.m.

TRD-9323749

### Texas Commission on Human Rights

Thursday, June 17, 1993, 9:00 a.m. The Texas Commission on Human Rights will meet at the John H. Reagan Building, Room 101, 105 West 15th Street, Austin. According to the agenda summary, the commission will discuss and vote on agenda item(s) covered in executive session as necessary or required; welcome guests; discuss approval of the minutes; administrative reports; report on the 1994-1995 biennium budget approved by the legislature; review of cash flow statement for third quarter of fiscal year; wrap up of legislative activities; status of EEO compliance training; status of HUD administrative enforcement project; progress report on Young versus Kemp East Texas project; update on commission's annual EEO conference; report on EEOC/FEPA annual policy conference; commissioner issues; and unfinished business.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 837-8534.

Filed: June 4, 1993, 2:27 p.m.

TRD-9323838

### Texas Department of Human Services

Thursday, June 17, 1993, 9:00 a.m. The Family Planning Interagency Advisory Council of the Texas Department of Human Services will meet at 701 West 51st Street,

First Floor, Public Hearing Room, Austin. According to the complete agenda, the council will welcome and make introductions; discuss approval of the minutes; update on health care reform; funding update; coordinated allocation plan for Fiscal Year 1994; Title X RFP; transition update; FPIAC/advisory committee structure/composition; following transition; advisory committee report; "Ad Hoc" medical subcommittee report; program updates from TDH; program updates from DHS; and adjourn.

Contact: Beth Weber, P.O. Box 149030, Austin, Texas 78714-9030, (512) 338-6460.

Filed: June 7, 1993, 1:10 p.m.

TRD-9323932

### Texas Department of Insurance

Friday, June 11, 1993, 11:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will consider a filing by Republic Mortgage Insurance Company requesting approval of a new policy form for mortgage guaranty insurance titled "Excel First Lien Residential Master Policy" (Excel). (Article 21.50).

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 3, 1993, 4:54 p.m.

TRD-9323780

Friday, June 11, 1993, 11:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will consider personnel matters including agency reorganization under 1994 fiscal budget appropriation; reduction in force; sunset implementation/transition plan; and recruitment of Commissioner of Insurance.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 3, 1993, 4:26 p.m.

TRD-9323775

Monday, June 14, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Grady Dean Smith of Henderson, who holds a Group I, Legal Reserve Life Insurance Agent's license. 454-93-244.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:01 p.m.

TRD-9323958

Monday, June 14, 1993, 11:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete agenda, the board will consider policies for legislative implementation.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 4, 1993, 4:02 p.m.

TRD-9323859

Tuesday, June 15, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Gregory Earl Seach of Dallas, who holds a Group I, Legal Reserve Life Insurance Agent's license. 454-93-325.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:01 p.m.

TRD-9323957

Tuesday, June 15, 1993, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Margaret A. Anderson, who holds a Group I, Legal Reserve Life Insurance Agent's license and Group II Insurance Agent's license. 454-93-324.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323956

Wednesday, June 16, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against David Eugene Brewer of Baytown, who holds a Local Recording Agent's license. 454-93-373.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323955

Wednesday, June 16, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether Cease and Desist Order Number 90-1647 on Charles N. Zalis should be stayed. 454-93-268.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323954

Thursday, June 17, 1993, 9:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the agenda summary, the board will discuss personnel; litigation; commissioner's orders; solvency; staff reports; consider adoption of 28 TAC §§7.18-7.1808 relating to withdrawal plan requirements and procedures; adoption of 28 TAC §1.702 and §1.703 relating to summary procedures for negotiated deductible endorsements and cessation of acceptance of small premium workers' compensation insurance policies through the Small Premium Policy Plan; consider filings by State Farm Fire and Casualty Insurance Company, et al, State Farm Fire and Casualty Company and State Farm General Insurance Company, Old Republic Lloyds of Texas and Protection Mutual Insurance Company; and consider whether a meeting or hearing will be granted regarding form filings by the Texas Department of Agriculture requesting approval of five proposed forms.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 4, 1993, 10:08 a.m.

TRD-9323797

Thursday, June 17, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Casualty Insurance Company of Texas, Chicago, Illinois, which holds a Certificate of Authority. 454-93-327.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323953

Thursday, June 17, 1993, 9:00 a.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against American Savings Life Insurance Company, of Baton Rouge, Louisiana, which holds a Foreign Stock Life Insurance Certificate of Authority. 454-93-326.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323952

Thursday, June 17, 1993, 9:00 a.m. The State Board of Insurance of the Texas Department of Insurance will meet in Room 100, William P. Hobby Building, 333 Guadalupe Street, Austin. According to the complete revised agenda, the board will consider a filing by Continental Casualty Company, et al, requesting approval of an extension of coverage endorsement and a condominium extension of coverage endorsement.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: June 7, 1993, 4:21 p.m.

TRD-9323967

Thursday, June 17, 1993, 1:30 p.m. The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 13th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider whether disciplinary action should be taken against Kevin Gene Pickrell, Lubbock, who holds a Group I, Legal Reserve Life Insurance Agent's license. 454-93-278.

Contact: Melissa Slusher, 333 Guadalupe Street, Hobby II, Austin, Texas 78701, (512) 475-2983.

Filed: June 7, 1993, 4:00 p.m.

TRD-9323951

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**Lamar University System  
Board of Regents**

Thursday, June 10, 1993, 9:00 a.m. The Lamar University System Board of Regents met in the John Gray Institute-Map Room, 855 Florida, Beaumont. According to the agenda summary, the board called the meeting to order; oath of office; discussed approval of the minutes; chancellor's report; met in executive session; committee meetings recessed for: Building and Grounds Committee, Academic Affairs Committee,

Finance and Audit Committee, Advancement Committee, Policy Manual Review Subcommittee, and Personnel Committee; reconvened board of regents meeting; discussed approval of consent docket; and adjourned.

Contact: James A. Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: June 4, 1993, 3:47 p.m.

TRD-9323856

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**Texas Commission on Law Enforcement Officer Standards and Education**

Monday, June 14, 1993, 1:30 p.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the revised agenda summary, the commission will add a new agenda item: discuss proposed amendment, §213.1, Definitions.

Contact: Fred Toler, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: June 4, 1993, 11:16 a.m.

TRD-9323817

Tuesday, June 15, 1993, 9:00 a.m. The Texas Commission on Law Enforcement Officer Standards and Education will meet at the Doubletree Hotel, 6505 IH-35 North, Austin. According to the revised agenda summary, the commission will add a new agenda item: discuss and act on proposed amendment to §213.1, Definitions.

Contact: Fred Toler, 1033 LaPosada, Suite 175, Austin, Texas 78752, (512) 450-0188.

Filed: June 4, 1993, 11:17 a.m.

TRD-9323818

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**Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association**

Tuesday, June 15, 1993, 9:00 a.m. The Board of Directors of the Texas Life, Accident, Health, and Hospital Service Insurance Guaranty Association will meet at 333 Guadalupe Street, 12th Floor Conference Room, Austin. According to the agenda summary, the board will consider and possibly act on: discuss approval of the minutes; review of Guaranty Association activities; meet in executive session to discuss matters; renewal of the lines of credit; report and recommendation from audit committee and assessment committee; report on assessments; loan write-offs; impaired/insolvent

member insurers; amending the plan of operation; NOLHGA; acceptance of bids from independent consultants to assist management in development of internal policies and control procedures; and set next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: June 7, 1993, 1:33 p.m.

TRD-9323934

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**Texas State Board of Medical Examiners**

Monday-Tuesday, June 14-15, 1993, 11:00 a.m. and 8:30 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the board will discuss approval of examination applicants; meet in executive session to review the FLEX examination; discuss approval of FLEX examination; proposals for decision regarding Tharwat M. Hamamcy, M.D. and Felipe Gonzalo Porres, M.D.; rehearing on proposal for decision regarding Louis Lawrence Arrondo, M.D.; public hearing on cancellations by request and nonpayment; public hearing regarding proposed rule changes on §§163.9, 179.6, 199.1-199.5, 187, 179.2, and 161.1; probation appearances; request for termination of restrictions; discuss proposed rule changes regarding electromyographic testing; approval of orders; committee reports and minutes; request for permission to practice in Texas; request for modification and termination of probation; request for reinstatement; executive director's report; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:17 p.m.

TRD-9323860

Monday, June 14, 1993, 8:00 a.m. The Examination Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; discuss review of examination applicants; review of examination applicants complete for consideration of licensure; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:18 p.m.

TRD-9323864

Monday, June 14, 1993, 8:30 a.m. The Reciprocity Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; discuss review of March, 1993, SPEX examination statistics; reciprocal endorsement applicants to be considered for permanent licensure; review of reciprocal endorsement applicants; proposed changes to licensure rules; recommendation of ineligibility; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:17 p.m.

TRD-9323861

Monday, June 14, 1993, 8:30 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will call the meeting to order; discuss approval of the minutes from April 29, 1993 meeting; April and May 1993 enforcement reports; and meet in executive session to review selected files, two year old cases, and cases dismissed by Informal Settlement Conference, and meets in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:17 p.m.

TRD-9323862

Monday, June 14, 1993, 4:00 p.m. The Standing Orders Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will appoint the Physician Assistant Advisory Committee; discuss interpretation of board rules; chelation therapy; consider a request for a waiver by People's Community Clinic; a waiver by Colorado Fayette Medical Center; determine eligibility of a physician assistant; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:18 p.m.

TRD-9323863

Monday, June 14, 1993, 5:00 p.m. The Long Range Planning Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; discuss recent legislation and its impact on the board; and adjourn. The committee will also meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:18 p.m.

TRD-9323866

Tuesday, June 15, 1993, 8:00 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the complete agenda, the committee will discuss report on revenues and expenditures; legislative bills and impacts; proposed budget for Fiscal Year 1994; and meet in executive session under authority of Article 6252-17, as related to Article 4495b, §§2.07(b), 3.05(d), 4.05(d), 5.06(s)(1) and Opinion Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-4502.

Filed: June 4, 1993, 4:18 p.m.

TRD-9323865

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**Texas Mental Health and  
Mental Retardation**

Monday, June 14, 1993, 9:30 a.m. The TXMHMR Board Planning and Policy Development Committee of the Texas Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; legislative update; consider approval of a resolution concerning the naming of buildings; adoption of new Chapter 402, Subchapter E, Governing Placement Appeal Procedures-Mental Retardation Services and Repeal of the Existing Subchapter (Chapter 402, Subchapter H). If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: June 3, 1993, 4:27 p.m.

TRD-9323778

Monday, June 14, 1993, 11:00 a.m. The TXMHMR Board Business and Asset Management Committee of the Texas Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the committee will hear citizens' comments; consider approval of Fiscal Year 1993 operating budget adjustments; status of the Fiscal Year 1994-1995 appropriations request; and discuss Fiscal Year 1994 operating budget issues. If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: June 3, 1993, 4:27 p.m.

TRD-9323779

Monday, June 14, 1993, 2:30 p.m. The TXMHMR Board of the Texas Mental Health and Mental Retardation will meet at the Central Office, 909 West 45th Street, Auditorium, Austin. According to the complete agenda, the board will call the meeting to order; take roll call; hear citizens' comments; discuss approval of the minutes of the May 7, 1993 meeting; hear chairman's report; commissioner's report; consider approval of a resolution concerning the naming of buildings, adoption of new Chapter 402, Subchapter E, Governing Placement Appeal Procedures-Mental Retardation Services and Repeal of the Existing Subchapter (Chapter 402, Subchapter H); consider approval of Fiscal Year 1993 operating budget adjustments; and litigation-RAJ versus Jones, Lelsz versus Kavanaugh, potential litigation. If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 323-3255, Ernest Fuentes, 72 hours prior to the meeting.

Contact: Dennis R. Jones, 909 West 45th Street, Austin, Texas 78751, (512) 465-4506.

Filed: June 3, 1993, 4:27 p.m.

TRD-9323777

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**Texas Board of Pardons and  
Paroles**

Monday-Tuesday, June 14-15, 1993, 9:30 a.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1010 Cadiz, Suite 105, Dallas. Ac-

ording to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:38 a.m.

TRD-9323785

Monday-June 14-18, 1993, 1:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite #2, Huntsville. According to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:38 a.m.

TRD-9323786

Tuesday-Wednesday, June 15-16, 1993, 1:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:34 a.m.

TRD-9323782

Thursday, June 17, 1993, 9:00 a.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1212 North Velasco, Suite 201, Angleton. According to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider

information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:38 a.m.

TRD-9323787

Thursday-Friday, June 17-18, 1993, 9:00 a.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:34 a.m.

TRD-9323783

Friday, June 18, 1993, 12:30 p.m. The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at Route 5, Box 258-A, Gatesville. According to the agenda summary, a panel(s) of the board (composed of three board members) will receive, review and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

Filed: June 4, 1993, 8:38 a.m.

TRD-9323784

### State Pension Review Board

Tuesday, June 22, 1993, 10:00 a.m. The State Pension Review Board will meet at the William P. Clements Building, 300 West 15th Street, PRB Conference Room-Fourth Floor, Room 406, Austin. According to the complete agenda, the board will call

the meeting to order; take roll call; discuss reading and adoption of the minutes of previous meeting; hear presentation of resolution to Joe Nuessle; executive director's report; report on 73rd legislature; budgetary matters for the remainder of Fiscal Year 1993; discuss and possibly act on board's position concerning §415; criteria for selection of actuarial consultants; discuss November 4th and 5th Seminar; old business; make announcements and invitation for audience participation; announce date of next meeting; and adjourn.

Contact: Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

Filed: June 7, 1993, 9:53 a.m.

TRD-9323920

### Texas State Board of Podiatry Examiners

Friday, June 11, 1993, 1:00 p.m. The Texas State Board of Podiatry Examiners will meet at the Stouffer Austin Hotel, 9721 Arboretum Boulevard, Austin. According to the complete agenda, the board will discuss routine board business on board policy regarding foot and ankle; hear report from enforcement committee regarding status of complaints; discuss Beaumont Foot Clinic; discuss whether or not to accept National Board scores from July, 1992; proposal of rule for release of patient records; draw up new specifications for executive director position; PMLexis fee increase; and CME approval for TPMA annual meeting.

Contact: Janie Alonzo, 3420 Executive Center Drive, Suite 305, Austin, Texas 78731, (512) 794-0145.

Filed: June 3, 1993, 2:08 p.m.

TRD-9323767

### Public Utility Commission of Texas

Wednesday, June 16, 1993, 9:00 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the commission will consider the following dockets: 11838, 11515, 11873, 9679, 10894, 11287, and 11248.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 7, 1993, 3:21 p.m.

TRD-9323946

Wednesday, June 16, 1993, 9:05 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary,

the commission will discuss reports; discuss and act on Statewide Electrical Energy Plan; overview of FERC policy; consider comments to FERC; in regard: EPEC, U.S. Bankruptcy Court; in the U.S. before the FERC, Entergy Services and GSU; monthly financial statements; budget and fiscal matters; adjourn for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 7, 1993, 3:22 p.m.

TRD-9323948

Thursday, July 29, 1993, 9:00 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11977-application of Tri-County Electric Cooperative, Inc. for authority to change rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: June 7, 1993, 3:22 p.m.

TRD-9323947

### Texas Racing Commission

Monday, June 14, 1993, 10:00 a.m. The Texas Racing Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call; vote to adopt the following Horse and Greyhound Rules: 301.1, 305.5, 305.62, 305.86, 305.301, 307.105, 309.52, 311.204; vote to propose the following Horse and Greyhound Rules: 303.41, 311.1, 311.106, 321.204, 321.205; vote to propose the following Horse Rules: 309.199, 313.103, 313.404, 313.405, 313. Subchapter E, 321.231, 321.232; vote to propose the following Greyhound Rule: 309.302; consider and possibly act on proposed purchase of telephone equipment for Commissioner's Austin office; request by Texas Greyhound Association of changes in rules for Texas Bred Incentive Program; consider and possibly act on the following: ratification of simulcasts in Texas of races of national or historic interest occurring January 1-June 14, 1993, simulcasts in Texas of races designated by the executive secretary as races of national or historic interest during 1993, Sam Houston Race Park's totalisator contract with Autotote and possible executive

session under Texas Civil Statutes, Article 179e, §6.03(b), Manor Downs contract with THBPA, Manor Downs simulcasting proposal for 1993 and simulcasting contract between Manor Downs and Bandera Downs; dispute between Manor Downs and THBPA regarding overpayment of purses during 1991; Manor Downs' request to cancel live race dates in Fall 1993; change in ownership in Retama Partners, Limited; simulcast in Texas of the Greyhound Race of Champions scheduled for June 26, 1993 for Valley Greyhound Park and Corpus Christi Greyhound Race Track; simulcasting proposals by Valley Greyhound Park; change of ownership in Gulf Greyhound Partners, Limited; discuss old and new business; and adjourn.

Contact: Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

Filed: June 4, 1993, 2:56 p.m.

TRD-9323847

## Railroad Commission of Texas

Monday, June 14, 1993, 9:30 a.m. The Railroad Commission of Texas will meet in the First Floor Conference Room 1-111, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the administrative services division director's report on division administration, budget, procedures, and personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

Filed: June 4, 1993, 10:54 a.m.

TRD-9323808

The commission will consider and act on the personnel division director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, reassignment, duties, discipline and/or dismissal of personnel.

Contact: Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

Filed: June 4, 1993, 10:53 a.m.

TRD-9323803

The commission will consider and act on the automatic data processing division director's report on division administration, budget, procedures, equipment acquisitions and personnel matters.

Contact: Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

Filed: June 4, 1993, 10:54 a.m.

TRD-9323807

The commission will meet in consideration of category determinations under §§102(c)(1)(B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Contact: Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

Filed: June 4, 1993, 10:54 a.m.

TRD-9323810

The commission will consider and act on the investigation division director's report on division administration, investigations, budget, and personnel matters.

Contact: Marcelo R. Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: June 4, 1993, 10:53 a.m.

TRD-9323804

The commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: June 4, 1993, 10:57 a.m.

TRD-9323811

The commission will consider and act on the division director's report on budget, personnel and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: June 4, 1993, 10:54 a.m.

TRD-9323809

The commission will take up for consideration and/or decision on budget, fiscal, administrative or procedural matters, strategic planning; discuss personnel and staffing; contracts and grants; and the commission may meet in executive session on any items listed as authorized by the Open Meetings Act.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: June 4, 1993, 10:53 a.m.

TRD-9323806

The commission will consider and act on the office of information services director's report on division administration, budget, procedures, and personnel matters.

Contact: Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701 (512) 463-6710.

Filed: June 4, 1993, 10:53 a.m.

TRD-9323805

The commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin Hodgkiss, P.O. Box 12967, Austin, Texas 78701, (512) 463-6901.

Filed: June 4, 1993, 10:52 a.m.

TRD-9323802

Friday, June 18, 1993, 2:00 p.m. The Railroad Commission of Texas will meet in the 12th Floor Conference Room 12-126, 1701 North Congress Avenue, Austin. According to the agenda summary, the commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on agenda.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: June 3, 1993, 1:27 p.m.

TRD-9323754

## School Land Board

Tuesday, June 15, 1993, 10:00 a.m. The School Land Board will meet at the General Land Office, Stephen F. Austin Building, Room 831, 1700 North Congress Avenue, Austin. According to the complete agenda, the board will discuss approval of previous board meeting minutes; pooling applications, Tumbleweed Northwest Field, Dickens County; Giddings (Austin Chalk-3), Fayette County; Potrero Farias Field, Kennedy County; Wildcat Field, Matagorda County; applications to lease highway right-of-way for oil and gas, Burleson, Brazos, Coleman, Stonewall, and Brazos Counties; coastal public lands-structure permit rebuilding request, Laguna Madre, Cameron County; lease application, Laguna Madre, Kleberg County; easement application, Carancahua Bay, Jackson County; and meet in executive session to discuss pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: June 7, 1993, 4:25 p.m.

TRD-9323968



## Texas State Soil and Water Conservation Board

Monday, June 21, 1993, 1:00 p.m. The Texas State Soil and Water Conservation Board will meet at 311 North Fifth Street, Conference Room, Temple. According to the complete agenda, the board will review and take appropriate action on the following; minutes from May 19, 1993 board meeting; district director appointments; consider request of waiver of Conservation Assistance Rules for Tule Creek Soil and Water Conservation District #110 and Bosque Soil and Water Conservation District #555; allocation of fiscal year 1993 state grant funds; division and reorganization of Little Wichita Soil and Water Conservation District #532; 1994 fiscal year operating budget; reports from agencies and guests; state board travel; and meet in executive session to discuss personnel matters.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250.

Filed: June 7, 1993, 4:40 p.m.

TRD-9323976

## State Committee of Examiners for Speech-Language Pathology and Audiology

Friday, June 18, 1993, 9:00 a.m. The State Committee of Examiners for Speech-Language Pathology and Audiology will meet at the Exchange Building, Room S-400, 8407 Wall Street, Austin. According to the agenda summary, the committee will discuss approval of the minutes of the March 19, 1993 meeting; discuss and possibly act on: the Standing Subcommittees (complaints; rule changes; fees/budget; public relations; continuing education; application-renewals; agenda-meeting arrangements; correspondence; related standards/regulations; legislative review; exemptions to Act); Ad Hoc Subcommittees (internship guidelines; role of supervisor; ethics; Sunset review; scope of practice); executive secretary's report; and other matters relating to licensing and regulation of speech-language pathologists and audiologists.

Contact: Dorothy Cawthon, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6627. For ADA assistance, call Richard Butler (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: June 3, 1993, 10:38 a.m.

TRD-9323748

## Teacher Retirement System of Texas

Friday, June 11, 1993, 9:00 a.m. The Board of Trustees of the Teacher Retirement System of Texas will meet at 1000 Red River, Fifth Floor Board Room, Austin. According to the agenda summary, the board will consider Appreciation Award for employee retiring August 31, 1993; recognize employee advisory council members rotating off committee; discuss approval of the minutes; review of investments in the previous quarters; consider selection of global custodian; review and consider discussion and recommendations of investment advisory committee; report of real estate committee; report on activity within investment related bank accounts; report of audit committee; annual report of internal auditor; update on implementation of recommendations resulting from real estate review by Coopers and Lybrand; consider recommendation to engage fiduciary counsel for board of trustees; update on implementation of recommendations in the TRS management audit completed by the State auditor in December, 1992; update on legislation; report of Texas Public School Retired Employees Group Insurance Program; report of member benefits division; report of budget committee and review of proposed 1993-1994 operating budget; report of executive secretary; inquiries and comments by board members and consideration of suggested future agenda items; update on forensic analysis of real estate portfolio; and discuss litigation. The board may enter into closed session as provided by the Texas Open Meetings Act, §2(e) and §2(g).

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: June 3, 1993, 3:17 p.m.

TRD-9323770

## Texas Turnpike Authority

Friday, June 11, 1993, 2:00 p.m. The Contract Awards Committee of the Texas Turnpike Authority will meet at 4500 Trammel Crow Center, 2001 Ross Avenue, Dallas. According to the agenda summary, the committee will consider: award of Contracts DNT-197, DNT-198, DNT-206 and DNT-207; approval of various change orders and supplemental agreements to existing contracts; approval of agreement with Metrocel Cellular; and approval of agreement with Electronic Data Systems.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: June 3, 1993, 3:43 p.m.

TRD-9323771

## University Interscholastic League

Wednesday, June 9, 1993, 2:00 p.m. The Appellate Committee of the University Interscholastic League met at the Wyndham Hotel, IH-35 South at Ben White, Austin. According to the agenda summary, the committee discussed case transferred by District 24AAAAA Executive Committee regarding Dan Hooks at West Orange Stark.

Contact: C. Ray Daniel, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: June 4, 1993, 2:26 p.m.

TRD-9323837

## University of North Texas/Texas College of Osteopathic Medicine

Thursday, June 10, 1993, 1:30 p.m. The Role and Scope Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at 201 Administration Building, University of North Texas, Denton. According to the complete agenda, the (TCOM) board discussed advisory committee appointments; revision to faculty bylaws; promotion and tenure recommendations; mission statement for continuing medical education; quality assurance program and medical education peer review; UNT: discussed routine academic reports; faculty development leaves; personnel transactions; tenure and promotion recommendations; policy statement, academic workloads; consensual relationships; institutional plan for telecommunications; athletic update; UNT/TCOM: The University of North Texas Health Science Center at Fort Worth discussed personnel and other actions.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76202, (817) 565-2904.

Filed: June 4, 1993, 2:58 p.m.

TRD-9323851

Thursday, June 10, 1993, 1:30 p.m. The Role and Scope Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at 201 Administration Building, University of North Texas, Denton. According to the complete revised agenda, the board will also be discussing the following item under the University of North Texas agenda in the Role and Scope Committee meeting: Core Curriculum.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76202, (817) 565-2904.

Filed: June 7, 1993, 11:01 a.m.

TRD-9323929

Thursday, June 10, 1993, 2:00 p.m. The Advancement Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the (TCOM) board discussed goals for institutional advancement; an executive summary; UNT: discussed fund raising report-year to date; final report on the Meyerson Concert; Capital Campaign-Phase II; and athletic ticket sales and other promotions for the Fall.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76202, (817) 565-2904.

Filed: June 4, 1993, 2:57 p.m.

TRD-9323848

Thursday, June 10, 1993, 4:00 p.m. The Facilities Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met in the Board Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the (TCOM) board discussed renaming of building; renovation of Department of Medicine; project status reports; UNT: renovate lab school gym; project status report; utilities savings potential; and tuition revenue bonds.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76202, (817) 565-2904.

Filed: June 4, 1993, 2:57 p.m.

TRD-9323850

Thursday, June 10, 1993, 4:00 p.m. The Budget and Finance Committee, Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the Conference Room, Administration Building, University of North Texas, Denton. According to the complete agenda, the (UNT) committee discussed allocation of student deposit fund; increases in graduate tuition, fees, residence hall rates, and board rates; parking and traffic proposals for 1993-1994; gift report; report on interest earnings; internal audit update; TCOM: integrated institutional information system; gift report; report on interest earnings; and internal audit update.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76202, (817) 565-2904.

Filed: June 4, 1993, 2:58 p.m.

TRD-9323852

Friday, June 11, 1993, 8:00 a.m. The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine will meet at the Diamond Eagle Suite, University Union, University of North Texas, Denton. According to the complete agenda, the (TCOM) board will discuss approval of minutes; meet in executive session-UNT/TCOM: hear legislative up-

date; discuss appropriations bill; affiliations; possible student litigation; malpractice lawsuits; sorority issue; capital campaign; English department issues; dean searches; update on current lawsuits; advisory council appointments; revision, faculty bylaws; promotion and tenure; continuing medical education mission statement; quality assurance program/medical peer review policy; integrated information system; gift report; renaming of building; medicine department renovations; project status report; student issues and other noteworthy items; UNT: discuss routine academic reports; faculty development leases; personnel transactions; promotion and tenure; academic workload policy; consensual relationships; telecommunications plan; allocation of student deposit fund; graduate tuition, fees, Resident Hall and board rate increases; park and traffic proposals; gift report; lab school gym renovation; project status report; UNT/TCOM: University of North Texas Health Science Center at Fort Worth-personnel and other actions; and discuss student achievement and other matters.

Contact: Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: June 4, 1993, 2:57 p.m.

TRD-9323849

### University of Texas Health Science Center at San Antonio

Wednesday, June 16, 1993, 3:00 p.m. The Institutional Animal Care and Use Committee of the University of Texas Health Science Center at San Antonio will meet in Room 422A (Fourth Floor in Medical School), 7703 Floyd Curl Drive, San Antonio. According to the agenda summary, the committee will discuss approval of the minutes; review of protocols; subcommittee reports; and other business.

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (512) 567-3717.

Filed: June 4, 1993, 2:10 p.m.

TRD-9323833

### University of Texas System

Thursday, June 10, 1993, 10:00 a.m. The Board of Regents and Standing Committees of the University of Texas System met in Room 310, Geological Sciences Building, U.T. El Paso, University Avenue and Hawthorne Street, El Paso. According to the complete revised agenda, the committees met in executive session to add agenda item to posting dated June 1, 1993-consideration of American Health Advisors vs. U.T. System, et al.

Contact: Arthur H. Dilly, P.O. Box N, U.T. Station, Austin, Texas 78713-7328, (512) 499-4402.

Filed: June 3, 1993, 1:16 p.m.

TRD-9323752

### Texas Board of Veterinary Medical Examiners

Thursday, June 10, 1993, 10:00 a.m. (Rescheduled from Wednesday, June 9, 1993). The September Examination Preparation Committee of the Texas Board of Veterinary Medical Examiners met at 1946 South IH-35, Fourth Floor Conference Room, Austin. According to the complete emergency revised agenda, the committee convened the meeting in open session and then went into executive session to prepare the September, 1993, State Board Examination. The executive session was held in accordance with Article 6252-17 and Attorney General Opinion H-484, 1974. The emergency status was necessary due to death of executive director and required rescheduling of meeting.

Contact: Judy Smith, 1946 South IH-35, Suite 306, Austin, Texas 78701, (512) 447-1183.

Filed: June 4, 1993, 9:22 a.m.

TRD-9323791

Friday, June 11, 1993, 8:00 a.m. (Rescheduled from Thursday-Saturday, June 10-12, 1993). The Texas Board of Veterinary Medical Examiners will meet at 1946 South IH-35, Fourth Floor Conference Room, Austin. According to the emergency revised agenda summary, the board acted on Proposals for Decision and Negotiated Settlements for the cases listed. Rule preparation assignments were made to implement mandates arising from revisions to the Veterinary Licensing Act. The board will consider petitions for license reinstatement and special licenses and other business as reflected on the agenda. Persons requiring reasonable accommodations are requested to contact Judy Smith, 1946 South IH-35, Suite 306, Austin, Texas 78704, (512) 447-1183 within 72 hours of the meeting in order that appropriate arrangements could be made. Items may be taken out of order and where appropriate and permitted by law, executive sessions may be held on subjects listed on the agenda. The emergency status was necessary as the agenda was revised to limit the meeting to one day due to death of the executive director.

Contact: Judy Smith, 1946 South IH-35, Suite 306, Austin, Texas 78701, (512) 447-1183.

Filed: June 4, 1993, 9:22 a.m.

TRD-9323790

## Texas Water Commission

Tuesday, June 15, 1993, 9:00 a.m. The Irrigators Council of the Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 618, Austin. According to the agenda summary, the council will call the meeting to order; discuss review of update on legislative changes, appropriations for 1994-1995, exemptions and definitions as they relate to Chapter 34 of the Texas Water Code; dismissal of complaints; report on renewal processes; process of permanent rules to be discussed; chairman to report on items of interest; and standing committee reports.

Contact: Joyce Watson, P.O. Box 12337, Austin, Texas 78711, (512) 463-7990.

Filed: June 4, 1993, 3:53 p.m.

TRD-9323858

Thursday, July 22, 1993, 9:00 a.m. The Office of Hearings Examiners of the Texas Water Commission will meet at 1700 North Congress Avenue, Stephen F. Austin Building, Room 119, Austin. According to the agenda summary, the commission will hold a public hearing on application by City of Burnet for renewal of permit number 10793-02 for authorization to discharge treated domestic wastewater.

Contact: Jim Bateman, P.O. Box 13087, Austin, Texas 78701, (512) 463-7875.

Filed: June 7, 1993, 2:06 p.m.

TRD-9323937

## Texas Workers' Compensation Commission

Thursday, June 10, 1993, 10:00 a.m. The Texas Workers' Compensation Commission met in Rooms 910-911, Southfield Building, 4000 South IH-35, Austin. According to the agenda summary, the commission called the meeting to order; discussed approval of the minutes; rules for proposal: Chapters 129 and 110; rules for amendment: Chapters 130, 124, 126, 129, and 141; rules for repeal: Chapter 110; acted on applications for self-insurance; met in executive session—took action on matters considered in executive session; members to serve on TWCC subcommittees; TWCC members to serve on the board of directors of the Texas Workers' Compensation Research Center; discussed and staffed direction on any issues regarding policy or rules; general reports and action; future public meetings; and adjourned.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-3644.

Filed: June 4, 1993, 9:23 a.m.

TRD-9323792

## Texas Workers' Compensation Insurance Facility

Wednesday, June 23, 1993, 9:30 a.m. The 1993 Annual Meeting of the Texas Workers' Compensation Insurance Facility will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the complete agenda, the facility will discuss approval of the minutes of the Annual meeting held June 3, 1993; annual report of the chairman of the Governing Committee; and annual report of the executive director.

Contact: Russell R. Oliver, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: June 7, 1993, 3:59 p.m.

TRD-9323950

## Regional Meetings

### Meetings Filed June 3, 1993

The Central Appraisal District of Taylor County Board of Directors met at 1534 South Treadaway, Abilene, June 9, 1993, at 3:30 p.m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9323756.

The Comal Appraisal Appraisal Review Board met at 430 West Mill Street, New Braunfels, June 8-9, 1993, at 9:00 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9323762.

The Comal Appraisal Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 15-16, 1993, at 9:00 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9323763.

The Comal Appraisal Appraisal Review Board will meet at 430 West Mill Street, New Braunfels, June 22, 1993, at 9:00 a.m. Information may be obtained from Lynn Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (512) 625-8597. TRD-9323761.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, June 16, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9323747.

The Education Service Center Region 10 Board of Directors met in the Region 10 Board Room, 400 East Spring Valley, Richardson, June 9, 1993, at 12:45 p.m. Information may be obtained from Joe Farmer,

400 East Spring Valley, Richardson, Texas 75081, (214) 231-6301. TRD-9323773.

The Grand Parkway Association met at 5757 Woodway, Suite 140 East Wing, Houston, June 10, 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-9323764.

The Gulf Bend Mental Health Mental Retardation Center Board of Trustees met at the Gulf Bend Center, 1404 Village Drive, Victoria, June 10, 1993, at noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9323772.

The Hays County Appraisal District Board of Directors met at 632A East Hopkins, San Marcos, June 10, 1993, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9323751.

The Heart of Texas Council of Governments Heart of Texas Private Industry Council will meet at 300 Franklin Avenue, HOTCOG Board Room, Waco, June 17, 1993, at 5:30 p.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9323759.

The Heart of Texas Council of Governments Executive Committee will meet at 300 Franklin Avenue, HOTCOG Board Room, Waco, June 24, 1993, at 10:00 a.m. Information may be obtained from Donna Teat, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9323760.

The Jack County Appraisal District Appraisal Review Board met at 210 North Church Street, Jacksboro, June 7, 1993, at 9:00 a.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9323776.

The Nortex Regional Planning Commission General Membership Committee will meet at the Offices of Nortex Regional Planning Commission, Conference Room, 4309 Jacksboro Highway, Wichita Falls, June 17, 1993, at noon. Information may be obtained from Dennis Wilde, P.O. Box 5144, Wichita Falls, Texas 75307-5144, (817) 322-5281. TRD-9323781.

The Permian Basin Regional Planning Commission Board of Directors met at the PBRPC Offices, 2910 La Force Boulevard, Midland International Airport, Midland, June 9, 1993, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9323753.

The Region IV Education Service Center Board of Directors met at the Region IV

Education Service Center, Board Room, 7145 West Tidwell, Houston, June 8, 1993, at 6:00 p.m. Information may be obtained from W.L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534. TRD-9323755.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Wharton, June 10, 1993, at noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9323774.

The Wise County Appraisal District Appraisal Review Board met at 206 South State Street, Decatur, June 8, 1993, at 9:00 a.m. Information may be obtained from LaReesea Pittman, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9323758.

### Meetings Filed June 4, 1993

The Archer County Appraisal District Appraisal Review Board-Mineral Hearing met at the Appraisal District Office, 101 South Center Street, Archer City, June 10, 1993, at 10:00 a.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9323853.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, June 10, 1993, at 6:00 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, (512) 282-8441. TRD-9323857.

The Brazos Valley Development Council (Revised agenda.) Board of Directors met at the Council Office, 3006 East 29th Street, Door #2, Bryan, June 9, 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-9323799.

The Canyon Regional Water Authority Regular Board Meeting will meet at the Guadalupe Fire Training Facility, Route 2, Lakeside Pass Drive, New Braunfels, June 14, 1993, at 7:00 p.m. Information may be obtained from David Davenport, Route 2 Box 654W, New Braunfels, Texas 78130-9579, (210) 608-0543. TRD-9323867.

The Coleman County Water Supply Corporation Board of Directors met at the Corporation Office, 214 Santa Anna Avenue, Coleman, June 9, 1993, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, (915) 625-2133. TRD-9323816.

The Dallas Area Rapid Transit (DART) Rail Committee met at 1401 Pacific Ave-

nue, (DART Headquarters), Conference Room C, Dallas, June 8, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Main Street, Dallas, Texas 75202, (214) 749-3347. TRD-9323826.

The Dallas Area Rapid Transit (DART) Board of Directors met at 1401 Pacific Avenue, (DART Headquarters), Board Room, Dallas, June 8, 1993, at 4:00 p.m. Information may be obtained from Nancy McKethan, 1401 Main Street, Dallas, Texas 75202, (214) 749-3347. TRD-9323827.

The Gregg County Appraisal District Board of Directors will meet at 2010 Gilmer Road, Longview, June 14, 1993, at 9:00 a.m. Information may be obtained from Bill Carroll, 2010 Gilmer Road, Longview, Texas 75604, (903) 759-0015. TRD-9323842.

The Hickory Underground Water Corporation District Number One Board of Advisors met at 2005 S. Bridge Street, Brady, June 10, 1993, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas (915) 597-2785. TRD-9323815.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District Boardroom, 4801 King Street, Greenville, June 10, 1993, at 6:30 p.m. Information may be obtained from Mildred Compton, 4801 Kings Street, Greenville, Texas. 75403, (903)454-3510. TRD-9323825.

The Jack County Appraisal District Board of Directors met at 210 North Church Street, Jacksboro, June 8, 1993, 7:00 p.m. Information may be obtained from Gary L. Zeitler or Vicky L. Easter, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9323854.

The Kempner Water Supply Corporation Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, June 10, 1993, at 7:00 p.m. Information may be obtained from Doug Lavender or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9323798.

The Lampasas County Appraisal District Board of Directors met at 109 East Fifth, Lampasas, June 10, 1993, at 7:00 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9323800.

The Lampasas County Appraisal District Appraisal Review Board will meet at 109 East Fifth, Lampasas, June 15, 1993, at 8:00 a.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9323801.

The Lower Colorado River Authority Agenda Review Committee met at 3701

Lake Austin Boulevard, Hancock Building, Austin, June 8, 1993, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3701 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD-9323813.

The Lower Colorado River Authority Retirement Benefits Committee met at 3700 Lake Austin Boulevard, Miller Building, Room 208, Austin, June 8, 1993, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, 3700 Lake Austin Boulevard, Austin, Texas 78767, (512) 473-3283. TRD-9323812.

The Lower Neches Valley Authority Board of Directors will meet at LNVA Office Building, 7850 Eastex Freeway, Beaumont, June 15, 1993, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9323843.

The Mason County Appraisal District (Rescheduled from June 9, 1993) will meet at the 205 Fort McKavitt, Mason, June 15, 1993, at 5:30 p.m. Information may be obtained from Deborah Geistweidt, P.O. Drawer 1119, Mason, Texas 76856, (915) 347-5989. TRD-9323840.

The Mason County Appraisal District Appraisal Review Board will meet at 206 Fort McKavitt, Mason, June 16, 1993, at 10:00 a.m. Information may be obtained from Deborah Geistweidt, P.O. Drawer 1119, Mason, Texas 76856, (915) 347-5989. TRD-9323841.

The Montague County Tax Appraisal District Board of Directors met at Appraisal District Office, 312 Rusk Street, Montague, June 9, 1993, at 5:00 p.m. Information may be obtained from Wanda Russell, 312 Rusk Street, Montague, Texas 76251, (817) 894-2081. TRD-9323836.

The Nueces-Jim Wells-Kleberg-Kennedy Soil and Water Conservation District Board of Directors will meet at SCS Office, Suite B, 548 South Highway 77, Robstown, June 15, 1993, at 2:00 p.m. Information may be obtained from Denise Lawhon, 548 South Highway 77, Suite B, Robstown, Texas 78380, (512) 668-8363. TRD-9323844.

The Permian Basin Regional Planning Commission Board of Directors met at 2910 La Force Boulevard, Midland International Airport, Midland, June 9, 1993, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9323819.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, June 8, 1993, at 9:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9323794.

The South Plains Association of Governments Board of Directors met at 1323 58th Street, Lubbock, June 8, 1993, at 10:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9323793.

The West Central Texas Council of Governments, Area Agency on Aging Citizens Advisory Council on Aging met at WCTCOG Administrative Building, 1025 East North Tenth, Abilene, June 10, 1993, at 9:30 a.m. Information may be obtained from Dr. Lewis E. Lemmond, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9323829.

### Meetings Filed June 7, 1993

The Ark-Tex Council of Governments Board Retreat and Executive Committee will meet at the Echo Executive Lodge, Sulphur Springs, June 15, 1993, at 9:00 a.m. Information may be obtained from Susan J. Rice, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636. TRD-9323940.

The Bexar Appraisal District Board of Directors met at 535 South Main Street, San Antonio, June 10, 1993, at noon. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9323901.

The Dallas Central Appraisal District Appraisal Review Board will meet at 2949 North Stemmons Freeway, Dallas, June 11, 1993, at 11:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9323907.

The Denton Central Appraisal District (Rescheduled from June 11, 1993.) Board of Directors will meet at 3911 Morse Street, Denton, June 24, 1993, at 5:00 p.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76208, (817) 566-0904. TRD-9323933.

The Education Service Center-Region 17 Board of Directors will meet in the Board Room, 1111 West Loop 289, Lubbock, June 29, 1993, at 9:00 a.m. Information may be obtained from Virgil E. Flathouse, 1111 West Loop 289, Lubbock, Texas 79416, (806) 793-4854. TRD-9323919.

The Erath County Appraisal District Appraisal Review Board met in an emergency meeting in the Board Room, 1390 Harbin Drive, Stephenville, June 9-10, 1993, at 9:00 a.m. The emergency meeting was necessary due to problems with postal service. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9323918.

The Fort Bend Parkway Association Board met at 11111 Brooklet Drive, Suite 100, Houston, June 10, 1993, at 6:00 p.m. Information may be obtained from Robert R. Randolph, 2701 First City Tower, 1001 Fannin, Houston, Texas 77002-6760, (713) 758-2380. TRD-9323930.

The Galveston Bay National Estuary Program (Texas Water Commission) Management Committee will meet at the University of Houston/Clear Lake Forest Room, Bayou Building, 2700 Bay Area Boulevard, Houston, June 16, 1993, at 9:30 a.m. Information may be obtained from Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937. TRD-9323908.

The Gillespie Central Appraisal District Board of Directors will meet at the Gillespie County Law Library, County Courthouse, Fredericksburg, June 15, 1993, at 9:00 a.m. Information may be obtained from Mary Lou Smith, P. O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9323916.

The Gillespie Central Appraisal District Board of Review will meet at the Gillespie County Courthouse, County Courtroom, Fredericksburg, June 16, 1993, at 9:00 a.m. Information may be obtained from Mary Lou Smith, P. O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9323915.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise, Athens, June 14-18, 1993, at 9:00 a.m. Information may be obtained from Donna Bailey, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9323942.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise, Athens, June 21, 1993, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9323941.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, June 24, 1993, at 9:00 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9323944.

The Liberty County Central Appraisal District Appraisal Review Board will meet at 315 Main Street, Liberty, June 29, 1993, at 9:00 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9323943.

The Nolan County Central Appraisal District Board of Directors will meet at the Nolan County Courthouse-Third Floor,

Sweetwater, June 11, 1993, at 7:00 a.m. Information may be obtained from Steven G. Beck, P.O. Box 1256, Sweetwater, Texas 79556, (915) 235-8421. TRD-9323914.

The North Texas Municipal Water District Board of Directors will meet at the Administration Offices, 505 East Brown Street, Wylie, June 24, 1993, at 4:00 p.m. Information may be obtained from Carl W. Riehn, P.O. Box 2408, Wylie, Texas 75098, (214) 442-5405. TRD-9323913.

The Palo Pinto Appraisal District Appraisal Review Board will meet at the Palo Pinto County Courthouse, Palo Pinto, June 15, 1993, at 1:30 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9323910.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, June 16, 1993, at 3:00 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9323911.

The Region 14 Education Service Center Board of Directors will meet at the Region 14 Education Service Center, Abilene, June 17, 1993, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8608. TRD-9323902.

The Sabine Valley Center Personnel Committee will meet at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, June 14, 1993, at 6:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9323985.

The Sabine Valley Center Finance Committee will meet at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, June 14, 1993, at 6:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9323984.

The Sabine Valley Center Care and Treatment Committee will meet at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, June 14, 1993, at 6:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9323986.

The Sabine Valley Center Board of Trustees will meet at the Administration Building, 107 Woodbine Place, Bramlette Lane, Longview, June 14, 1993, at 7:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9323983.

**The San Antonio River Authority Employees Retirement Trust-Board of Trustees will meet at the SARA General Office, Boardroom, 100 East Guenther Street, San Antonio, June 16, 1993, at 1:30 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9323906.**

**The San Antonio River Authority Board of Directors will meet at the SARA General Office, Boardroom, 100 East Guenther Street, San Antonio, June 16, 1993, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9323905.**

**The South East Texas Regional Planning Commission Executive Committee will meet at the City of Beaumont Council Chambers, Beaumont, June 16, 1993, at 7:00 p.m. Information may be obtained from Jackie Vice, P.O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9323909.**

**The South Texas Development Council Board of Directors met at the Commissioners Courtroom, Courthouse Annex, Zapata,**

**June 10, 1993, at 11:00 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9323903.**

**The STED Corporation Board of Directors met at the Commissioners Courtroom, Courthouse Annex, Zapata, June 10, 1993, at 10:00 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9323904.**

**The Sulphur-Cypress Soil and Water Conservation District #419 met in an emergency meeting at 1809 West Ferguson, Suite B, Mt. Pleasant, June 10, 1993, at 8:30 a.m. The emergency meeting was necessary due to the necessity of the bills being paid. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455-2921, (903) 572-5411. TRD-9323912.**

**The Texas Municipal Asset Pool Board of Directors will meet at the Riverway Bank, Board Room, Second Floor, Five Riverway, Houston, June 16, 1993, at 8:00 a.m. Information may be obtained from Debra Wallace, P.O. Box 56572, Houston, Texas 77256-6572, (713) 552-2618. TRD-9323945.**

**The Texas Regional Planning Commissions Employee Benefit Plan Agency Board of Trustees will meet at 1300 West Mockingbird Lane, Dallas, June 11, 1993, at 10:30 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730 Freedom Station, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9323938.**

**The Trinity River Authority of Texas Resources Development Committee will meet at 5300 South Collins, Arlington, June 14, 1993, at 10:30 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9323935.**

◆ ◆ ◆  
**Meetings Filed June 8, 1993**

**The Manville Water Supply Corporation Board of Directors met at the Manville Office, Spur 277, Coupland, June 10, 1993, at 7:00 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9323987.**



Types of Rate Ceilings

Effective Period  
(Dates are Inclusive)

Consumer (1)/Agricultural/  
Commercial (2) thru \$250,000

Commercial(2)  
over \$250,000

Indicated (Weekly) Rate - Art. 1.04(a)(1)

06/07/93-06/13/93

18.00%

18.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on June 1, 1993.

TRD-9323757

Al Endsley  
Consumer Credit Commissioner

Filed: June 3, 1993

◆ ◆ ◆  
**Interagency Council on Early  
Childhood Intervention**  
**Request for Proposals**

The Texas Interagency Council on Early Childhood Intervention (ECT) announces a Request for Proposal (RFP) for funding early childhood services in Montgomery, Liberty, and Walker counties in Fiscal Year 1994. The scope of services include a comprehensive array of services to 105 families for the period beginning November 1, 1993, and ending August 31, 1994. The funds targeted for this area are \$307,693. All applicants must comply with all program requirements under the Human Resource Code, Chapter 73, and 25 TAC §§621.21-621.63.

The RFP is available to all interested providers upon request from the Early Childhood Intervention Program, 1100 West 49th Street, Austin, Texas 78756, or by calling (512) 458-7673. All applications to be considered for funding must be received by the Early Childhood Intervention Program by 5:00 p. m. on July 30, 1993, or post-marked by July 29, 1993. Questions should be directed to the Early Childhood Intervention office at (512) 458-7673.

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

Issued in Austin, Texas, on June 7, 1993.

TRD-9323923

Tammy Tiner, Ph.D.  
Chairperson  
Interagency Council on Early Childhood  
Intervention

Filed: June 7, 1993

◆ ◆ ◆  
**Texas Education Agency**  
**Correction of Error**

The Texas Education Agency proposes an amendment to 19 TAC §61.11, concerning school district information requirements. The rule was published in the May 18, 1993, *Texas Register* (18 TexReg 3237).

Due to a typographical error the preamble in the third paragraph reads "There is anticipated economic cost to

persons who are required to comply with the rule as proposed." The sentence should read "There is no anticipated. . . ."

◆ ◆ ◆  
**Employees Retirement System of Texas**  
**Contract for Consulting Services**

This award for consulting services is being filed pursuant to Texas Civil Statutes, Article 6252-11(c)(2)(a)(6). The consultant will provide services in the development of the Employees Retirement System of Texas (ERS) information systems network by studying the existing network and its development history, advise the ERS of needed changes and improvements, and advise the ERS in the development of a strategy/direction for the network in the future. The consultant is SabreData, 1321 Rutherford, #200, Austin, Texas 78753. The total cost of the contract will not exceed \$14,190, and the term of the contract is April 6, 1993-August 31, 1993.

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

TRD-9323765

Charles D. Travis  
Executive Director  
Employees Retirement System of Texas

Filed: June 3, 1993

◆ ◆ ◆  
**Texas Department of Health**  
**Correction of Error**

The Texas Department of Health withdrew the emergency effectiveness of 25 TAC §98.104 and §98.105, concerning the HIV and STD Control, and adopted the final rules for those section numbers in the June 1, 1993, *Texas Register* (18 TexReg 3507 and 3509).

The effective dates June 13, 1993, for the withdrawn rule and June 14, 1993, for the final adoption are incorrect as published. The correct effective date for each action is July 12, 1993.

◆ ◆ ◆  
**Integrated Client Encounter System**  
**Project Monitor Request For Proposal**

The Texas Department of Health (TDH), Associateship for Family Health Services, is in the process of developing a computer system know as Integrated Client Encounter System (ICES) which will be implemented in public health clinics throughout Texas. As a guide, TDH has estimated that the total cost of this RFP should not exceed \$50,000 for the contract period to perform the deliverables identified in the RFP. TDH is required by the State Department



of Information Resources to retain the services of a consultant (Project Monitor) to monitor the progress of existing software contractors who are developing the system. The project monitor cannot be the existing software contractor, sub-contractors, or any business entity that has a direct or indirect relationship to the existing contractors or subcontractor. The contract has a performance period from December 1, 1993 to August 31, 1994. The project monitor will work with the existing TDH and contractor project teams to perform broad level reviews related to the areas of project management, project deliverables, system acceptance testing, and pilot tests. Periodic written and oral presentations will be given to TDH and DIR management indicating areas to avoid risk related to cost, timeliness, and quality of the project management and system deliverables. To obtain further information, contact Laurie Coker, ICES Project, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 836-0828, or fax (512) 836-1540.

All proposals will be due at the Texas Department of Health by 5:00 p.m. (CST) on October 1, 1993.

Proposals will be reviewed by an evaluation committee who will evaluate the offeror's business and personnel experience related to producing the specific deliverables

**NEW LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
----- Throughout Texas	----- Diversified Remediation Inc.	L04672	Houston	0	05/21/93

**AMENDMENTS TO EXISTING LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
Abilene	Abilene Regional Medical Center	L02434	Abilene	31	05/27/93
Dallas	Presbyterian Hospital	L04288	Dallas	5	05/20/93
Eules	Instrument Specialties Company, Inc.	L03998	Eules	2	05/27/93
Fort Worth	City of Fort Worth	L01928	Fort Worth	13	05/18/93
Fort Worth	All Saints Episcopal Hospital	L02212	Fort Worth	27	05/21/93
Houston	Memorial City Medical Center	L01168	Houston	38	05/14/93
Humble	Northeast Medical Center Hospital	L02412	Humble	34	05/27/93
Lubbock	Methodist Hospital	L01822	Lubbock	10	05/14/93
Midland	Texas Instruments, Inc.	L02981	Midland	8	05/14/93
Nacogdoches	Nacogdoches Heart Clinic	L04382	Nacogdoches	3	05/14/93
Orange	Miles Inc.	L00976	Orange	34	05/18/93
Pasadena	Simpson Pasadena Paper Company	L00906	Pasadena	29	05/25/93
Rockdale	Alcoa Power Plant	L04386	Rockdale	2	05/27/93
The Woodlands	Houston Biotechnology, Inc.	L04029	The Woodlands	3	05/19/93
Throughout Texas	Houston Lighting and Power	L02063	Houston	49	05/14/93
Throughout Texas	Desert Industrial X-Ray	L04590	Odessa	1	05/13/93
Throughout Texas	Kooney X-Ray Inc.	L01074	Barker	66	05/18/93
Throughout Texas	Alpha Energy Laboratories, Inc.	L02814	Carrollton	8	05/20/93
Throughout Texas	ProTechnics Environmental Services, Inc.	L04477	Houston	4	05/19/93
Throughout Texas	Brazos Valley Inspection Services, Inc.	L02859	Bryan	34	05/25/93
Throughout Texas	John F. Domatti, Inc.	L00936	Simonton	23	05/25/93
Throughout Texas	Technical Welding Laboratory, Inc.	L02187	Pasadena	79	05/25/93
Throughout Texas	Austin Bridge and Road	L04629	Dallas	1	05/18/93
Throughout Texas	Texas Industrial X-Ray Inc.	L01851	Pasadena	55	05/17/93
Throughout Texas	Independent Testing Laboratories	L03795	Houston	22	05/24/93
Throughout Texas	Austin Bridge and Road	L04629	Dallas	2	05/26/93
Throughout Texas	Apollo Perforators, Inc.	L03020	Odessa	10	05/27/93

required in the RFP (35%); proposed approach to produce the required deliverables (20%); total cost to implement the proposed approach; and background and experience in previous projects of a similar nature (15%).

Issued in Austin, Texas, on June 7, 1993.

TRD-9323922

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

Filed: June 7, 1993

**Licensing Actions for Radioactive Materials**

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

**AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:**

Throughout Texas	D-Arrow Inspection, Inc.	L03816	Houston	38	05/27/93
Throughout Texas	SGS Industrial Services	L04460	Seabrook	11	05/27/93
Tomball	Tomball Regional Hospital	L02514	Tomball	13	05/14/93
Tyler	NuTech, Inc.	L04273	Tyler	1	05/26/93
Wichita Falls	Wichita General Hospital	L00350	Wichita Falls	46	05/21/93

**RENEWALS OF EXISTING LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Beaumont	The Cancer Institute	L00821	Beaumont	25	05/20/93
Brenham	Trinity Community Medical Center of Brenham	L03419	Brenham	14	05/26/93
Corsicana	Guardian Industries Corporation	L02874	Corsicana	4	05/19/93
Fort Worth	Osteopathic Medical Center of Texas	L00730	Fort Worth	36	05/14/93
Fort Worth	The Lorimer Clinic	L01891	Fort Worth	5	05/17/93
Fort Worth	Texas Steel Company	L00163	Fort Worth	35	05/19/93
Throughout Texas	Raba-Kistner Consultants, Inc.	L01571	San Antonio	31	05/18/93

**TERMINATIONS OF LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Throughout Texas	R.K. Company	L03555	Elgin	5	05/25/93

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county,

or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health,

The Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

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

TRD-9323696

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

Filed: June 2, 1993

### Notice of Revocation of Certification of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificates of registration: Med America Diagnostics, Midland, R18186, June 1, 1993; Michael L. Marek, D.D.S., Houston, R18230, June 1, 1993; Care Chiropractic, Brownsville, R17835, June 1, 1993; Health Xpress, Inc., San Antonio, R17568, June 1, 1993; James N. Tucker, D.V.M., Seymour, R16776, June 1, 1993; Sergio L. Rodriguez, M.D., Liberty, R12891, June 1, 1993; James Michael Davis, D.D.S., Fort Worth, R12200, June 1, 1993; Diagnostic X-Ray of Clear Lake, Webster, R11074, June 1, 1993; Dental Family Group of Northwest Houston, Houston, R06592, June 1, 1993; Leticia S. Garcia, D.D.S., Nederland, R13931, June 1, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on June 7, 1993.

TRD-9323925

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

Filed: June 7, 1993

### Notice of Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code, §289.112), has revoked the following radioactive material licenses: C & W Wireline Services, Inc., Pearland, L04145, June 1, 1993; Bissendorf Biosciences, Inc., Richardson, L04243, June 1, 1993; Cornerstone Laboratory, Inc., Mount Pleasant, G01547, June 1, 1993; The Family Medicine Center, Henderson, G01524, June 1, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas on June 7, 1993.

TRD-9323924

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

Filed: June 7, 1993

## Public Utility Commission of Texas

### Notice of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.28

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.28 for approval of promotional business rates for new customers of an existing service, Remote Access to Call Forwarding (RACF).

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for Approval of Promotional Business Rates for new customers of an existing service, Remote Access to Call Forwarding (RACF), pursuant to Public Utility Commission Substantive Rule 23.28; Tariff Control Number 12060.

**The Application.** Southwestern Bell Telephone Company is requesting approval of promotional business rates for new customers of an existing service, Remote Access to Call Forwarding (RACF), for a two-month period beginning July 5, 1993, ending August 31, 1993. Approval of the proposed promotion will allow Southwestern Bell Telephone Company to waive the business installation charge of \$5.40. The application to offer these proposed promotional rates for business RACF service is for the statewide geographic market area of Texas.

Persons who wish to comment upon action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400-N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256 or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on June 2, 1993.

TRD-9323718

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

Filed: June 2, 1993

### Public Utility Commission Requests

The Public Utility Commission of Texas is considering adopting a change to §23.55 of the Commission's Substantive Rules regarding the information posted by Operator Service Providers (OSPs) on telephone sets intended to be utilized by the public at pay telephones and in guest rooms and common areas of hotels, motels, or other lodging locations, and telephones in hospital patient rooms. The Commission seeks comments from interested parties in response to the following questions. Parties are requested to organize their comments to address specific questions in the order asked. Parties should also include an executive summary emphasizing the main points of their comments to each question.

Should the Commission amend §23.55 to require OSPs to post instructions on or near telephone sets "intended to be utilized by the public" to use the operator services of another long distance carrier? Why or why not?

If the Commission amends §23.55 to require OSPs to post instructions on or near telephone sets "intended to be utilized by the public" which explain how to use the operator services of another long distance carrier, please

state whether this requirement should apply to each of the following types of telephones: private pay telephones; public and semi-public pay telephones owned by local exchange carriers; telephones in guest rooms and common areas of hotels, motels, or other lodging locations; and/or telephones in hospital patient rooms. Please explain your answer for each type of telephone listed.

Would it be reasonable to require OSPs to give specific instructions to the end user to access only the four largest long distance carriers in Texas? Why or why not?

Would it be reasonable to require OSPs to give specific instructions to the end user to access all interexchange carriers doing business in Texas? Why or why not?

What information would a consumer need to access another long distance carrier from a telephone set "intended to be utilized by the public?" Your answer should address each of the following variables: if the call is a collect call; if the call is a third party call; if the call is a calling card call; if the call is made in an equal access area; if the call is made in a non-equal access area; if the requested interexchange carrier does not serve all areas of the state; and if the requested interexchange carrier does not serve the area in which the call is made. Please explain your answer for each variable.

Could a consumer who intends to place a collect, third party, or credit card call using another long distance carrier from a telephone set "intended to be utilized by the public" obtain dialing instructions, including the necessary access code, from the OSP operator? Why or why not?

Under what circumstances should a consumer who intends to place a collect, third party, or credit card call using another long distance carrier from a telephone set "intended to be utilized by the public" be able to obtain dialing instructions, including the necessary access code, from the local exchange company operator? Why or why not?

What information or other technical capabilities would the local exchange carrier need to provide adequate dialing instructions to end users of public telephones across the entire local exchange carrier serving area for all interexchange carriers doing business in that local exchange carrier's area? Please explain your answer.

Parties interested in providing additional comments are encouraged to do so. The Commission also welcomes data and documentation supporting the parties' comments.

General Counsel and staff will review the comments and use them in preparing a recommendation to the Commission.

Comments (18 copies) should contain a reference to Project Number 11881 and should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice.

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

TRD-9323846      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: June 4, 1993

◆            ◆            ◆  
The Public Utility Commission of Texas is considering adopting an additional section, §23.12(e), to the Commis-

sion's Substantive Rules regarding creating a Cost Allocation Manual that establishes a mechanism for separating the costs of regulated telephone service from the costs of nonregulated products and services. The Commission seeks comments from interested parties in response to the following questions. Parties are to organize their comments to address specific questions in the order asked. Parties should also include an executive summary emphasizing the main points of their comments to each question.

Should the Commission have a requirement that assures the proper separation of regulated telephone service from the costs of the non-regulated activities of the local exchange carrier? Why or why not?

Is requiring a LEC to file a Cost Allocation Manual (CAM) with the Commission the most effective and reasonable method for assuring the proper separation of regulated telephone service costs from the costs of the nonregulated activities of telephone companies? If so, why? If not, what would be the most effective and reasonable method?

Will increased uniformity among the LEC's Cost Allocation Manuals in format, practices and procedures facilitate interested parties' review and ensure that they are reasonable and accurate? Why or why not?

Should an audit of the CAM that provides the same level of assurance as a financial statement audit by independent auditors be required? Why or why not?

Should copies of the supporting cost studies on which the procedures and allocations are based be filed with the Commission? Why or why not?

Should the CAM be refiled with the Commission each year or just the updated sections be filed with the Commission? Why or why not?

Should a report detailing the effects, including a quantification of the financial impacts, of revisions to the CAM be filed annually? Why or why not?

Should the LECs whose only nonregulated activities relate to inside wire and CPE or a minority interest in a nonregulated subsidiary be given different filing requirements? Why or why not?

Should the filing of a Texas CAM by a Tier 1 LEC be met by filing their FCC Approved CAM along with an attestation statement by an Officer of the LEC that the same procedures are followed on a Texas operations basis? Why or why not?

Should the filing of an Texas CAM by a LEC who is not operating as a Tier 1 LEC in Texas, but is owned by a holding company which files a joint CAM with the FCC, be sufficient if the LEC files the FCC approved CAM along with an attestation statement by an Officer of the LEC that the same procedures are followed on a Texas operations basis? Why or why not?

Parties interested in providing additional comments are encouraged to do so. The Commission also welcomes data and documentation supporting the parties' comments.

General Counsel and staff will review the comments and use them in preparing a recommendation to the Commission.

Comments (18 copies) should contain a reference to Project Number 11289 and should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard,

Austin, Texas 78757, within 30 days of the date of publication of this notice.

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

TRD-8323845

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

Filed: June 4, 1993

## Texas Department of Transportation Public Notice

In accordance with Title 43, Texas Administrative Code, §11.88(e)(8)(B), the Texas Department of Transportation is publishing a record of decision (ROD) for the proposed SH 121 Lewisville bypass which was signed on April 28, 1993. By publication in the December 22, 1992, issue of the *Texas Register* (17 TexReg 9055), the department gave notice of the availability of the Final Environmental Impact Statement (FEIS) for the project. The 30-day comment period has expired and the following record of decision has been executed.

Record of Decision, SH 121 Lewisville Bypass, Dallas and Denton Counties.

**Decision.** The Texas Department of Transportation has determined that the proposed SH-121 Bypass in Dallas and Denton Counties, is an appropriate course of action.

The proposed project is a six-lane controlled access freeway with three-lane frontage roads on new location. The project is a total length of 10.4 miles and traverses through the cities of Carrollton, Lewisville, Hebron, Coppell, and The Colony.

The existing SH 121 is a major urban facility that links the Dallas/Fort Worth International Airport to numerous suburban communities in North Texas. The existing SH 121 facility through Lewisville is currently undergoing capacity improvements; however, these improvements will not provide sufficient capacity for the projected growth and resulting traffic occurring along the entire length of the corridor. Local governments have acknowledged the need for a bypass facility on new location to improve mobility. Thus, the Bypass project is in agreement with local thoroughfare plans and supported by Dallas and Denton Counties and the cities of Carrollton, Coppell, Hebron, The Colony, and Lewisville.

Land use in the corridor area varies from agricultural to residential and commercial. No churches, community centers, cemeteries, or similar uses are located in proximity to the alignment. The proposed action will not separate any distinct neighborhoods or isolate any ethnic groups.

An increase in air pollutant emissions will occur in the immediate project area due to the facility; however, on a regional basis the air quality would remain consistent with normal growth in the region. According to the Clean Air Act Amendments of 1990, Dallas and Denton Counties are designated as non-attainment regions with a classification of Moderate. The 1993 Transportation Improvement Program for the Dallas-Fort Worth Metropolitan Area will conform to the provisions of the Act.

Noise levels will increase due to the facility; however, the design of the facility considers attenuation of noise levels whenever practical. Three locations have been cited for implementation of noise abatement devices. A final deci-

sion of the installation of such devices will be made upon completion of the project design and with the property owners' consensus.

There are no special takings associated with the proposed action.

There are no structures listed in the National Register of Historic Places or designated as State Historic Landmarks located in the project area. Archaeological testing will be conducted prior to construction at several high probability sites within the proposed right-of-way. All reasonable measures will be taken to protect and preserve a resource site in accordance with the Texas Antiquities Code.

A continuous structure is proposed to span IH-35E, the MKT Railroad, Timber Creek, and the Elm Fork of the Trinity River. The hydraulic design practices for this project will be in accordance with the requirements of the Federal Emergency Management Agency (FEMA) and the local governmental entities.

There are several wetland sites that were surveyed by the United States Corps of Engineers and the Texas Department of Transportation personnel. Since the wetland sites were isolated and less than one acre in size, the proposed activity will be authorized by the Corps of Engineers Nationwide Permit (#26) and will be in accordance with the management practices stated in the permit.

The impacts on water quality will not be significant.

**Alternatives Considered.** In addition to the no-build alternative, three location alternatives and several connector combinations have been investigated and considered for this project. Although mass transit is not considered feasible in this corridor, provisions have been made in the median of this facility for the accommodation of high occupancy vehicle or bus lanes. Transportation System Management (TSM) alternatives along the existing alignment have also been considered.

Based on the comparison of the three alternative locations, input received at the public hearing and the local government recommendations, Alternate A, the locally preferred alignment, has been selected as the alignment for the bypass facility. Alternate A is designed with a continuous structure spanning IH-35E, Timber Creek, the MKT Railroad and the Elm Fork of the Trinity River to minimize impacts on wetlands. Construction of this project will require the displacement of a gun club and a nursery, both located near the intersection with IH-35E. Alternate A is the least disruptive, will cause minimal displacement, and is consistent with current local planning and development efforts in the area.

**Measures to Minimize Harm.** Irretrievable impacts will result from the conversion of approximately 380 acres of land from temporary farming and pasture use to highway right-of-way. The amount of prime farmland to be taken will be inconsequential in comparison with the thousands of acres of prime and unique farmland that exist in the area. The two businesses that will be displaced will be provided relocation assistance in accordance with standard Texas Department of Transportation procedures.

Construction will be in accordance with standard Texas Department of Transportation specifications, including the use of such measures as berms, dikes, dams, sediment basins, and other erosion control measures as deemed necessary to protect water resources from the impacts of the proposed improvements. Clearing and disposal of

brush and vegetation within the right-of-way will be consistent with the Texas Air Control Board regulations.

**Monitoring of Final Environmental Impact Statement Commitments.** Any commitments or conditions of approval stated in the Final Environmental Impact Statement (FEIS) will be monitored throughout the remaining phases of the project to insure compliance with the same.

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

TRD-9323835

Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: June 4, 1993

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## Texas Water Development Board

### Request for Statement of Qualifications for the Colonias Wastewater Treatment Assistance Program

The Texas Water Development Board (the Board) requests the submission of Statements of Qualifications from interested engineering consultants leading to the possible award of a contract for Fiscal Years 1993 and 1994 to conduct regional water/wastewater engineering and planning for economically distressed areas (colonias) located in Cameron County. Guidelines for water/wastewater planning proposals which include a detailed Scope of Work and Consultant Evaluation Criteria will be supplied by the Board and must be obtained by each prospective consultant.

**Description of Planning Purpose and Objectives.** The purpose of this program is for the Board to prepare with the assistance of consulting engineers, regional facility plans to address water/wastewater facility needs for selected study areas. At a minimum the work effort will include documentation of water/wastewater service needs, identification of feasible regional alternatives to meet water/wastewater needs, estimation of costs associated with providing regional water/wastewater treatment plants and transmission and collection systems and an identification of financial alternatives to implement the recommended facility plan. Discrete phases to implement regional water/wastewater facilities will be identified. Cost estimates shall be made for each respective implementation phase to determine the capital, operation, and maintenance requirements for a 20-year planning period. Separate cost estimate shall be made for each regional system component.

**Description of Funding Consideration.** Up to \$1 million in Federal funds have been authorized through an Environ-

mental Protection Agency/State of Texas Grant Agreement to prepare regional water/wastewater studies which will facilitate implementation of needed water/wastewater service to colonia residents in eligible border counties. A portion of these funds will be allocated for performing regional water/wastewater facility planning studies in Cameron County.

Under the terms of the Grant Agreement and in accordance with 42 United States Code, §4370D, the State of Texas must insure to the fullest extent possible that at least 8.0% of the federal funds for prime contractors or subcontracts for supplies, construction, or services is made available to organizations owned or controlled by socially and economically disadvantaged individuals, women, and historically black colleges and universities.

It is the intent of the Board to mail copies of this Request for Statement of Qualifications to consultants including those in Cameron, Hidalgo, Starr, and Webb Counties, and that 10% of the copies mailed be to disadvantaged businesses in compliance with Texas Civil Statutes, §3.10(b) and §5.36 (Vernons Supplement 1993); Texas Government Code, §481.101 et seq (Vernons Supplement 1993); and Executive Order of the Governor of the State of Texas, AWR 93-7, March 23, 1993.

**Pre-submittal meeting.** There will be a pre-submittal meeting at 11:00 a.m. on June 30, 1993, Cameron County Commissioners Court Meeting Room, Cameron County Courthouse, 964 East Harrison, Brownsville, for the purpose of reviewing submittal requirements, scope of work and answering any questions that may be brought to the attention of the Board's staff regarding this project. All interested consultants are encouraged to attend.

**Deadline for Submittals, Review Criteria and Contact Person for Additional Information.** Ten double-sided copies of a completed Statement of Qualifications must be filed with the Board prior to 5:00 p.m., July 12, 1993. Statements of Qualifications can be directed either in person to Gary Laneman, Room 441, Texas Water Development Board, Stephen F. Austin Building, 1700 North Congress Avenue, Austin, or by mail to Gary Laneman, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231. Requests for information, the Scope of Work and the consultant evaluation criteria should be directed to Gary Laneman at the preceding address or by calling (512) 463-8062.

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

TRD-9323900

Suzanne Schwartz  
General Counsel  
Texas Water Development Board

Filed: June 7, 1993

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## TAC Titles Affected

The following is a list of the administrative rules that were published in the January 1 - May 28, 1993 issues.

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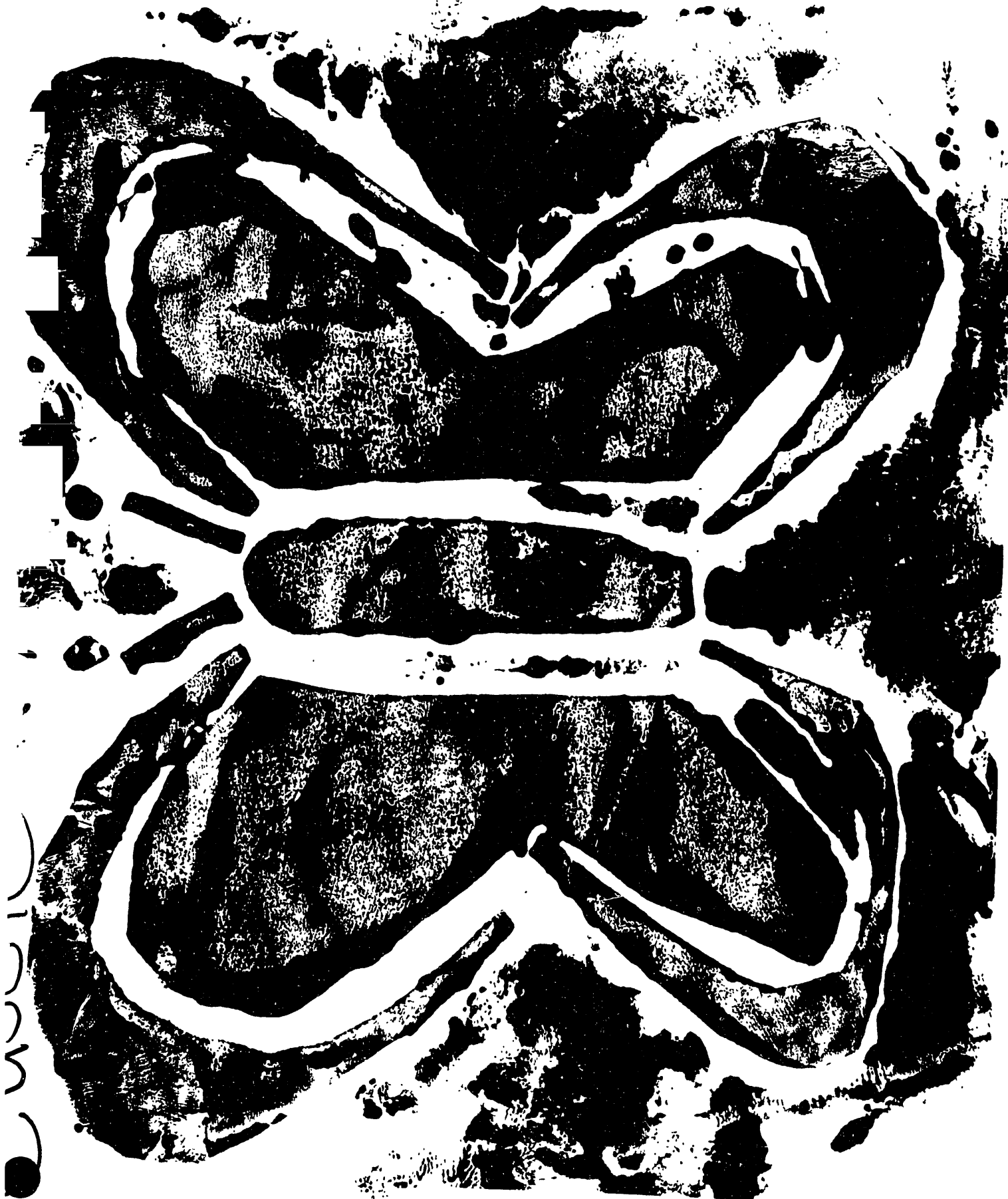
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Name: Cassie Salinas  
Grade: 3  
School: Montgomery Elementary, Carrollton-Farmers Branch ISD

## 1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

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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
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55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
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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
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74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
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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
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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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