

Texas Register

Volume 18, Number 55, July 20, 1993

Page 4711-4770

In This Issue...

Emergency Sections

Railroad Commission of Texas

Oil and Gas Division

16 TAC §3.31.....4721

Proposed Sections

Banking Department of Texas

Prepaid Funeral Contracts

7 TAC §25.23.....4723

Perpetual Care Cemeteries

7 TAC §26.1.....4724

Office of Consumer Credit Commissioner

Administration

7 TAC §82.1.....4724

Texas Antiquities Committee

Practice and Procedure

13 TAC §41.5, §41.20.....4725

Railroad Commission of Texas

Transportation Division

16 TAC §5.33.....4726

16 TAC §5.45.....4726

16 TAC §5.46 4727

16 TAC §5.291 4728

16 TAC §5.292 4728

16 TAC §5.294 4729

16 TAC §5.401 4730

16 TAC §5.411 4730

16 TAC §5.423 4731

16 TAC §5.461 4732

16 TAC §5.462 4733

16 TAC §5.463 4735

16 TAC §5.464 4736

16 TAC §5.465 4737

16 TAC §5.466 4738

16 TAC §5.467 4738

16 TAC §5.582 4739

Public Utility Commission of Texas

Substantive Rules

16 TAC §23.54 4739

Texas Education Agency

Budgeting, Accounting, and Auditing

19 TAC §109.61 4740

Comptroller of Public Accounts

Tax Administration

34 TAC §3.194 4741

CONTENTS CONTINUED INSIDE



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Texas Register



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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

Open Meetings - notices of open meetings.

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

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

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

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

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

Texas Administrative Code

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

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

The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency. The *Official TAC* also is available on WESTLAW, West's computerized legal research service, in the TX-ADC database.

To purchase printed volumes of the *TAC* or to inquire about WESTLAW access to the *TAC* call West: **1-800-328-9352**.

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 22, April 16, July 13, and October 12, 1993). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

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

34 TAC §3.341	4742
34 TAC §3.573	4742

Texas Department of Human Services

Income Assistance Services	
40 TAC §§3.1201, 3.1202, 3.1203	4743

Family Self-Support Services	
40 TAC §10.2301	4744

Withdrawn Sections

Texas Education Agency

Assignment of Personnel	
19 TAC §143.11	4745

Comptroller of Public Accounts

34 TAC §3.194	4745
---------------------	------

Adopted Sections

Texas Department of Agriculture

General Procedures	
4 TAC §§1.1-1.5, 1.7, 1.10-1.15, 1.17-1.28	4747
4 TAC §§1.51-1.55	4747

Public Utility Commission of Texas

Substantive Rules	
16 TAC §23.32	4747

Texas Department of Insurance

Life, Accident and Health Insurance and Annuities	
28 TAC §3.5702	4748

Comptroller of Public Accounts

Tax Administration	
34 TAC §3.446	4753

Texas Department of Human Services

Medicaid Eligibility	
40 TAC §15.310, §15.320	4753
40 TAC §§15.600, 15.615, 15.620	4753
40 TAC §§15.601, 15.603, 15.604, 15.607, 15.609, 15.611, 15.612, 15.617, 15.619, 15.621, 15.623	4754

Community Care for Aged and Disabled	
40 TAC §48.2911	4754
40 TAC §48.2918	4754

Texas Rehabilitation Commission

Comprehensive Rehabilitation Services	
40 TAC §113.1	4755
40 TAC §§113.1-113.5	4755

Texas Department on Aging

State Delivery Systems	
40 TAC §255.35	4756

Open Meeting Sections

Texas Department of Agriculture	4757
Advisory Board of Athletic Trainers	4757
State Bar of Texas	4757
State Board of Barber Examiners	4758
Texas Bond Review Board	4758
Children's Trust Fund of Texas Council	4758
Texas Department of Commerce	4758
Texas Commission for the Deaf and Hearing Impaired	4758
Texas State Board of Dental Examiners	4758
Texas Department of Health	4758
Texas Historical Commission	4759
Commission on Jail Standards	4760
Texas State Library and Archives Commission	4760
Texas Department of Licensing and Regulation	4760
Texas State Board of Medical Examiners	4760
Public Utility Commission of Texas	4760
Stephen F. Austin State University	4761
Texas Guaranteed Student Loan Corporation	4761
Texas Property and Casualty Insurance Guaranty Association	4761
Texas Appraiser Licensing and Certification Board	4761
University of Houston	4762
University Interscholastic League	4762
Texas Water Commission	4762
Texas Workers' Compensation Commission	4762
Texas Workers' Compensation Insurance Facility	4762
Regional Meetings	4763

In Addition Sections

Comptroller of Public Accounts	
Consultant Contract Award	4765
Request for Proposals	4765
Texas Department of Health	
Notice of Intent to Revoke a Certificate of Registration	4765

**Texas Department of Housing and
Community Affairs**

Notice of Public Hearing.....4766

Texas Department of Insurance

Public Meeting.....4767

Public Utility Commission of Texas

Notices of Intent to File Pursuant to PUC Substantive Rule
23.274767

Notices of Intent to File Pursuant to PUC Substantive Rule
23.284768

Railroad Commission of Texas

Concurring Statement of Commissioner Barry Williamson

..... 4769

Dissenting Statement of Commissioner Barry Williamson

..... 4769

Texas Water Commission

Notice of Application for Waste Disposal Permit.. 4769

Texas Water Development Board

Applications Received..... 4770



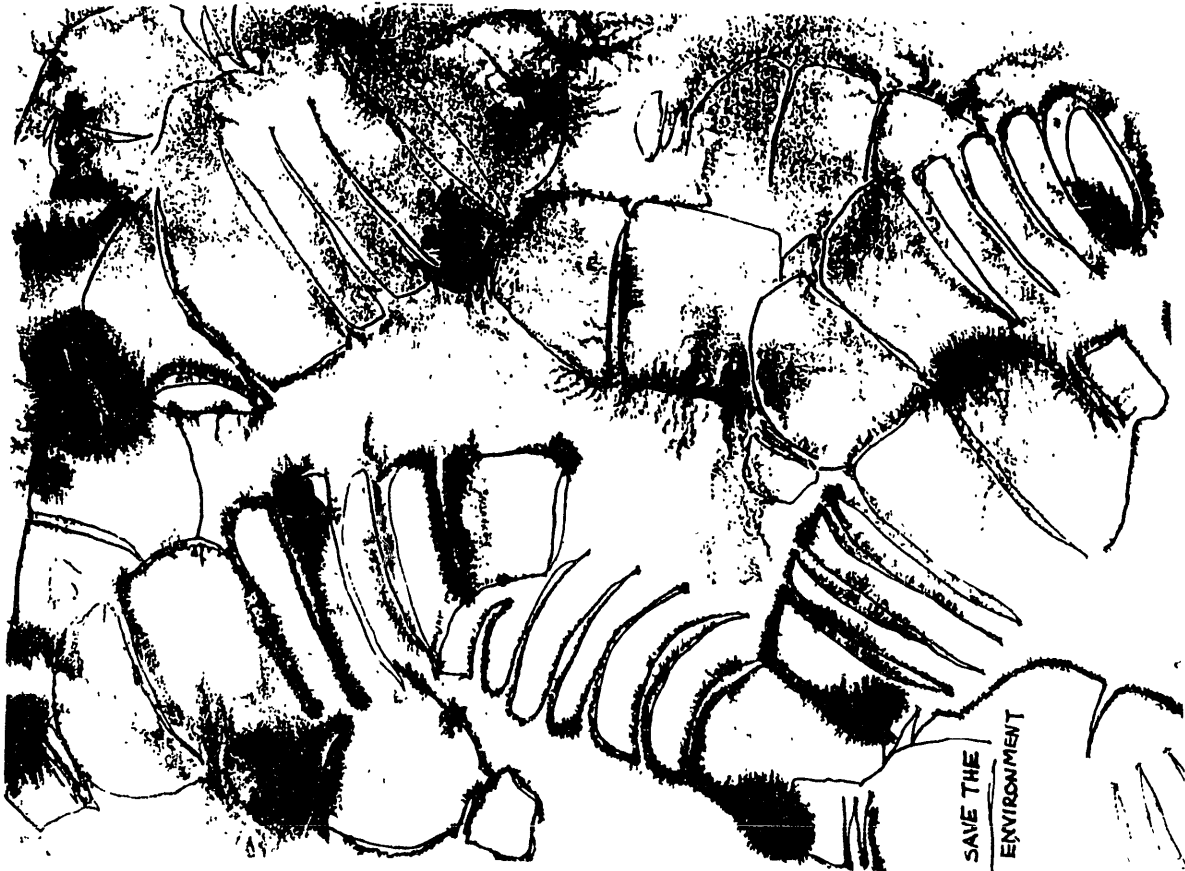
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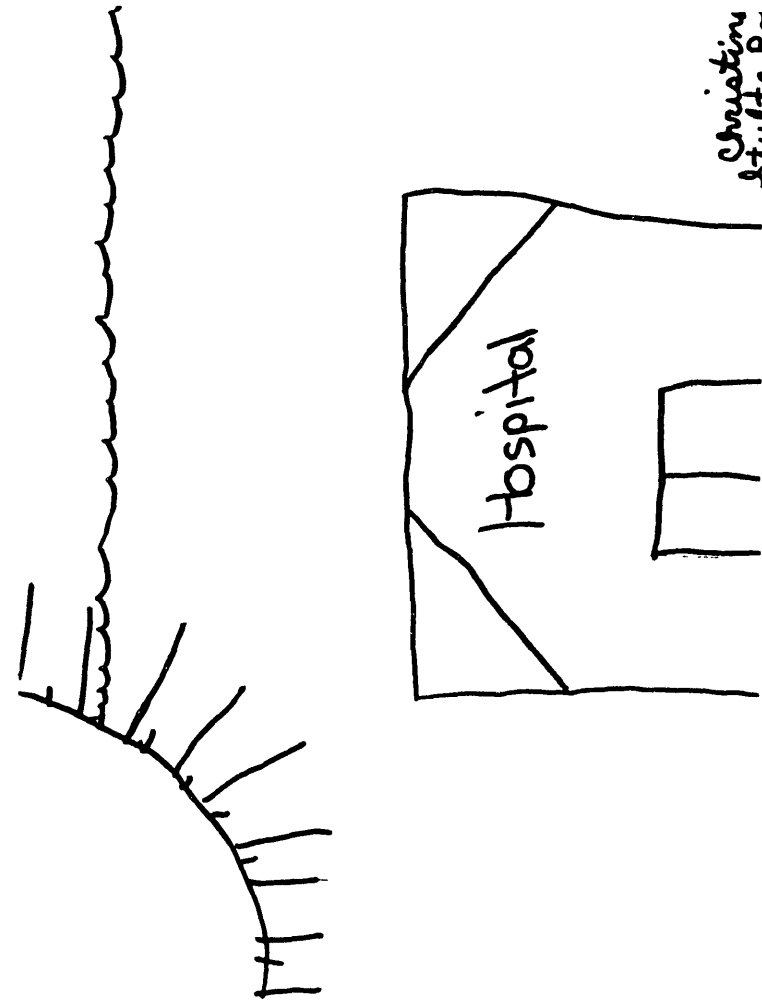
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School: Plano East Senior High, Plano ISD



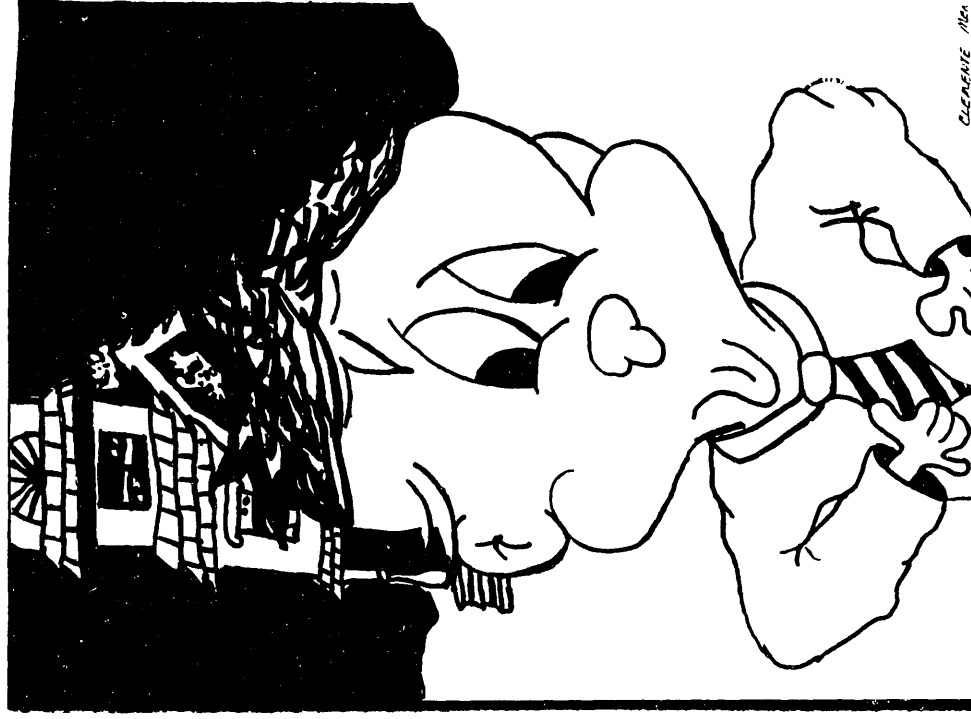
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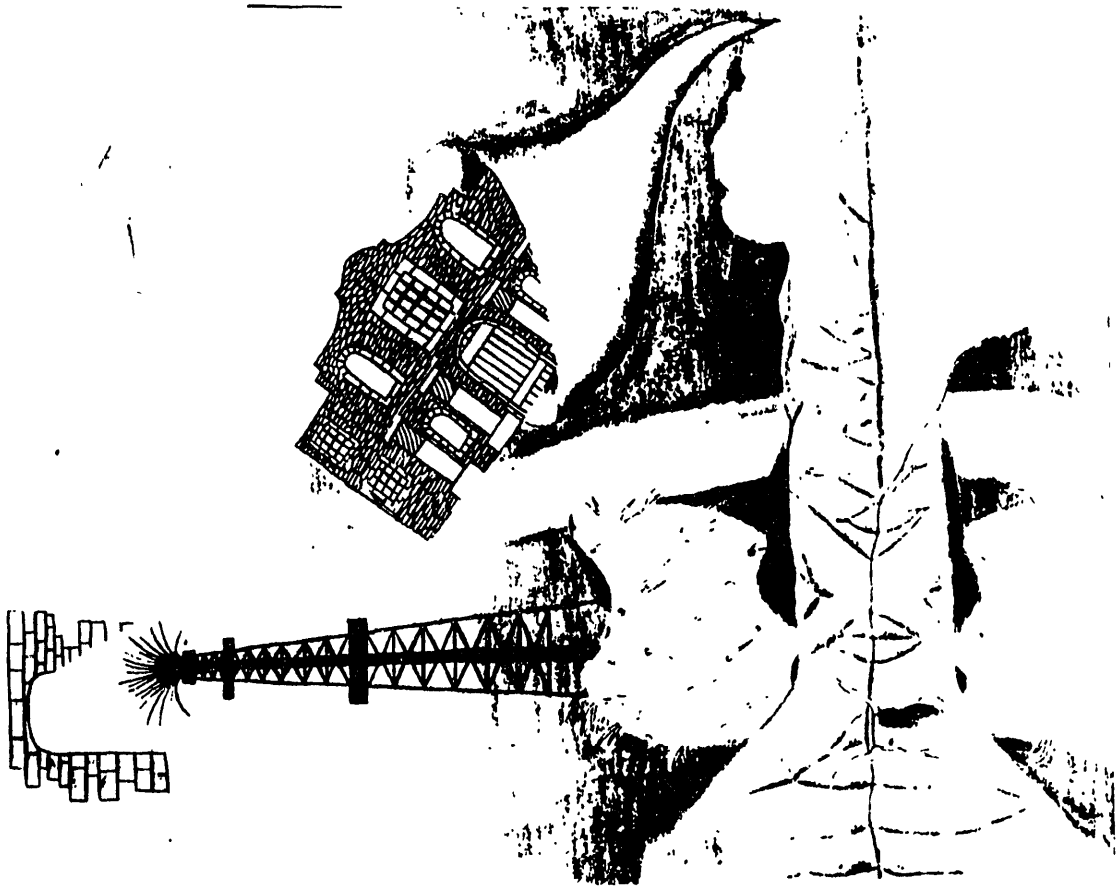
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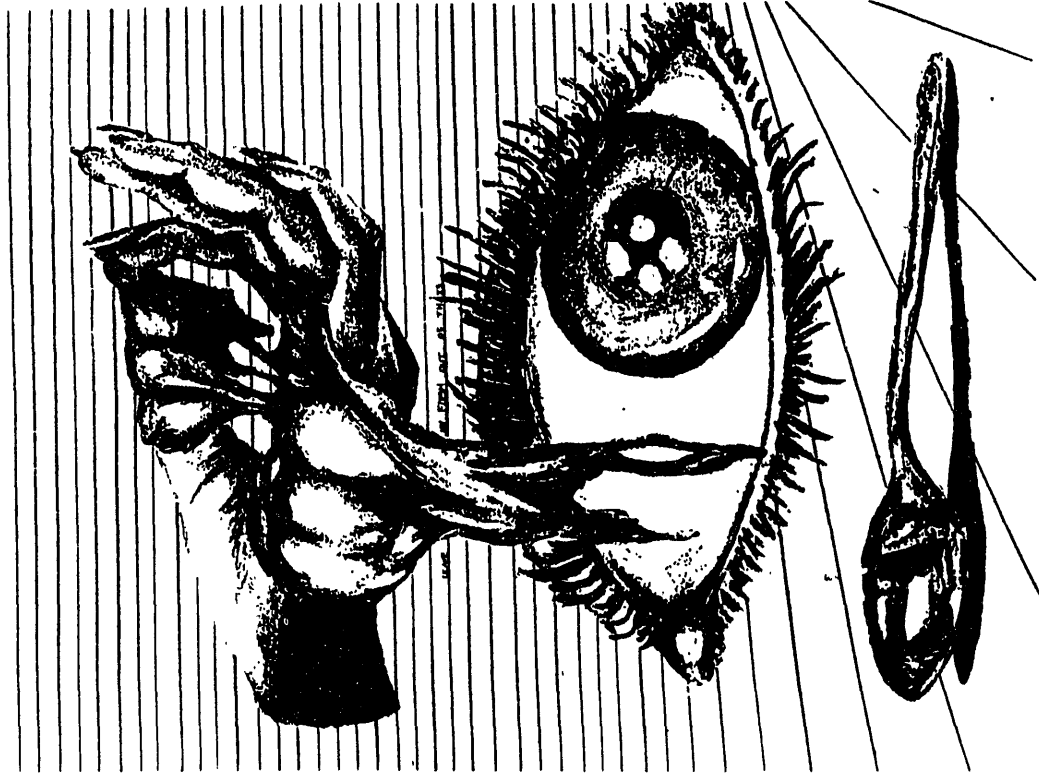
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Emergency Sections

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 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.31

The Railroad Commission of Texas adopts on an emergency basis an amendment to §3.31, concerning gas well allowables. The existing language in §3.31 was adopted by the Railroad Commission of Texas on April 28, 1992, and published in the May 5, 1992, issue of the *Texas Register* (17 TexReg 3239).

This amendment is adopted to offset systematic inaccuracy that results in a Forecast Correction Adjustment that inappropriately reduces reservoir allowables. Because this systematic inaccuracy is cumulative, its negative effect increases with time. Consequently, the Commission is in danger of setting gas allowables below market demand in direct conflict with the Commission's statutory mandate, thereby threatening the public health, safety, and welfare. This amendment will enable the Commission to fulfill its statutory mandate to accurately determine market demand, set the reservoir allowable to market demand, and to protect correlative rights. The Commission recognizes that this emergency rule only temporarily corrects the problem and will commence formal notice and comment rulemaking to address the underlying problem. Once the underlying problem is addressed, a second "resetting" of the Forecast Correction Adjustment will be necessary to alleviate the error that will accumulate between the time this emergency rule is adopted and the adoption of the rule to correct the underlying problem (the Commission expects to complete the formal rulemaking within six months).

The amendment is adopted on an emergency basis under the Texas Natural Resources Code, §§81.051, 81.052, 85.046, 85.053, 85.055, 85.201-85.203, 86.011, 86.012, 86.041, 86.042, 86.081, 86.083-86.090, 86.094, 111.083, 111.090, and 111.133, which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission; to prevent waste of oil and gas in drilling and

producing operations; to determine the status of gas production from all gas reservoirs; to distribute, prorate, and apportion allowable production; to determine the lawful market demand for gas to be produced from each reservoir; to adjust correlative rights and opportunities; to determine the daily allowable production for each gas well; to effectuate the provisions and purposes of the Natural Resources Code, Chapter 86; to conserve and prevent waste of gas; to prevent discriminate in the production and purchasing of gas; to prevent monopolistic practices which may be injurious to the general public; and to regulate common purchasers of gas to achieve the prior purposes.

§3.31. Gas Reservoirs and Gas Well Allowable.

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

(d) Determining prorated reservoir allowable and lawful market demand.

(1) On or before the 20th day of the preceding month, the commission will determine the lawful market demand for gas to be produced from each reservoir during the upcoming allowable month. The monthly reservoir allowable shall be equal to the lawful market demand for that reservoir. The lawful reservoir market demand for prorated reservoirs shall be equal to the adjusted reservoir market demand forecast adjusted by a forecast correction adjustment, a supplemental change adjustment, and a commission adjustment

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

(E) Forecast Correction Adjustment. [the difference between the reservoir production and the adjusted reservoir market demand forecast adjusted by the supplemental change adjustment and Commission adjustment during the most recently reported production month.]

(i) The August 1993 Forecast Correction Adjustment shall be the difference between the allowable assigned for May 1993 and the production reported for May 1993.

(ii) The September 1993 Forecast Correction Adjustment shall be the difference between the allowable assigned for June 1993 and the production reported for June 1993.

(iii) The October 1993 Forecast Correction Adjustment shall be the difference between the allowable assigned for July 1993 and the production reported for July 1993.

(iv) For November 1993 and subsequent months, the Forecast Correction Adjustment shall be:

(I) the difference between the most recently reported production month's reservoir production and adjusted reservoir market demand forecast, adjusted by the Commission adjustment for that month;

(II) less the difference between the most recently reported production month's allowable assigned to, and the production from, special allowable wells.

(F)-(G) (No change.)

(2) (No change.)

(e)-(k) (No change.)

Issued in Austin, Texas, on July 12, 1993.

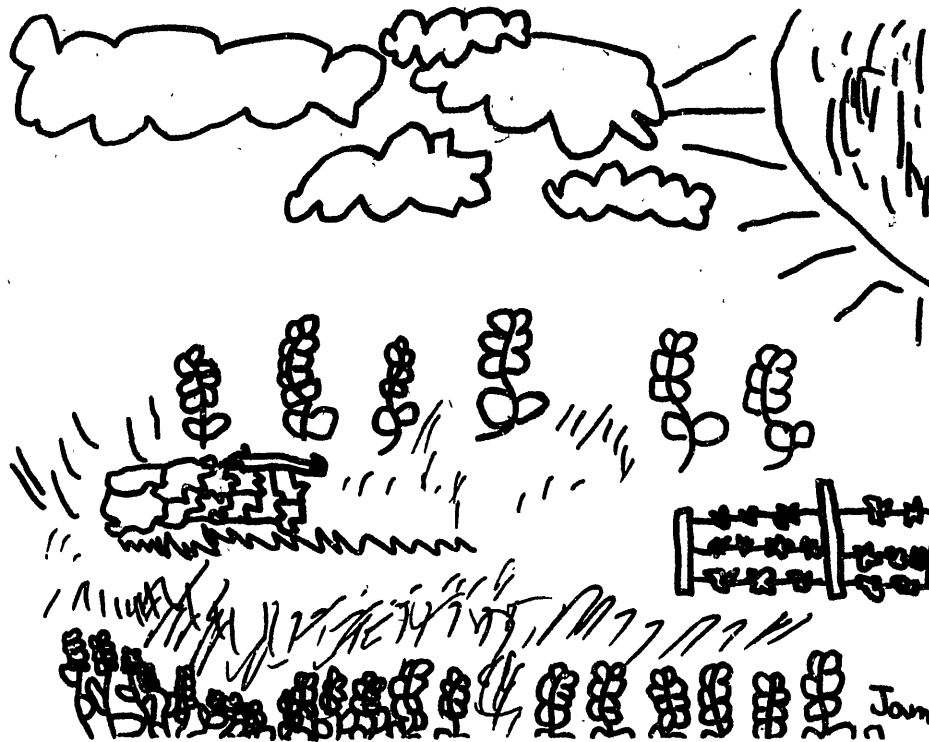
TRD-9325703

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

Effective date: July 15, 1993

Expiration date: November 13, 1993

For further information, please call: (512) 463-6923



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Proposed Sections

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

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

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 25. Prepaid Funeral Contracts

Subchapter C. Fees

• 7 TAC §25.23

The Banking Department of Texas (the Department) proposes new §25.23, concerning various fees regarding prepaid funeral benefits operations. This section sets the amount of fees, assessments, and related charges to applicants and permit holders under Texas Civil Statutes, Article 548b (the Act), establishes a fund comprised of such fees, assessments and charges to defray the cost of administering the Act, and provides for the method and time of assessment and payment. The adoption of this section will defray the cost of administering the Act without maintaining unnecessary fund balances for this purpose.

Stephanie Newberg, director, Special Audits Division, Texas Department of Banking, has determined that for the first five-year period the rule is in effect the fiscal implications to state government of enforcing or administering the rule will be the recovery of the Department's costs in administering Article 548b. Ms. Newberg estimates this recovery will be approximately \$3,843,000 over the five-year period. Currently, the Department recovers about 70% of this amount in fees and assessments. This section will have no fiscal implications for local government and 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 will be in effect the public benefit anticipated as a result of enforcing the rule is the ability of the Department to regulate prepaid funeral services under its increased statutory responsibilities and, thereby, protect consumers more effectively. It is estimated that this proposal will result in savings to small businesses in the amount of \$125 each during this period, reducing the total cost of compliance for small businesses to \$2,700 for this period as compared to a total cost of \$40,000 for the largest businesses. Ms. Newberg estimates the economic costs to entities required to comply with the proposed rule will be approximately \$768,000 for each year of the five-year period. Approximately \$521,000 of this

amount is currently paid to the Department in the form of fees subsumed by this proposal. During this same period, the cost to persons who are required to comply with the rule as proposed will be the same dollar amount as the benefit to the Department.

Comments on the proposal to be considered by the Texas Department of Banking must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Sharon Gillespie, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed under Texas Civil Statutes, Article 548b, §§1(A)(d), 2, 3, 5(4)(D)(ix), and 8, effective September 1, 1993, Act of June 18th, Chapter 512, §§1-6. Section 1(A)(d) authorizes the Department to establish a fee under the Act, §2, to accompany permittee applications for approval of conversions from trust-funded prepaid funeral benefits to insurance-funded prepaid funeral benefits. Section 2 authorizes the Department to prescribe fees generally to defray the cost of administering the Act without maintaining unnecessary fund balances. Section 3 authorizes the Department to prescribe an application filing fee and renewal fee under the Act, §2 and to recoup extraordinary expenses required for out of state investigation of the applicant where applicable. Section 5(4)(D)(ix) authorizes the Department to collect a fee for applications to withdraw excess earnings. Section 8 provides for examination fees and assessments levied in connection with examinations to fund the operations of the Department in administering and enforcing the Act.

§25.23. Fees and Assessments.

(a) Article 548(b) Fund. The Department shall maintain a fund comprised of fees and assessments collected under this section which shall not exceed an amount that appears reasonably necessary to defray the cost of administering Texas Civil Statutes, Article 548b (the Act).

(b) Filing Fees.

(1) New Permit Applications. An applicant for a new prepaid funeral benefits permit shall pay a \$500 filing fee.

(2) Conversion Applications. An applicant for the conversion of trust-funded prepaid funeral benefits to insurance-funded prepaid funeral benefits shall pay a \$1,000 filing fee.

(3) Applications for Withdrawals. An applicant for the withdrawal of excess earnings shall pay a fee of \$1,000 per permit or a fee not to exceed \$5,000 for consolidated applications of more than five permits.

(c) Extraordinary Expenses. In addition to the filing fee, an applicant for a new prepaid funeral benefits permit shall pay any extraordinary costs of the Department required by and associated with an out-of-state investigation of the applicant.

(d) Renewal Fees. To renew a permit, the permit holder shall pay a \$500 renewal fee. At the Department's election, the renewal fee shall be due and payable with and in addition to the first installment on the assessment under subsection (f) of this section or on or before the date of permit expiration.

(e) Examination Fees. A permit holder shall be assessed and pay all expenses necessarily incurred by the Department in conducting the annual examination of the permit holder's prepaid funeral benefits operations during a fiscal year. This fee shall be included in and offset against the assessment levied in the same fiscal year by the Department under subsection (f) of this section. In addition to and separate from any other assessments under this section, the permit holder shall be assessed and pay to the Department the actual costs of conducting any subsequent examinations during the same fiscal year.

(f) Annual Assessment. In addition to other fees and assessments of this section, the Department shall assess each permit holder a fee, not to exceed \$7,500 in a fiscal year, at a rate of not more than \$1.75 per unmaturing contract of the permit holder. The Department may levy this assessment in quarterly or fewer installments in such amounts as reasonably appear necessary to defray the cost of administering the Act. Each installment payment on the annual assessment is due at the time of billing.

(g) Nonrefundability. Fees and assessments collected under this section are nonrefundable.

(h) Time of Payment. Except as otherwise provided in this section, all fees and assessments are due at the time and

application is filed or a fee is assessed, as the case may be.

(i) Fiscal Year. In this section, a fiscal year is that 12-month period which begins September 1st and ends the following August 31st.

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 July 12, 1993.

TRD-9325631 Catherine A. Ghiglieri
Banking Commissioner
Banking Department of
Texas

Earliest possible date of adoption: August 20, 1993

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

Chapter 26. Perpetual Care Cemeteries

• 7 TAC §26.1

The Banking Department of Texas (the Department) proposes new §26.1, concerning various fees regarding perpetual care cemetery operations. This section sets the amount of filing fees and assessments that are charged applicants and permit holders under the Texas Health and Safety Code (the Act), Chapter 712, and provides for the method and time of assessment and payment. The adoption of §26.1 as proposed will defray the cost of administering the Act.

Stephanie Newberg, director, Special Audits Division, Texas Department of Banking, has determined that for the first five-year period the rule is in effect the fiscal implications to state government of enforcing or administering the rule will be the recovery of the Department's costs in administering the Act. Ms. Newberg estimates this recovery will be approximately \$960,500 over the five-year period. Currently, the Department recovers about 75% of this amount in fees and assessments. This rule will have no fiscal implications for local government and 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 of the Department to better regulate perpetual care cemeteries and, thereby, protect consumers more effectively. It is estimated that this proposal will cost small businesses approximately \$50 each during this period, increasing the total cost of compliance for small businesses to \$2,800 for this period, as compared to a total cost of \$14,000 for the largest businesses. Ms. Newberg estimates the economic costs to entities required to comply with the proposed rule will be approximately \$196,000 for each year of the five-year period. Approximately \$145,000 of this amount is currently paid to the Department in the form of fees subsumed by this proposal. During this same period, the cost to persons

who are required to comply with the rule as proposed will be the same dollar amount as the benefit to the Department.

Comments on the proposal to be considered by the Texas Department of Banking must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Sharon Gillespie, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed under the Texas Health and Safety Code (the Act), Chapter 712, proposed to be codified as §§712.0031, 712.042, and 712.044, effective September 1, 1993, Act of June 12th, Chapter 712, §§27-50. Section 712.0031 requires an applicant for a new permit under the Act to pay a \$500 application fee. Section 712.042 authorizes the Department to prescribe a fee to be paid with the statement of funds to defray the cost of administering the Act. Section 712.044 authorizes the Department to assess examination fees necessary to defray the costs of administering the Act.

§25.26. Fees and Assessments.

(a) Cost of Administration. Fees and assessments collected under this section shall not exceed an amount that appears reasonably necessary to defray the cost of administering the Texas Health and Safety Code (the Act), Chapter 712.

(b) Filing Fees.

(1) New Permit Fee. An applicant for a new permit to operate a perpetual care cemetery under the Act shall pay a \$500 filing fee at the time the application is filed.

(2) Statement of Fund Fee. Each permit holder shall pay a \$500 filing fee at the time of filing a statement of funds under the Act, Article 712.042.

(c) Examination Fees. A permit holder shall be assessed and pay all expenses necessarily incurred by the Department in conducting the annual examination of the permit holder's perpetual care cemetery operations during a fiscal year. This fee shall be included in and offset against the assessment levied in the same fiscal year by the Department under subsection (d) of this section.

(d) Annual Assessment. In addition to other fees and assessments of this section, the Department shall assess each permit holder a fee, not to exceed \$5,000 in a fiscal year, at a rate of not more than \$0.0012 per dollar of the book value of the total perpetual care cemetery trust assets held by the permit holder. The Department may levy this assessment in quarterly or fewer installments in such amounts as reasonably appear necessary to defray the cost of administering the Act. Each installment payment on the annual assessment is due at the time of billing.

(e) Nonrefundability. Fees and assessments collected under this section are nonrefundable.

(f) Fiscal Year. In this section, a fiscal year is that 12-month period which begins September 1st and ends the following August 31st.

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 July 12, 1993.

TRD-9325632 Catherine A. Ghiglieri
Banking Commissioner
Banking Department of
Texas

Earliest possible date of adoption: August 20, 1993

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

Part V. Office of Consumer Credit Commissioner

Chapter 82. Administration

• 7 TAC §82.1

The Office of Consumer Credit Commissioner of Texas proposes new §82.1, concerning the use, custody, and control of criminal history record information obtained by the Office of Consumer Credit Commissioner, outlining procedures designed to maintain the confidentiality and security of such information and limiting its access to specified persons.

Al Endsley, consumer credit commissioner, 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. Endsley 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 criminal history records of applicants for licenses in the custody of the Office of Consumer Credit Commissioner will be secure from unlawful disclosure to any unauthorized persons. 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 Al Endsley, Consumer Credit Commissioner, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new rule is proposed under Texas Civil Statutes, Article 5069-2.02A(11), which provides the Texas Office of Consumer Credit Commissioner with the authority to promulgate rules and regulations necessary for the performance of its duties.

§82.1. Custody of Criminal History Record Information.

(a) The use of criminal history information obtained or maintained by the Office of Consumer Credit Commissioner pursuant to Texas Civil Statutes, Article 5069-2.02A(11) shall be limited to assisting the commissioner in determining the character and fitness of an applicant for a license issued by the Consumer Credit Commissioner or a person licensed under the authority of the Consumer Credit Commissioner. All criminal history record information received by the Office of Consumer Credit Commissioner is confidential information and is for the exclusive use of the Office of Consumer Credit Commissioner. Except on court order or as otherwise provided by Texas Civil Statutes, Article 2.02A(11), such information may not be disclosed to any person or agency.

(b) Access to criminal history information maintained by the Office of Consumer Credit Commissioner shall be limited to the following persons:

- (1) consumer Credit Commissioner;
- (2) assistant Commissioner;
- (3) any attorney employed by the Office of Consumer Credit Commissioner or an Assistant Attorney General representing the interest of the Office of Consumer Credit Commissioner;
- (4) employees of the Licensing section; and
- (5) any person appointed to act on behalf of or in the stead of any of the above.

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 30, 1993.

TRD-9325408

Al Endeley
Consumer Credit
Commissioner
Office of Consumer Credit
Commissioner

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 479-1280



TITLE 13. CULTURAL RESOURCES

Part IV. Texas Antiquities Committee

Chapter 41. Practice and Procedure

Definitions and Archaeological Permit Categories

• 13 TAC §41.5 §41.20

The Texas Antiquities Committee proposes amendments to §41.5, concerning definitions, and §41.20, concerning excavations. The amendments are needed to insure that cost-effective methods are used during archaeological excavations conducted under the Texas Antiquities Code. The amendments also provide for a written memorandum of understanding pertaining to the scope and estimated cost of excavations before such work commences.

Dr. James E. Bruseth, deputy state historic preservation officer, has determined that for the first five-year period the rules are in effect there will be no fiscal impact to state or local government as a result of enforcing or administering the rules. The rules clarify existing requirements and standards.

Mr. Bruseth also has determined that for the first five-year period the rules are in effect there will be the adoption of cost-effective methods for archaeological excavations conducted by permit under the Committee. Moreover, the rules will help all parties to agree on the scope and cost of archaeological excavations under an Antiquities permit. 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 Dr. James E. Bruseth, Deputy State Historic Preservation Officer, Department of Antiquities Protection, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711.

The amendments are proposed under the National Resources Code, Title 9, Chapter 191 (revised by Senate Bill 231, 68th Legislature, 1983, and by House Bill 2056, 70th Legislature, 1987), §191.052, which provides the Texas Antiquities Committee with the authority to promulgate rules and require contract or permit conditions to reasonably effect the purposes of Chapter 191.

§41.5. Definitions. The following words and terms, when used in this chapter, and the Antiquities Code of Texas, shall have the following meanings, unless the context clearly indicates otherwise.

Memorandum of Understanding—A formal agreement detailing the archaeological excavations required for a project, and co-signed by the Texas Antiquities Committee and the state agency or a political subdivision of the state-

named project sponsor, and a qualified private institution, company, or individual named principal investigator.

§41.20. Archaeological Permit Categories. Several categories of permits oriented toward specific types of investigations are issued by the Antiquities Committee.

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

(3) Excavation. This permit covers full investigation and extensive excavation of a particular locality(ies). Specific requirements are included in the permit and may also be detailed in a Memorandum of Understanding negotiated for the project.

(A) When a significant cultural resource is identified in a project area that requires archaeological excavation, a Memorandum of Understanding between the Committee and the state agency or political subdivision of the State, and the qualified private institution, corporation, or individual shall be negotiated and signed, unless all parties concur that the Memorandum is not needed. The Memorandum will stipulate basic information related to the excavation, including but not limited to:

- (i) the significance of the site(s) to be excavated;
- (ii) the extent of the investigation;
- (iii) the methods and techniques to be employed;
- (iv) the coordination of the excavation with project construction schedules; and Texas Antiquities Committee Page 4 of 5 Chapter 41 Practice and Procedure
- (v) the estimated budget for all phases of work related to the investigation, including artifact analysis and report production.

(B) Primary considerations in the development of a Memorandum of Understanding shall be:

- (i) the significance of the cultural resource(s);
- (ii) the nature of the impact of the project on the cultural resource(s); and
- (iii) fiscally appropriate and cost-effective means to mitigate the effect of the project on the cultural resource(s).

(4)-(8) (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 July 9, 1993.

TRD-9325621

Lillie Thompson
Certifying Official
Texas Antiquities
Committee

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-1858

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §5.33

The Railroad Commission of Texas proposes amendment of §5.33, concerning contract carriers. The section clarifies that contract carrier permits may authorize transportation for no more than ten shippers, while truckload contract carrier permits are unlimited as to number of shippers. This section is proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amends the Texas Motor Carrier Act.

Jackye Greene, assistant director-Central Operations, 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.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of administering the rule will be to bring it into compliance with statutory requirements. 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 Carrie L. McLarty, Hearings, Examiner, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the

power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the Article that is affected by this rule: §5.33-Texas Civil Statutes, Article 911b.

§5.33. Contract Carriers. A contract carrier permit shall not authorize the performance of transportation services for more than ten shippers, unless it is issued to a truckload contract carrier as that term is defined in §5.46 of this title (relating to Truckload Contract Carriers).

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 July 14, 1993.

TRD-9325724

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

• 16 TAC §5.45

The Railroad Commission of Texas proposes new §5.45, concerning return shipments for specialized motor carriers. The section is proposed as a result of legislative changes made by the 73rd Legislature, 1993. The proposed section allows specialized motor carriers to transport any specialized commodity for which they do not hold authority to transport on a return trip, as defined by the rule, using flatbed equipment only.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed rules §§5.45, 5.46, 5.423, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rules for each of the first five years. The effect on state government is estimated to be \$669,783 in Fiscal Year 1994, \$533,565 in Fiscal Year 1995, \$605,973 in Fiscal Year 1996, \$589,021 in Fiscal Year 1997, and \$589,021 in Fiscal Year 1998. There will be no fiscal implications for local government.

Barbara H. Owens, hearing examiners, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of administering the rule will be greater efficiency of trucking operations and increased availability of transportation services to the shipping public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the Article that is affected by this rule: §5.45-Texas Civil Statutes, Article 911b.

§5.45. Return Shipments for Specialized Motor Carriers.

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

(1) Flatbed type equipment—Any truck or trailer equipment that has no permanently attached sides to the loading space of the vehicle. This term shall include, but is not limited to, drop frame, lowboy, or stretch trailers.

(2) Initial shipment—Any intrastate transportation services or which a motor carrier is authorized to perform under a specialized motor carrier certificate issued by the commission.

(3) Initial route—The shortest practicable route between origin and destination of an initial shipment as determined by using the most current official highway map issued by the Texas Department of Transportation.

(4) Return trip—Transportation performed by a specialized motor carrier, after the delivery of an initial shipment, which returns the equipment to a point nearer the dispatch point of the initial shipment.

(5) Shortest practicable route—The shortest legally traversable route required to effect the delivery of the initial shipment, which may include stops in transit to partially load or unload, or any route required by the Texas Department of Transportation for the transportation of a shipment moving under an overweight or overdimensional permit.

(6) Specialized commodity—Any commodity which by reason of length,

width, weight, height, size, or other physical characteristics requires the use of special devices, facilities, or equipment for its transportation and handling.

(b) A specialized motor carrier, after making delivery of an intrastate shipment for which it holds a certificate authoring such transportation may, on the return trip and with the same equipment, transport a specialized commodity for which it does not hold a certificate, under the following conditions:

(1) the transportation is performed with the use of flatbed type equipment; and

(2) the return trip occurs on a route each point of which is within 75 miles of the initial route. In order to determine whether or not a point lies within 75 miles of the initial route, such distance shall be measured by a straight line from any point along the initial route, utilizing the mileage scale found on the most current official highway map issued by the Texas Department of Transportation.

(c) Every specialized motor carrier shall maintain complete and accurate records of transportation service performed in accordance with this section. Waybills and freight bills of initial loads and return trips shall be cross referenced by a number on each such bill.

(d) Specialized motor carriers shall bill, charge, and collect the rates and charges authorized by the commission on all specialized commodities transported under the circumstances set forth in this section.

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

Issued in Austin, Texas, on July 14, 1993.

TRD-9325722

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

◆ ◆ ◆
• 16 TAC §5.46

The Railroad Commission of Texas proposes new §5.46, concerning truckload contract carriers. The section defines truckload contract carriers and permits. It sets out the burden of proof for establishing an eligible contract or evidence of an eligible contract for truckload contract carriers, as well as the standard for demonstrating that an applicant for truckload contract carrier authority is fit, willing, and able to provide the proposed services. This

section is proposed as a result of the enactment of Senate Bill 1313 and House Bill 1156 by the 73rd Legislature, 1993, amending the Texas Motor Carrier Act.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that more carriers will be available to serve the public in the transportation of truckload quantities of general commodities. 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 Carry L. McLarty, Hearings Examiner, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5.46-Texas Civil Statutes, Article 911b.

§5.46. Truckload Contract Carriers.

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

(1) Eligible contract-A contract to provide transportation services for compensation in an amount not less than \$12,000 per year.

(2) General commodity-A commodity other than:

(A) a commodity that requires temperature control; or

(B) a specialized motor carrier commodity.

(3) Specialized motor carrier commodity-Any commodity which by reason of length, width, weight, height, size, or other physical characteristics requires the use of special devices, facilities, or equipment for its transportation and handling.

(4) Truckload contract carrier-Any contract carrier authorized to transport a general commodity in a truckload quantity.

(5) Truckload contract carrier permit-A contract carrier permit issued to a truckload contract carrier.

(6) Truckload quantity-A single shipment that:

(A) is transported for a single consignor who has exclusive use of the transporting vehicle; and

(B) weighs 25,000 pounds or more or constitutes a capacity load under tariffs, rules, or regulations adopted by the commission.

(b) An applicant for a truckload contract carrier permit shall, in addition to any other requirements in these rules, demonstrate sufficient evidence of an eligible contract or an intent to enter into an eligible contract with the party the applicant proposes to serve, by producing:

(1) the contract, executed by both parties;

(2) a pre-existing contract between the parties for interstate or local transportation;

(3) a letter of intent to enter into an eligible contract, executed by both parties, setting forth the general agreement between the parties; or

(4) an affidavit from the party contracting with applicant, setting forth the general agreement between the parties.

(c) An applicant shall also demonstrate that it is fit, willing, and able to perform the proposed services. For purposes of this rule, a truckload contract carrier applicant may show that it is fit, willing, and able by demonstrating that it has insurance coverage as required by the commission, and that the shipper is satisfied with the applicant's equipment, safety record, expertise, and financial status.

(d) An motor carrier protesting the issuance of a truckload contract carrier permit must file with its application an affidavit and evidence sufficient to demonstrate that it has generated at least \$25,000 in annual intrastate revenue from the party the applicant proposes to serve.

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 July 14, 1993.

TRD-9325723

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

Subchapter P. Commercial Zones

• 16 TAC §5.291

The Railroad Commission of Texas proposes an amendment to §5.291, concerning designation of commercial zones. The proposed amendment is a result of legislative amendments to Texas Civil Statutes, Article 911b, requiring the commission to define commercial zones by counties pursuant to enactment of Senate Bill 1313 by the 73rd Legislature, 1993. The proposed section conforms with the legislative enactment that requires a commercial zone to consist of one or more whole counties.

Jackye Greenlee, assistant director-Central Operations, 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.

Rama Bar-Adon, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to increase the number of for-hire carriers to transport commodities in the involved territories and to clarify boundaries to commercial zones. 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 Rama Bar-Adon, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the Article that is affected by this rule: §5. 291-Texas Civil Statutes, Article 911b.

§5.291. *Designation of Commercial Zones.* After notice and public hearing, the commission may [where necessary] define and prescribe commercial zones. Each commercial zone [each of which] shall comprise the geographical area which is adjacent to and commercially a part of an incorporated municipality. A commercial zone shall consist of one or more whole counties. Except as to transportation of commodities in bulk in tank vehicles and except as to all specialized motor carriers, the following exemptions are provided with regard to operations within said commercial zones:

(1)-(2) (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 July 14, 1993.

TRD-9325733

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7096

• 16 TAC §5.292

The Railroad Commission of Texas proposes an amendment to §5.292, concerning factors considered by the commission. The section as proposed amends the factors that the commission considers in commercial zone petitions and in defining commercial zones, and conforms with legislative enactment of Senate Bill 1313 by the 73rd Legislature, 1993.

Jackye Greenlee, assistant director-Central Operations, 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.

Rama Bar-Adon, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the public will be informed of factors the commission may consider when defining commercial zones. 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 Rama Bar-Adon, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after

publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the Article that is affected by this rule: §5. 292-Texas Civil Statutes, Article 911b.

§5.292. *Factors Considered by the Commission.*

(a) (No change.)

(b) In any petition seeking the addition of any county or counties [city or area] to an existing commercial zone, the petitioner shall include, to the extent possible, the information set out in subsection (c) of this section. If a petition fails to include any of the information required, the commission may deny the petition, and request that any additional information necessary for consideration be included with the petition when resubmitted. It is not necessary for consideration be included with the petition when resubmitted. It is not necessary that a particular area [community] meet any standard within the categories of information listed. The information will be used to generate a complete depiction of the commercial, economic, and geographic relationship between the involved areas. [communities. If the petition seeks the inclusion within the commercial zone of an area that includes more than one city or community, the petition should include the information for a representative number of communities that are affected within the area.]

(c) The petition should set out the following information:

(1) information that may be helpful in showing that the county [community] to be added is "adjacent to" the central city:

(A) the distances [distance] in miles between the central city and the centers of communities within the county to be added [from the center of the community to be added to the central city];

(B) the distance in miles from the boundary of the county [community] to be added to the corporate limits of the central city;

(C) the distance in miles from the boundary of the county [community] to be added to the boundary of the existing commercial zone; and

(D) whether the county [community] to be added is separated from the existing commercial zone and the central city by significant unincorporated area;

(2) information that may be helpful in showing that the county [community] to be added is "commercially a part of" the central city:

(A) demographic trends relating to population movements between the central city and communities within the county to be added [the community];

(B) business migration from the central city to the communities within the county to be added [community];

(C) the extent and nature of business and commercial dealings between the central city and communities within the county to be added [the community];

(D) two-way traffic in employees, goods, and services between the central city and communities within the county to be added [the community];

(E) wholesale and retail sales areas for central city business enterprises within the existing commercial zone and in communities within the county to be added;

(F) existence of branch stores in communities within the county to be added [the community];

(G) service to communities within the county to be added [the community] by communications and advertising media in the central city; and

(H) existence of a common transportation infrastructure, including mass transit systems between the existing commercial zone and communities within the county to be added;

(3) information regarding any effect on the existing common carriers that serve communities within the county to be added [the community].

(d) If any portion of a county meets the aforementioned criteria, the commission may include the entire county.

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 July 14, 1993.

TRD-9325732

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7096

◆ ◆ ◆
• 16 TAC §5.294

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

The Railroad Commission of Texas proposes the repeal of §5.294 and proposes new §5.294, concerning existing commercial zones. Old §5.294 has become obsolete as a result of Senate Bill 1313, enacted by the 73rd Legislature, 1993, which requires the commission to define commercial zones by counties. New §5.294 defines the six existing commercial zones in accordance with Senate Bill 1313.

Jackye Greenlee, assistant director-Central Operations, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Rama Bar-Adon, hearings examiner, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the clarification of commercial zone boundaries. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Rama Bar-Adon, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The repeal is proposed under Texas Civil Statutes, Article 911b, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by

this repeal: §5. 294-Texas Civil Statutes, Article 911b.

§5.294. Existing Commercial Zones.

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 July 14, 1993.

TRD-9325731

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7096

◆ ◆ ◆
The new section is proposed under Texas Civil Statutes, Article 911b, §4(a), which authorize the Railroad Commission of Texas to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5. 294-Texas Civil Statutes, Article 911b.

§5.294. Existing Commercial Zones. Commercial zones defined and prescribed by the commission after notice and hearing are as follows.

(1) The Dallas commercial zone shall include the following counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

(2) The Fort Worth commercial zone shall include the following counties: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

(3) The Houston commercial zone shall include the following counties: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller.

(4) The San Antonio commercial zone shall include the following counties: Bexar, Comal, and Guadalupe.

(5) The Beaumont-Orange-Port Arthur commercial zone shall include the following counties: Jefferson and Orange.

(6) The Corpus Christi commercial zone shall include the following counties: Aransas, Kleberg, Nueces, and San Patricio.

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 July 14, 1993.

TRD-9325738

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7096

◆ ◆ ◆
**Subchapter U. General and
Special Rules of Practice
and Procedure**

◆ ◆ ◆
• 16 TAC §5.401

The Railroad Commission of Texas proposes an amendment to §5.401, concerning definitions. The proposed amendment defines "petitioner to suspend," and clears up some ambiguity that currently exists within the commission's rules by eliminating the term "agency" and adding the term "commission" in its place. The amendment is proposed as a result of legislative changes made by the 73rd Legislature, 1993.

Jackye Greenlee, assistant director-Central Operations, 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.

Barbara H. Owens, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be the clarification of terms used within the commission's rules. 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 Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers and for the safety of operations of motor carriers.

The following is the Article that is affected by this rule: §5. 401-Texas Civil Statutes, Article 911b.

◆ ◆ ◆
§5.401. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless

the context clearly indicates otherwise.

[Agency-The Railroad Commission of Texas.]

Applicant or Petitioner-A party seeking a license, rate, or rule from the commission [agency].

Commission-The Railroad Commission of Texas.

Commissioner-One of the elected or appointed members of the decision-making body defined as the commission [agency].

Complainant-Any party who has filed a signed, written complaint with the commission [agency] against any party subject to the jurisdiction of the commission [agency].

Contested case-A proceeding, including, but not restricted to, rate-making and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the commission [agency] after an opportunity for adjudicative hearing.

Division-One of the administrative units for regulation of specific activities within the jurisdiction of the commission [agency].

Examiner-An person appointed by the commission [agency] to conduct hearings on matters within the commission [agency's] jurisdiction.

Petitioner to Suspend-An interested party, including the commission or commission staff, who by written petition, requests or proposes that the commission suspend a proposed rate, charge, or other provision.

Protestant-Any party opposing an application or petition filed with the commission [agency].

Rate-Includes every compensation, tariff, charge, fare, toll, rental, and classification, or any of them demanded, observed, charged, or collected, whether directly or indirectly by any person for any service within the jurisdiction of the commission [agency], and any regulations, practices, or contracts affecting any such compensation, tariff, charge, fare, toll, rental, or classification.

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 July 14, 1993.

TRD-9325716

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7095

◆ ◆ ◆
• 16 TAC §5.411

The Railroad Commission of Texas proposes an amendment to §5.411, concerning parties in interest. The amendment is proposed as a result of legislative changes made by the 73rd Legislature, 1993. The proposed amendment defines a new party in interest in rate applications, and it sets forth standing requirements for existing carriers to appear as a party in opposition to applications for new or amended truckload contract carrier authority.

Jackye Greenlee, assistant director-Central Operations, 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.

Barbara H. Owens, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that it will bring the rule into conformity with statutory requirements. 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 Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the commission with power and authority to prescribe all rules and regulations necessary for the government of motor carriers and for the safety of operations of motor carriers.

The following is the article that is affected by this rule: §5. 411-Texas Civil Statutes, Article 911b.

§5.411. Parties in Interest.

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

(c) Any interested person, public official, agency, agency staff member, or department of the State of Texas or any of its political subdivisions, or any civic or trade organization shall be permitted to file a petition to suspend any application to establish rates, charges, or other tariff provisions for transportation services by filing a petition to suspend not later than the 10th day after the date of the weekly publication in which the commission has provided notice to the public of the proposed rate, charge, or other tariff provision.

(d)[(c)] Any interested person may, subject to the provisions of subsections

(e)[(d)] and (f)[(e)] of this section, be granted leave to intervene or protest upon a showing of a cognizable interest under the Motor Carrier Act.

(e)[(d)] No person shall have standing to appear as a party in opposition to an application for application for new or amended common carrier (including specialized motor carrier) authority unless such person:

(1) shall have filed either:

(A) a timely and valid notice of protest to the application in compliance with §§5.408, 5.414, and 5.420 of this title (relating to Service of Pleadings in Nonrulemaking Proceedings, Form and Content of Pleadings, and Publications of Notice in Nonrulemaking Proceedings);

(B) a timely and valid petition to intervene in opposition to a protested application in compliance with this section; or

(C) a late-filed protest showing good cause for having failed to protest in a timely manner; and

(2) shall be:

(A) the holder of common carrier or specialized motor carrier authority in good standing authorizing it to provide service within the scope of the application; and

(B) willing and able to provide such service that meets the reasonable needs of the shippers involved, and have transported or actively and in good faith solicited traffic within the geographical scope of the application during the 24-month period immediately preceding filing of the application; or

(3) have been granted leave to protest or intervene upon a showing of other cognizable interest under the Motor Carrier Act.

(f)[(e)] No person shall have standing to appear as a party in opposition to an application for new or amended contract carrier authority unless such person shall have met the requirements of subsection (e)[(d)(1)] of this section, and shall either:

(1) be the holder of common carrier or specialized motor carrier authority in good standing authorizing it to provide service within the scope of the application; or

(2) have been granted leave to protest or intervene upon a showing of other cognizable interests under the Motor Carrier Act.

(g)[(f)] Any intervention in opposition shall be recognized only so long as persons who have timely filed protests (or who have shown good cause for filing a late-filed protest) continue as active protesters in the proceeding. If all persons who have timely filed protests (or who have shown good cause for filing a late-filed protest) withdraw or are stricken as protesters, the case shall proceed as an unprotected [unprotected] matter.

(h) No person shall have standing to appear as a party in opposition to an application for new or amended truck-load contract carrier authority unless such person shall:

(1) be the holder of authority in good standing authorizing it to provide service within the scope of the application; and

(2) have generated at least \$25,000 in annual intrastate revenue from the party the application proposes to serve during each of the 2 years preceding the filing date of the application.

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

Issued in Austin, Texas, on July 14, 1993.

TRD-9325727

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7095

◆ ◆ ◆
• 16 TAC §5.423

The Railroad Commission of Texas proposes an amendment to §5.423, concerning applications to establish or change rates. The amendment is proposed as a result of legislative changes made by the 73rd Legislature, 1993. The proposed amendment allows rate applications to be automatically granted 15 days after they are published in the Commission's weekly publication if no suspension petition is filed within a 10-day time period provided by the rule. The proposed amendment also eliminates requirements that rate applications be submitted together with evidence establishing a justification for the application based on cost. Finally, the amended section changes from 15 to 10 days the time frame in which other carriers are permitted to file a request to either participate or not participate, or to intervene in rate applications.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed rules §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications

on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$669,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local government.

Barbara H. Owens, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be regulated carriers and the shipping public will benefit from the amended rule to the extent that its administration will significantly reduce the time involved in applications to establish or change rates. 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 Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers and for the safety of operations of motor carriers.

The following is the article that is affected by this rule: §5.423-Texas Civil Statutes, Article 911b.

§5.423. *Applications To Establish or Change Rates.*

(a) Filing of application.

(1) Generally. Applications to establish or change rates may be submitted and prosecuted, or opposed by any person or entity having an administratively cognizable or justiciable interest, including [e.g.] carriers, shippers, consignees, [and] associations, and the commission or commission staff. Unless a petition to suspend a proposed rate, charge, or other tariff provision is filed, an applicant shall not be required to provide a justification of its proposal based on cost.

(2) (No change.)

(b) Procedures for motor carrier rate applications. Not later than the 10th day after the date the notice of an application to establish a rate, charge, or other provision is published in the commission's weekly publication of such applications, a petitioner to suspend may file a petition requesting that the commission suspend the proposed rate, charge, or other provision.

(1) If no suspension petition is filed within the 10-day period, the proposed rate, charge, or other provision shall take effect on the 15th day after the date of the weekly notice in which the application was published, without a hearing or an order of the commission. Notice of the newly effective rate, charge, or other provision shall be published by the commission as soon as practicable after its effective date.

(2) If a suspension petition is filed within the 10-day period, the proposed rate, charge, or other provision shall not take effect automatically. Instead, the commission shall conduct a hearing to consider the application, and shall enter an interim order suspending or affirming the proposed rate, charge, or other provision not later than the 30th day after notice of the application is published.

(3) If a suspension petition is filed within the 10-day period, but it is later withdrawn or dismissed, the proposed rate, charge, or other provision shall take effect without a hearing or order of the commission, either on the 15th day after the date of the weekly notice in which the application was published, or on the date the suspension petition is withdrawn or dismissed, whichever date is later. Notice of the newly effective rate, charge, or other provision shall be published by the commission as soon as practicable after its effective date.

(c)[(b)] Evidence in support of motor bus applications.

(1) Evidence submitted in support of a motor bus [an] application to establish or change rates shall include, but is not limited to:

(A) a description of pertinent current rates, if any;

(B) revenues at proposed rates—a statement of operating revenues projected to be received under the proposed rates by any [motor carrier(s) or] motor bus company(s) for which rates would apply;

(C) expenses at proposed rates—a statement of operating expenses incurred, or which would be incurred, by any [motor carrier(s) or] motor bus company(s) for which rates would apply;

(D) operating ratio—a statement of resulting operating ratio (operating expenses divided by operating revenues) based upon projected revenues and expenses at proposed rates; and

(E) allocations, methodology, or special studies—a statement of any allocation, methodology, or special study used in preparation of the evidence in support of an application to establish or change rates.

(2) Where the application does not directly seek establishment of a rate or charge of an existing rate, it must include evidence to show that the proposal would be reasonable and not unduly discriminatory.

(3) The commission may require that the evidence included in rate applications demonstrate that the revenues and expenses submitted are representative of the revenues and expenses of [motor carrier(s) or] motor bus company(s) for which the rates would apply.

(4) Unless otherwise specified in the application or as provided in subsections (d) and (e) of this section [paragraphs (5) and (6) of this subsection], rates shall apply to all [motor carriers or] motor bus companies having authority to provide transportation services under the application.

(d)[(5)] Within 10 [15] days after the date of the published transportation notice of hearing of an application for a reduction in rates, a motor carrier or motor bus company may request in writing that it be allowed to participate or not to participate in the application as published. A copy of the request shall be timely served upon the applicant. The request will be granted upon good cause shown. If the request is not granted, it may be refiled as a separate application, subject to all applicable commission rules.

(e)[(6)] On any application for an increase in rates:

(1)[(A)] any [a] motor carrier or motor bus company may file a written request with the commission within 10 [15] days after the date of the published transportation notice of hearing of the application, that it not be subject to the rates as proposed. A copy of the request shall be timely served upon the applicant. The request will be granted upon good cause shown. If the request is not granted, it may be refiled as a separate application, subject to all applicable commission rules;

(2)[(B)] any motor carrier or motor bus company seeking to participate in the rates proposed for the account of a named motor carrier(s) or motor bus company(s) must file as an intervenor in support thereof in accordance with §5.411 of this title (relating to Parties in Interest) and offer evidence supporting its participation.

(f)[(7)] Applications seeking rate changes based on overall revenue needs will

not be subject to the provisions of subsections (d) and (e) of this section [paragraphs (5) and (6) of this subsection].

(g)[(8)] Documents and workpapers which underlie evidence submitted by a party shall be made available for inspection on request by a party or the commission.

(h)[(c)] Applicability. The provisions of this section shall not apply to annual review of base rates or charges held pursuant to §5.586 of this title (relating to Procedures for Annual Base Rate Adjustment Hearings), deviation procedures held pursuant to §5.587 of this title (relating to Base Rate Deviation Procedures), or suspension procedures held pursuant to §5.588 of this title (relating to Procedures for Deviation Suspension Proceedings).

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 July 14, 1993.

TRD-8325726

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7095

◆ ◆ ◆
• 16 TAC §5.461

The Railroad Commission of Texas proposes an amendment to §5.461, concerning commission surveys of fuel prices. The amendment is proposed as a result of legislative changes made by the 73rd Legislature, 1993. The proposed amendment eliminates emergency procedures and requirements for rate applications based on increased fuel costs.

Jackye Greenlee, assistant director-Central Operations, 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.

Barbara H. Owens, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that it will bring the section into conformity with statutory requirements. 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 Barbara H. Owens, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in

Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers and for the safety of operations of motor carriers.

The following is the article that is affected by this rule: §5.461-Texas Civil Statutes, Article 911b.

§5.461. Commission Survey of Fuel Prices [Emergency Procedures for Rate Applications Based on Increased Fuel Costs].

[(a) A rate application justified solely upon increased fuel costs may qualify for processing under the emergency procedures set forth under subsection (b) of this section, if the application contains all of the following:

[(1) all information and filings required of an expedited application under §5.424 of this title (relating to Expedited Procedure for Application);

[(2) a list of increases in the subject tariff or item granted by this commission within the 12 months prior to the filing of the application, including the percentage of each increase, the time period justifying each increase, and the character of cost evidence (increased labor, fuel, general operating costs, etc.) which supported each increase;

[(3) the operating ratios experienced during the last full calendar year and each of the latest four months preceding the application;

[(4) the average increase in fuel cost per gallon (in cents) experienced since the end date for which data was submitted in the last rate increase involving fuel costs; and

[(5) the average miles per gallon experienced for the time period subject to the application, and the average miles per gallon experienced during the last full calendar year. A detailed explanation and justification must be included if any information submitted in compliance with paragraphs (3) -(5) of this subsection includes data not limited to experience under the tariff or items subject to the application being filed.

[(b) Upon filing of an application under this section, the director shall determine whether requirements have been satisfied. If any requirement has not been met, the director shall return the application with an enumeration of the deficient items. If all such requirements have been met, §4.454 of this title (relating to Suspension of Rules) will be invoked, and the following emergency procedures will apply:

[(1) The subject matter of the application, including the name of the applicant, the increase sought, the tariff or items affected, and any preliminary hearing time and place, will be posted at a clearly designated place in the Transportation Division of the Railroad Commission on the Seventh floor of its offices at 1124 South IH-35, Austin. Information on any application or hearing may be obtained at (512) 445-1330.

[(2) If deemed necessary, a preliminary hearing will be set within five working days of the filing.

[(3) Notice of consideration by the commission of an interim order will be filed with secretary of state for the next regularly scheduled commission conference.

[(4) Normal publishing and hearing procedures will be followed prior to the final disposition of any application accepted for docketing under this section.

[(c)] The commission may conduct a periodic survey of fuel prices within the State of Texas.

(1) Each survey shall include a representative number of locations and may [shall] cover:

(A) both diesel and gasoline prices; and

(B) both bulk and pump prices.

(2) The results of each survey will be posted at a clearly designated place in the Transportation Division of the commission [Railroad Commission].

(3) Except as provided in paragraph (4) of this subsection, no fuel adjustment charge prescribed after the posting of a current fuel survey [effective date of this subsection] may be based on fuel prices higher than those reflected in the most current fuel price survey conducted by the commission.

(4) The commission may prescribe a fuel adjustment charge based on fuel prices higher than those reflected in the most current fuel price survey conducted by the commission where the higher prices were actually paid by the applicant carriers and good cause is shown for having paid the higher price.

(5) Fuel adjustment charges over which the commission has continuing jurisdiction may be reduced to reflect the level of fuel prices shown in the most current fuel price survey conducted by the commission.

(A) The commission or the director of the commission's transporta-

tion division may direct [invoke §5.454 of this title (relating to Suspension of Rules) by directing] that a proceeding be instituted in accordance with §5.423, to consider changing [reducing] fuel adjustment charges under this paragraph, and shall serve [serving] notice on the affected carriers that such a proceeding has been instituted.

[(B) Proceedings instituted under this paragraph shall be conducted in accordance with subsection (b)(1)-(4) of this section. The term "application," when used in subsection (b) of this section, shall include proposals made on the commission's own motion under this subsection.]

(B)[(i)] The commission may [, in accordance with the provisions of subsection (b) of this section] issue an interim or a final order reducing a fuel adjustment charge over which the commission has continuing jurisdiction to a level which reflects the level of fuel prices shown in the most current fuel price survey conducted by the commission.

[(ii) Normal publishing and hearing procedures will be followed prior to final disposition of any proceeding instituted under this paragraph.]

(6) Fuel adjustment charges may not be increased based on fuel price levels reflected in any price survey conducted 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 accept.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325725

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7095

◆ ◆ ◆
• 16 TAC §5.462

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

The Railroad Commission of Texas proposes the repeal of §5.462, concerning certification of minority-owned applicants for motor carrier and motor bus authority, and proposes new §5.462, concerning certification of disadvantaged businesses for such authority. New §5.462 defines "disadvantaged business" and

related terms, sets the standards for certification of disadvantaged businesses, and establishes requirements for maintaining status as a disadvantaged business certificate holder. The rule is proposed in order to implement Senate Bill 1313 enacted by the 73rd Legislature, which amends the Texas Motor Carrier Act, Article 911b. Senate Bill 1313 creates a new set of certification requirements for applicants seeking motor carrier authority as disadvantaged businesses. The requirements for a motor bus applicant seeking authority as a disadvantaged business remain substantially the same. Both sets of requirements are incorporated into new §5.462.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed repeal for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

Gary Elkins, hearings examiner, has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be the increased availability and participation of disadvantaged businesses in the for-hire motor carrier industry by disadvantaged and minority-owned applicants. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Gary W. Elkins, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The repeal is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a) and Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor bus companies and motor carriers, respectively, and to supervise and regulate such carriers in all matters affecting the relationship between carriers and the shipping public.

The following is the article that is affected by this repeal: §5.462-Texas Civil Statutes, Article 911b.

§5.462. Certification of Minority-Owned Applicants.

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 July 14, 1993.

TRD-9325729

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094



New §5.462 is proposed pursuant to Texas Civil Statutes, Article 911a, §4(a) and Article 911b, §4(a), which provide the commission with the power and authority to prescribe all rules and regulations necessary for the government of motor bus companies and motor carriers, respectively, and to supervise and regulate such carriers in all matters affecting the relationship between carriers and the shipping public.

The following is the article that is affected by this rule: §5.462-Texas Civil Statutes, Article 911b.

§5.462. Certification of Disadvantaged Businesses for Motor Carrier and Motor Bus Authority.

(a) Policy. It shall be the policy of the Railroad Commission of Texas to encourage, within the limits of its discretion and statutory authority, more equitable participation in the for-hire motor carrier and motor bus industries by disadvantaged businesses.

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

(1) Disadvantaged business-

(A) a corporation formed for the purpose of making a profit in which at least 51% of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Americans, American Indians, Alaska natives, and Pacific islanders, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(B) a sole proprietorship for the purpose of making a profit that is 100% owned, operated, and controlled by a person described by subparagraph (A) of this subsection;

(C) a partnership for the purpose of making a profit in which 51% of the

assets and interest in the partnership is owned by one or more persons described by subparagraph (A) of this subsection who have a proportionate interest in the control, operation, and management of the partnership's affairs; or

(D) a joint venture in which each entity in the joint venture is a disadvantaged business under this subsection.

(2) Disadvantaged business applicant-Any disadvantaged business applying for new or amended motor carrier or motor bus authority.

(3) Disadvantaged business certificate holder-Any disadvantaged business that holds motor carrier or motor bus authority issued by the Commission.

(4) Disadvantaged business transportation contractor-Any owner-operator and/or a multi-truck lessor leased to a for-hire motor carrier or motor bus company, who is socially disadvantaged because of his or her identification as a member of certain groups, including African Americans, Hispanic Americans, women, Asian Americans, American Indians, Alaska natives, and Pacific islanders, who have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control.

(c) Liaison officer. The director of the Transportation Division shall designate a bona fide disadvantaged business liaison officer within the Transportation Division who shall have the responsibility of advising bona fide disadvantaged business applicants as to the manner of initiating the certificate, permit, or rate processes and as to the manner of compliance by successful disadvantaged business applicants with Transportation Division rules, regulations, and procedures. The field auditors of the Transportation Division, operating under the director of the Transportation Division, shall have the responsibility of advising prospective disadvantaged business applicants of the assistance available from the Transportation Division disadvantaged business liaison officer.

(d) Burden of proof for motor carrier authority. In order to obtain a for-hire motor carrier certificate or permit, a disadvantaged business applicant shall be required to make a prima facie case that it is fit, willing, and able to perform the proposed service and to meet the requirements of the Texas Motor Carrier Act. In determining whether the applicant has made a prima facie case that it is fit, willing, and able to perform the proposed service, the Commission shall consider the following:

(1) the probable permanence and the quality of service offered by the disadvantaged business applicant;

(2) the financial ability and responsibility of the disadvantaged business applicant and its organization and personnel;

(3) the nature and character of vehicles and equipment proposed to be used by the disadvantaged business applicant;

(4) the character and location of depots or termini proposed to be used by the disadvantaged business applicant;

(5) the experience of the disadvantaged business applicant in the transportation of property;

(6) The ability of the disadvantaged business applicant effectively to transport the involved commodities and serve the territory proposed;

(7) the character of the bond or insurance proposed to be given to ensure the protection of the public;

(8) whether a particular highway or highways designated in an application by a disadvantaged business are of such type of construction or in such state of repair, or subject to such use, as to permit the use sought to be made by the disadvantaged business applicant, without unreasonable interference with the use of such highways by the general public for highway purposes. In addition to making a prima facie case that it is fit, willing, and able to perform the proposed service, a disadvantaged business applicant for motor carrier authority shall make a prima facie case that it is fit, willing, and able otherwise to meet the requirements of the Act and the regulations the Commission adopts under the Act relating to the disadvantaged business applicant's fitness, willingness, and ability to provide the proposed service.

(e) Consideration of opposing parties. In making a determination on granting an application for motor carrier authority, the Commission may not consider evidence presented by an opposing party that:

(1) does not show that the applicant is not fit, willing, and able to perform the service proposed and to meet the requirements of the Act and the regulations the Commission adopts under the Act;

(2) shows that an opposing party or another carrier already adequately provides or could adequately provide the proposed service; or

(3) shows that a complaint has been or will be filed against the disadvantaged business applicant for a violation of the Act, unless the complaint is in regard to a safety violation.

(f) Burden of proof for motor bus authority. In order to obtain a motor bus

certificate or permit, a disadvantaged business applicant shall be required to meet the burden of proof imposed by law on regular applicants. In multiple applicant proceedings where the demonstrated public need will support a grant of some, but not all, of the applicants, and the evidence establishes a need for the availability of disadvantaged business transportation services not being met by existing disadvantaged business certificate holders and/or by other existing carriers through the use of disadvantaged business transportation contractors, the Commission may consider an applicant's status as a disadvantaged business applicant as a factor, along with all other relevant factors, in determining which of the applications should be approved. The unavailability of existing disadvantaged businesses may be considered as a factor in determining adequacy of existing bus service where a disadvantaged business applicant demonstrates, through public witness evidence, a public necessity for use of the services of a disadvantaged business certificate holder and/or disadvantaged business transportation contractor as a primary means of meeting requirements of state or federal law, and local ordinances for use of a contractor qualifying as a disadvantaged business certificate holder or disadvantaged business transportation contractor under these regulations, and where existing bus companies opposing the applicant fail to establish that they are capable of adequately meeting the demonstrated need for the availability of disadvantaged business certificate holders and/or disadvantaged business transportation contractors.

(g) Scope of authority. The commodity and territorial scope of grants of motor carrier or motor bus certificates and permits to disadvantaged business applicants shall be determined as in the case of a regular applicant.

(h) Determination of disadvantaged business status. In determining whether an applicant qualifies as a disadvantaged business under this subsection, the Commission may consider the actual management or control of the applicant as well as incidence of ownership. If the Commission determines that an applicant has used any method or device to enable a person or entity that is not a disadvantaged business to qualify for a certificate or permit under this subsection, it shall deny the applicant status as a disadvantaged business under this subsection.

(i) Transfer of certificate. A certificate or permit awarded under this subsection may not be transferred to another person for five years after the date the certificate or permit is awarded unless the transferee also qualifies as a disadvantaged business under this subsection. This limitation applies even if the holder of the certifi-

cate or permit seeks to transfer the certificate or permit because the disadvantaged business is unable to maintain financial viability. The Commission shall require a disadvantaged business that is awarded a certificate or permit under this subsection to notify the Commission during the period the transfer of a certificate or permit is restricted under this subsection of each change of ownership of the business. The Commission may revoke the certificate or permit of a disadvantaged business that fails to provide notice required under this subsection.

(j) Maintenance of status. Except as provided in this subsection, the Commission shall revoke a certificate or permit awarded under this subsection if the Commission determines that, during the period the transfer of the certificate or permit is restricted under subsection (i) of this section, the holder of the certificate or permit no longer qualifies as a disadvantaged business. The Commission may not revoke a certificate or permit awarded under this subsection if the holder of the certificate or permit no longer qualifies as a disadvantaged business because of a change in ownership of the business through devise or descent.

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 July 14, 1993.

TRD-9325739

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

◆ ◆ ◆
• 16 TAC §5.463

The Railroad Commission of Texas proposes an amendment to §5.463, concerning Administrative Penalties Procedures. The proposed rule specifies the penalties that may be assessed by the Railroad Commission for violations of state statutes and state and federal regulations relating to transportation. The rule is proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which extended the commission's power to assess penalties.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal

Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

E. A. Galvan, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule requires a safer and more responsive transportation industry. There will be no effect on small businesses. The proposed rule contains sanctions against transportation companies that violate administrative and safety rules. 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 E. A. Galvan, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed under Texas Civil Statutes, Article 911b, §4(a) (12) and Article 6701d, §139(g), (j), and (k), which provide the commission with authority to regulate transportation.

The following are the statutes that are affected by this rule: §5. 463-Texas Civil Statutes, Article 911b and Article 6701d.

§5.463. Administrative Penalties Procedures.

(a) (No change.)

(b) Assessing administrative penalties.

(1) Except as provided in subsection (b)(1)(B) and (C) of this section, any person, motor carrier, motor bus company, or shipper that violates [The agency may assess administrative penalties of up to \$10,000 for violation of] any provision of Texas Civil Statutes, Article 911a or Article 911b, respecting safety, certificates, or rates or any commission [agency] rule, regulation, or order respecting safety, certificates, or rates [by any motor bus company, motor carrier, shipper, or other person whomsoever] may be assessed a penalty of up to \$10,000.

(A) Any person, motor carrier, or shipper that knowingly commits multiple violations of Texas Civil Statutes, Article 911b respecting safety, certificates, or rates, or any commission rule, regulation, or order respecting safety, certificates, or rates may be assessed an aggregate penalty of up to \$25,000.

(B) A person that violates §139 of the Uniform Act Regulating Traffic on the Highways (Texas Civil Statutes, Article 6701d) or any regulation adopted under such section shall be subject to a penalty not to exceed the maximum amount that may be assessed for violation of current federal regulations and their subsequent amendments under the Hazardous Materials Regulations (49 Code of Federal Regulations, Parts 101-199) and the Federal Motor Carrier Safety Regulations (49 Code of Federal Regulations, Parts 386 and 388-399).

(2) For purposes of assessing administrative penalties, a violator is defined as a corporation, association, partnership, firm, individual, person, company, co-partnership, joint stock association, motor bus company, motor carrier, shipper owner or operator of a commercial motor vehicle, or other entity or person whomsoever and their lessees, receivers, or trustees appointed by any court who commits an act, omission, or violation of the statutes respecting safety, certificates, or rates, or any commission [agency] rule, regulation, or order respecting safety, certificates, or rates.

(A) A person acts knowingly if such person has actual knowledge of the facts that give rise to such violation, or a reasonable person acting in the same circumstances and exercising due care would have had such knowledge. The commission may consider past violations of this Act.

(B) Multiple violations are all violations respecting safety, certificates, or rates arising during a single episode pursuant to one scheme or course of conduct.

(3) Each act, omission, or violation of the statutes respecting safety, certificates, or rates or any commission [agency] rule, regulation or order respecting safety, certificates or rates that occurred prior to September 1, 1993, may [shall] subject the violator to an administrative penalty of up to \$10,000 per violation.

(4) (No change.)

(c)-(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 July 14, 1993.

TRD-9325728

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7096

• 16 TAC §5.464

The Railroad Commission of Texas proposes new §5.464, concerning written testimony in authority cases. The rule specifies what written testimony is to be pre-filed by the parties to an authority case. Because unprotested applications must be issued within 10 days of the time a case goes unprotested or within ten days of the time the period for filing a protest has expired, written testimony that will establish an applicant's prima facie case must be in place as soon as possible. Similarly, because a proposed decision must be announced by an examiner within seven days of the concluding date of a hearing and the proposal for decision issued within 30 days of the concluding date of the hearing, pre-filing of written testimony is essential. The rule is proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amends the Texas Motor Carrier Act.

Jackye Greenlee, assistant director-Central Operations, 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.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that decisions will be made in a more timely manner through the use of basic operating and supporting testimony on-hand at an early stage of the proceedings and the public's safety and use of public roads will be assured when unprotested applications are granted without commissioners' review in open conference. 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 Carrie L. McLarty, Hearings Examiner, P. O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5. 464-Texas Civil Statutes, Article 911b.

§5.464. Written Testimony in Authority Cases.

(a) Direct written testimony. The direct testimony of every witness in a contested case involving authority shall be presented in written form, together with any exhibit supported by the written testimony.

(b) Prefiling. The applicant shall file its written testimony and exhibits, as well as the written testimony of its public witnesses, with its application. Failure to prefile written testimony and exhibits in the required form shall be sufficient cause for the application to be rejected for filing. In the event the application becomes protested, the applicant shall deliver true and correct copies of its written testimony and exhibits to each protestant seven days prior to the hearing of the case. A protestant shall deliver a true and correct copy of its written testimony to the applicant and the examiner at the opening of the hearing.

(c) Admissibility of written testimony at hearing. The witness who is offering written testimony at a hearing on an application for authority shall be sworn and shall identify the written testimony as a true and accurate representation of what the testimony would be if the witness were to testify orally, after which the witness shall submit to voir dire and cross-examination. In the case of an applicant and its public witnesses, direct oral testimony will be allowed only for the purpose of correcting errors of fact and clerical errors within the written testimony. Nothing shall prevent the oral, re-direct examination of a witness. Written testimony and accompanying exhibits shall be subject to the same evidentiary objections as oral testimony.

(d) Applicant written direct testimony. The written direct testimony of an applicant shall, at a minimum, include the following information:

- (1) identification of the individual testifying;
- (2) location and description of terminal;
- (3) description of equipment by number, type, and owner;
- (4) description of employees by number and responsibility;
- (5) applicant's experience in the transportation of the involved commodities;
- (6) financial responsibility;
- (7) amount and type of insurance coverage;
- (8) evidence that the highways over which applicant proposes to transport, due to the type of construction, state of repair, or amount of use, are an such condition as to allow applicant's use of the high-

ways without unreasonable interference with the general public's use of those highways; and

(9) any other matter required by law for which an applicant must make a prima facie case.

(e) Public witness written direct testimony. The written direct testimony of public witnesses shall, at a minimum, include the following information:

- (1) name and location of company;
- (2) identification of the individual testifying;
- (3) nature of business;
- (4) commodities involved;
- (5) traffic characteristics-volume and frequency;
- (6) traffic to be tendered applicant;
- (7) origins and/or destinations;
- (8) type of service required; and
- (9) deficiencies in existing services.

(f) Protestant written direct testimony. The written direct testimony of a protestant shall, at a minimum, include the following information:

- (1) name and location of company;
- (2) identification of the individual testifying;
- (3) nature of authority held;
- (4) location and description of terminal;
- (5) description of equipment by number, type, and owner;
- (6) description of employees by number and responsibility;
- (7) driver safety programs; and
- (8) description of advertising and solicitation efforts.

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 July 14, 1993.

TRD-8325721
Mary Rose McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

• 16 TAC §5.465

The Railroad Commission of Texas proposes new §5.465, concerning concluding a protested hearing. The new rule establishes how to determine when a hearing is concluded, and requires that the hearings examiner be responsible for notifying all parties of the concluding date of the hearing. The new rule also provides that the examiner must issue a proposed decision within seven days of the concluding date of the hearing. This rule is proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amended in the Texas Motor Carrier Act.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is that the parties to a protested hearing will have a definite starting point from which to calculate future deadlines. In addition, it will allow the parties to learn the examiner's proposed decision at or near the time of the conclusion of the hearing. 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 Carrie L. McLarty, Hearings Examiner, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5.465-Texas Civil Statutes, Article 911b.

§5.465. Concluding a Protested Hearing.

(a) Concluding date of the hearing. For purposes of calculating when a proposed decision, a proposal for decision, or a final decision is due, the concluding date of

hearing shall be the date contained in the examiner's written notice closing the hearing, as set out in subsection (b) of this section or at the close of testimony should the examiner so rule.

(b) Concluding the hearing. The examiner is responsible for concluding the hearing. The examiner may hold the hearing open for a period of up to 21 days following the filing of the transcript to allow the parties to file late exhibits, proposed findings of fact, closing arguments, or for any other stated purpose necessary for a fair, just, and proper hearing. The examiner shall give written notice to the parties that the hearing is closed if the hearing is closed at a time other than the close of testimony.

(c) Proposed decision. The examiner shall notify the parties of the examiner's proposed decision not later than the seventh day after the concluding date of the hearing.

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

Issued in Austin, Texas, on July 14, 1993.

TRD-9325720 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

◆ ◆ ◆
• 16 TAC §5.466

The Railroad Commission of Texas proposes new §5.466, concerning proposals for decision in contested authority and ratemaking cases. The section establishes a 30-day deadline from the concluding date of the hearing for submitting proposals for decision to the commission. The rule is proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amended the Texas Motor Carrier Act.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule is

to bring it into compliance with statutory requirements. 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 Carry L. McLarty, Hearings Examiner, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5.466-Texas Civil Statutes, Article 911b.

§5.466. Proposals for Decision. In a contested case involving applications for authority or ratemaking, the proposal for decision must be submitted to the Commission no later than the 30th day following the concluding date of the hearing. For purposes of this rule, "submitted to the Commission" means issuance of the proposal for decision by the examiner to the parties to afford the parties an opportunity to file exceptions and replies.

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 July 14, 1993.

TRD-9325719 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

◆ ◆ ◆
• 16 TAC §5.467

The Railroad Commission of Texas proposes new §5.467, concerning final decisions and orders in authority and ratemaking cases. The section establishes that the commission must issue final orders within 120 days of the concluding date of the hearing. In addition, the section provides that uncontested and unprotested applications must be granted within ten days from the date the time for filing protests has expired or the date the application becomes unprotested. The rule is

proposed as a result of the enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amends the Texas Motor Carrier Act.

Jackye Greenlee, assistant director-Central Operations, 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.

Carrie L. McLarty, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule would be to bring it into compliance with statutory requirements and to provide a more responsive, streamlined approach to commission decisions and orders. 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 Carry L. McLarty, Hearings Examiner, P.O. Drawer 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The new section is proposed pursuant to Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the article that is affected by this rule: §5.467-Texas Civil Statutes, Article 911b.

§5.467. Final Decisions and Orders.

(a) The final decision on applications for authority or ratemaking must be rendered within 120 days of the concluding date of the hearing. The parties may, by written agreement with the approval of the Commission, provide for an extension of this time period of not more than 60 days.

(b) With respect to an application for authority, the Director of the Transportation Division shall grant the application within ten days after the later in time of the expiration of the protest period or the withdrawal of the last protestant. The Director of the Transportation Division shall notify the applicant that the application has been granted and that a certificate will issue once the applicant has complied with all the requirements of Subchapter L of this title.

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 July 14, 1993.

TRD-9325718

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

Subchapter Z. Base Rates, Deviations, and Suspensions

• 16 TAC §5.582

The Railroad Commission of Texas proposes an amendment to §5.582, concerning Base Rates, Deviations, and Suspensions. The proposed rule specifies the deviations from Commission established base rates that motor carriers, other than specialized motor carriers and contract carriers subject to Commission tariffs for specialized commodities, may utilize in setting their shipping rates. The rule is proposed as a result of the enactment of Senate Bill 1313 and House Bill 1156 by the 73rd Legislature, 1993.

Jackye Greenlee, assistant director-Central Operations, has determined that to implement Senate Bill 1313, enacted by the 73rd Legislature, 1993, as set forth in proposed §§5.45, 5.46, 5.423, 5.462, 5.463, 5.465, 5.466, and 5.582, will have fiscal implications on state government as a result of administering and enforcing the proposed rule for each of the first five years. The effect on state government is estimated to be \$699,783 in Fiscal Year (FY) 1994, \$533,565 in FY 1995, \$605,973 in FY 1996, \$589,021 in FY 1997, and \$589,021 in FY 1998. There will be no fiscal implications for local governments.

John S. Teer, hearings examiner, has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be accelerated rate changes and enhanced free market competition. 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 S. Teer, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*. The Railroad Commission of Texas will hold a public hearing on the proposal on Tuesday, August 10, 1993, at 9:00 a.m. in Room 1-100 of the William B. Travis Building, 1701 North Congress Avenue, Austin. The hearing is structured for the receipt of oral testimony.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §4(a), which provide the Commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers and for the safety of operations of motor carriers, and to

supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public.

The following is the Article that is affected by this rule: §5. 582-Texas Civil Statutes, Article 911b.

§5.582. Deviations From Base Rates.

(a) (No change.)

(b) Subject to the provisions of subsection (g)[(f)] of this section, motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 5.0% above or below the applicable base rate or charge for shipments of general commodities weighing from 501 to 9,999 pounds.

(c) Subject to the provisions of subsection (h) of this section, motor [Motor] carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 25% above or below the applicable base rate or charge for shipments of general commodities weighing from 10,000 to 25,000 pounds [or more].

(d) Motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 40% above or below the applicable base rate or charge for shipments of general commodities weighing more than 25,000 pounds.

(e)[(d)] Carrier(s) proposing to deviate in accordance with the provisions of this section must file a deviation request with the commission under the provisions set forth in §5.587 of this title (relating to Base Rate Deviation Procedures). No deviation shall become effective unless it has been approved for publication pursuant to the provisions of §5.587(d) of this title (relating to Base Rate Deviation Procedures).

(f)[(e)] A request to cancel or amend an effective deviation shall be made under the standards in this section and the procedures in §5. 587 of this title (relating to Base Rate Deviation Procedures).

(g)[(f)] For shipments of general commodities weighing from 501-9,999 pounds which occupy the full visible capacity of the trailer, motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed

25% above or below the applicable base rate [the amount set out in subsection (c) of this section for shipments weighing 10,000 pounds or more].

(h) For shipments of general commodities weighing 10,000 or more which occupy the full visible capacity of the trailer, motor carriers (other than specialized motor carriers and other than contract carriers subject to commission-prescribed tariffs governing transportation of specialized commodities) shall be permitted to deviate by an amount not to exceed 40% above or below the applicable base rate.

(i)[(g)] Motor bus companies shall be permitted to deviate by an amount not to exceed 15% above, or 50% below, the applicable base rate, fare of charge for the transportation of passengers.

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 July 14, 1993.

TRD-9325730

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

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-7094

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Customer Service and Protection

• 16 TAC §23.54

The Public Utility Commission of Texas proposes an amendment to §23.54, concerning the provision of private pay telephone service. The proposed amendment requires certain interexchange carriers (IXCs) to compensate private pay telephone providers for the use of the pay telephone for intrastate access-code calls in which an end user dials around the pay telephone provider's presubscribed operator service provider (OSP) to reach another OSP/IXC. As in a similar amendment adopted last year by the Federal Communications Commission (FCC) for interstate dial-around compensation, the proposed level of intrastate compensation is \$6.00 per private pay telephone per month. Pay telephones owned by local exchange carriers are not eligible for this compensation.

The amendment directs local exchange carriers (LECs) to require certain IXCs to comply with these compensation requirements. The IXCs in question are those that meet both of

the following criteria: first, they are required by the FCC to compensate private pay telephone providers for interstate access-code calls; and second, they purchase intrastate switched access service from any Class A telephone utility in Texas. These IXC's and private pay telephone providers are responsible for establishing their own billing and payment arrangements, and the LECs are not required to establish the billing and payment arrangements. LECs are directed to provide the IXC's with quarterly lists of all telephone lines receiving customer-owned coin-operated telephone service in their service areas.

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

Mr. Smyth 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 private pay telephone providers will receive compensation for the use of their facilities in carrying access-code calls, just as public pay telephone providers currently are being indirectly compensated through rate of return regulation, thus providing a more competitive pay telephone marketplace. For each of these five years, the anticipated total monthly economic cost to the IXC's required to provide this compensation is approximately \$216,000 (=36,000 private pay telephones * \$6.00 per phone per month), or \$2,592,000 per year. There will be no effect on small businesses. The anticipated economic cost to local exchange carriers resulting from compliance with the rule will be minimal.

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

Comments on the proposed amendment (13 copies) may be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Comments should refer to Project Number 11445.

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

§23.54. Private Pay Telephone Service.

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

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

(11) Access-code call-A call in which an end user dials an access code, including, but not necessarily limited to, "10XXX" and "950-XXXX" codes, to dial around the private pay telephone's presubscribed OSP in order to reach another OSP.

(b)-(j) (No change.)

(k) Private Pay Telephone Compensation. Local exchange carriers (LECs) shall require those interexchange carriers (IXCs) specified in this subsection to comply with the provisions set forth in this subsection.

(1) A private pay telephone provider shall be eligible for compensation in the amount of \$6.00 per private pay telephone per month for originating intrastate access-code calls, to be applied only to those private pay telephones that do not block any type of access-code call. Pay telephones owned by a local exchange carrier do not qualify for compensation under this section.

(2) The LEC shall require that this compensation be paid by those IXC's that meet both of the following criteria:

(A) they are required by the Federal Communications Commission (FCC) to compensate private pay telephone providers for interstate access-code calls; and

(B) they purchase intrastate switched access service from any Class A telephone utility in Texas.

(3) Those IXC's meeting both of the criteria set forth in paragraph (2)(A)-(B) of this subsection will be required by the LEC to pay intrastate compensation based on their relative shares of the interstate compensation obligation. For purposes of this subsection, an IXC's "relative share" means the percentage of toll revenues established by the FCC and adjusted for the exclusion of those IXC's that do not meet the criterion set forth in paragraph (2)(B) of this subsection.

(4) Private pay telephone service providers and IXC's which are obligated by the LEC to pay compensation are responsible for establishing their own billing and payment arrangements. The LEC shall not be responsible for establishing the billing and payment arrangements.

(5) Each quarter, LECs shall provide IXC's paying intrastate compensation with a list of all telephone lines receiving customer-owned coin-operated telephone (COCOT) service in the LEC's service territory as of the date the list was generated.

(l)(k) Average schedule local exchange carriers. Rates for private pay telephone service provided by an average schedule local exchange carrier must be based on the average private pay telephone rates of four similarly-situated local exchange carriers.

(m)(l) Special assembly tariffs. A local exchange carrier with less than 50 private pay telephone lines may provide private pay telephone service pursuant to existing special assembly tariffs; however, in no event may a local exchange carrier provide private pay telephone service to more than three special assembly arrangements. Special assembly rates must be computed in accordance with this section. Local exchange carriers that provide private pay telephone service pursuant to special assembly tariffs must enter into a written agreement with the private pay telephone provider that requires the private pay telephone provider's private pay telephones to perform all functions and obligations specified in subsection (d) of this section.

(n)(m) Compliance. All local exchange carriers must file revised tariffs in compliance with this section within 45 days of the effective date of this section, or of any amendments thereto. The compliance tariffs will be reviewed by the Telephone Utility Analysis Division. Within 35 days of the date of filing of the report, the Hearings Division shall either approve or suspend the effective date of the tariff for further review.

(o)(n) Severability. If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application. It is the intent of the commission that the provisions of this section are severable.

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 July 9, 1993.

TRD-9325634

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

Earliest possible date of adoption: August 20, 1993

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

◆ ◆ ◆
TITLE 19. EDUCATION
Part II. Texas Education
Agency
Chapter 109. Budgeting,
Accounting, and Auditing
Subchapter D. Adoptions by
Reference

• 19 TAC §109.61

The Texas Education Agency (TEA) proposes an amendment to §109.61, concerning

the adoption by reference of Change 28 to the financial accounting manual (Bulletin 679) for school districts and regional education service centers. Change 28 restructures fund, revenue, fiscal year, and fund equity codes, providing enhanced fiscal information for federal and state categorical fund sources, and fund balance designations and reserves. Change 28 also updates Appendix D, accounting transaction examples, in relation to the restructured codes; updates federal program rules and regulations for the child nutrition program; and corrects minor technical errors.

Thomas Canby, director of the Audit Division, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state or local government as a result of enforcing or administering the rule. The implications, resulting from standardization of auditing software, will be minimal but cannot be precisely determined at this time.

Mr. Canby and Criss Cloutd, director of policy planning and evaluation, have 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 schools will have current reference that complies with state and federal laws and current accounting requirements. 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 Criss Cloutd, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.29, which directs the commissioner of education to adopt annually a budget for operating the Foundation School Program, The Central Education Agency, and other programs for which the State Board of Education has responsibility.

§109.61. Financial Accounting Manual.

(a) The rules for financial accounting are described in the official Central Education Agency bulletin, Financial Accounting Manual, Bulletin 679, as amended July 1993 [January 1992], which is adopted by this reference as the agency's official rule. A copy is available for examination during regular office hours, 8:00 a.m. to 5:00 p.m., except holidays, Saturdays, and Sundays, at the Central Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

(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 July 13, 1993.

TRD-9325713

Criss Cloutd
Director, Policy Planning
and Evaluation
Texas Education Agency

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-9701

Title 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels

Tax

• 34 TAC §3.194

The Comptroller of Public Accounts proposes an amendment to §3.194, concerning credit or refund of diesel fuel tax used in power take-off or auxiliary power unit. The amendment adds definitions of power take-off equipment, auxiliary power units, solid waste refuse trucks, and street sweepers. The amendment also sets out the percentage of motor fuel tax refunds available to political subdivisions operating street sweepers to clean streets and rights-of-way and to contractors cleaning parking lots and private areas.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the proposed rule will be in effect there will be no revenue impact on the state or local government as a result of enforcing the rule.

Dr. Plaut 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 in providing new information regarding tax responsibilities. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Charles C. Johnstone, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.194. Credit or Refund of Diesel Fuel Tax Used in Power Take-Off or Auxiliary Power Unit.

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

(d) Definitions. The following words and terms, when used in this sec-

tion, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Auxiliary power unit—A separate engine that is mounted on a motor vehicle and that powers equipment. The engine powering the equipment may have its own fuel supply tank or use fuel from the fuel supply tank of the motor vehicle.

(2) Power take-off equipment—Equipment permanently mounted on a motor vehicle and operating off the mechanical power of the motor vehicle engine transmitted to the equipment through shafts and universal joints or the transmission of the motor vehicle.

(3) Solid waste refuse truck—A motor vehicle equipped with a power take-off or auxiliary power unit which provides power to compact the refuse, open the container prior to ejection and eject the compacted refuse.

(4) Street sweeper—A vehicle on which is permanently mounted equipment powered by an auxiliary power unit or power take-off and designed for the removal by broom, vacuum, or regenerative air system the debris, dirt, gravel, litter, or sand from the surfaces of parking lots, roads, streets, highways, and warehouse floors.

(e) Street sweepers equipped with power take-off or auxiliary power unit.

(1) Street sweepers operated by contractors and others cleaning parking lots and private areas may claim a refund of 30% of the total gasoline or diesel fuel used in this state in each sweeper.

(2) Street sweepers operated by cities, counties, and other political subdivisions may claim a refund of 100% of the total gasoline or diesel fuel used to sweep streets and other rights-of-way maintained by them.

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 July 14, 1993.

TRD-9325749

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-4028

Subchapter O. State Sales and Use Tax

• 34 TAC §3.341

The Comptroller of Public Accounts proposes an amendment to §3.341, concerning sales of governmental publications, records, or documents. The amendment is being made to clarify when sales tax is to be charged on the sale of publications and other materials furnished to the public by governmental agencies.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the proposed rule will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the rule.

Mr. Reissig 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 in providing new information regarding tax responsibilities. There is no anticipated economic cost to persons who are required to comply with the proposed rule. The rule is proposed under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

Comments on the proposal may be submitted to Charles C. Johnstone, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.341. Sales of Governmental Publications, Records, or Documents.

(a) For the purposes of this section, all records held by a governmental agency are public unless made confidential by law. Public records include the portion of all documents, writings, letters, memoranda, or other written, printed, typed, copied, collected, assembled, or developed material that contains public information.

(b) The confidentiality of records will be determined by language of the confidentiality provisions of the appropriate statute.

(c)[(a)] When a governmental body is required, under the Open Records Act, to furnish a copy of any record [document] held by it, the transaction is not considered the sale of a taxable item. Sales tax is not due on any fee charged by the governmental body for furnishing one copy. It makes no difference whether the copy is certified or the fee established by statute, ordinance, or a public official [or the state purchasing and general services commission].

(d) [(b)] When a person requests more than one copy of a public document required to be furnished, sales tax is [not] due on the fee charged by the governmental body to furnish the additional copy or copies.

(e) [(c)] Sales or use tax is not due on the fee charged by a governmental body for furnishing a copy [or copies] of a record [document] not open to public inspection to a person who is authorized to obtain a copy [or copies] of such record [document]. For example, sales or use tax is not due on the fee charged by the comptroller's office for a copy of an individual's sales tax return, by a college for furnishing a student's academic transcript to the student or by the department of health for furnishing a person a copy of the person's birth certificate.

(f)[(d)] Unless such sales are otherwise exempt, sales tax is due on sales of [regular] publications[,] such as magazines, except when sold on subscriptions for semiannual or longer periods, books, brochures, or other general information publications. Not covered by this subsection are reports, maps, or customer lists prepared or compiled by state agencies from public information [records or general information by a governmental body even though such publications, records or information may be open or available to the public by statute. For example, textbooks sold by a state university are taxable. The Texas Tax Guide sold by the comptroller's office is taxable. Magazine subscriptions sold by a state agency are taxable. See §3.299 of this title (relating to Newspapers, Magazines, Publishers, Sacred Writings, Broadcasters)].

(g)[(e)] Sales tax collected by state agencies is to be remitted in accordance with Funds Accounting Policy Statement Number 012 on comptroller's form 73-113 [73.113].

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 July 13, 1993.

TRD-9325657

Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-4028

Subchapter V. Franchise Tax

• 34 TAC §3.573

The Comptroller of Public Accounts proposes new §3.573 concerning provisional exemp-

tions. The new section sets out the procedure for obtaining a temporary franchise tax exemption while awaiting a ruling from the Internal Revenue Service on a corporation's federal status.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no revenue impact on the state or local government.

Mr. Reissig 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 from the clarification of comptroller rules regarding franchise tax exemptions. This rule is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Charles C. Johnstone, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

The new section is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

§3.573. Provisional Exemptions.

(a) If established with the comptroller, the following corporations may be granted a temporary exemption from franchise tax:

(1) a nonprofit corporation that has applied for exemption from federal income tax under the 1954 Internal Revenue Code, as it existed on January 1, 1975, §501(c)(3), (4), (5), (6), or (7);

(2) a corporation that has applied for exemption from federal income tax under the Internal Revenue Code of 1986, §501(c)(2) or (25), if the entity or entities for which it holds title to property is either exempt from or not subject to the franchise tax;

(3) a corporation that has applied for exemption from federal income tax under the 1986 Internal Revenue Code, §501(c)(16).

(b) To obtain a temporary franchise tax exemption with the comptroller, a corporation that has applied for but has not yet received a letter of exemption from the Internal Revenue Service must:

(1) timely file with the comptroller a copy of the application for recognition of exemption that has been filed with the Internal Revenue Service; and

(2) timely file with the comptroller a copy of written notice from the Internal Revenue Service stating that the application for recognition of exemption has been received; or

(3) timely file with the comptroller a copy of the application for recognition of exemption that has been filed with the Internal Revenue Service and a copy of a receipt as proof that the application has been sent to the Internal Revenue Service by means of the United States Postal Service, other carrier, or hand delivery to the Internal Revenue Service.

(c) Subsection (b)(3) of this section applies only if the corporation has filed its application for recognition of exemption during the 14th or 15th month after its beginning date. Beginning date means:

(1) for a Texas corporation, the charter date; and

(2) for a foreign corporation, the earlier of the certificate of authority date, or the date the corporation begins doing business in Texas.

(d) If the information required in subsection (b)(1)-(2) of this section is provided in a timely manner, a 90-day provisional franchise tax exemption will be granted.

(e) A corporation qualifying under subsection (b)(3) of this section will be granted a 90-day provisional exemption with the condition that a copy of the notice required in subsection (b)(2) of this section be provided to the comptroller within 30 days from the date of the letter notifying the corporation of the provisional exemption. If the Internal Revenue Service notification is not provided within the 30-day period, the provisional exemption will be canceled. A corporation whose provisional exemption is canceled will be subject to all tax, penalty, and interest that has accrued since the corporation's beginning date.

(f) The information necessary for obtaining a temporary franchise tax exemption will be considered to be provided to the comptroller in a timely manner if:

(1) the application for recognition of exemption is provided to the Internal Revenue Service within their timely filing guidelines; and

(2) the information required in subsection (b)(1)-(2) or (3) of this section is postmarked within 15 months after the day that is the last day of a calendar month and that is nearest to the corporation's beginning date.

(g) Before the expiration of the 90-day provisional exemption, the corporation must provide the comptroller a copy of the letter from the Internal Revenue Service showing that the decision on the federal exemption is still pending or stating that the federal exemption is either granted or denied.

(h) If the comptroller is notified as required in subsection (g) of this section

that the decision on the federal exemption is still pending, an extension of the provisional exemption may be considered.

(i) If the information in subsection (g) of this section is not provided as required, the provisional exemption may be canceled. If the provisional exemption is canceled, the corporation will be responsible for all franchise tax reports and payments that have become due since its beginning date, and penalty and interest will be based on the original due date of each report.

(j) A corporation that provides the comptroller a copy of the letter from the Internal Revenue Service stating that the federal exemption has been granted, will be considered for franchise tax exemption under §3.541 of this title (relating to Exemptions).

(k) If the federal exemption is denied by the Internal Revenue Service, the corporation is responsible for all franchise tax reports and payments that have become due since its beginning date and interest will be based on the original due date of each report. Late filing and payment penalties will be waived for any reports and payments postmarked within 90 days after the date of the final denial of the federal exemption. The penalty waiver process will begin when the corporation submits a written request for penalty waiver and a copy of the letter denying the federal exemption when filing reports and payment.

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 July 14, 1993.

TRD-9325750

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: August 20, 1993

For further information, please call: (512) 463-4028

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 3. Income Assistance Services

Subchapter L. Work Registration

• **40 TAC §§3.1201, 3.1202, 3.1203**

The Texas Department of Human Services (DHS) proposes amendments to §§3.1201

and 3.1202, and new §3.1203, concerning participation requirements, failure to comply, and who may volunteer in its Income Assistance Services chapter. The purpose of the amendments and new section is to provide the policy basis for implementation of employment services under the McLennan County Food Stamp Employment and Training (E&T) Demonstration Project. Texas is one of five states approved by the United States Department of Agriculture to operate a demonstration project to test conformance between the E&T and the Job Opportunities and Basic Skills Training (JOBS) programs. In Texas' demonstration project, services for Food Stamp E&T and JOBS participants will be fully integrated following the service delivery model used for the JOBS program. The amendments and new section cover the participation requirements for food stamp household members in McLennan County, the supportive services available to meet their needs to participate in the program, the penalties applied to food stamp household members for failure to comply with participation requirements, and the opportunity to volunteer for services even if exempt. Also in this issue of the *Texas Register* the department is proposing an amendment to Chapter 10, Family Self-Support Services, regarding this project.

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 sections. The effect on state government for the first five-year period the sections will be in effect is an estimated additional cost of \$83,884 in fiscal year (FY) 1993; \$277,285 in FY 1994; \$294,602 in FY 1995; \$305,371 in FY 1996; and there will be no impact for FY 1997 as the project will end in 1998. There will be no effect on local government or small businesses as a result of enforcing or administering the rules.

Mr. Raiford 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 that food stamp recipients will have the opportunity to receive employment services better targeted to their needs thereby improving their ability to achieve long-term self-sufficiency. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed rules

Questions about the content of the proposal may be directed to Carol Barron at (512)450-4242 in DHS's Self-Support Services Department. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-140, 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 rules are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs.

§3.1201. Participation Requirements.

(a) In all Food Stamp Employment and Training (E&T) Program counties except McLennan County each [Each] food stamp household member age 16 through 59 who is not exempted by 7 Code of Federal Regulations, §273.7(b), must meet work registration requirements stipulated in 7 Code of Federal Regulations, §273.7. [Each month, DHS reimburses participants in employment and training programs for transportation costs necessary and directly related to those programs. DHS pays an amount not to exceed the federal reimbursable amount.]

(b) In McLennan County each food stamp household member age 16-59 must participate in the food stamp employment services program, unless the member is exempt from participation for one of the following reasons:

(1) The household member is an Aid to Families with Dependent Children (AFDC) recipient and is non-exempt for the JOBS program or has volunteered for the JOBS program.

(2) The household member meets one of the exemption criteria specified in §3.1101 of this title (relating to Who Is Required to Participate). Exception: food stamp recipients are not exempt from food stamp employment services as a result of receiving AFDC-Unemployed Parent (UP), type program 64 benefits.

(c) In all E&T counties the Texas Department of Human Services (DHS) pays for support services necessary for participation in the employment and training program as stipulated in §10.2304(1) of this title (relating to Employment Services).

§3.1202. Failure to Comply.

(a) In all E&T counties except McLennan County, the Texas Department of Human Services (DHS) [DHR] disqualifies households for failure to comply with work registration according to requirements stipulated in 7 Code of Federal Regulations (CFR) §273.7(g).

(b) In McLennan County DHS penalizes food stamp household members who fail to comply with food stamp employment services requirements according to the Job Opportunities and Basic Skills (JOBS) procedures specified in §3.1104 of this title (relating to Failure to Comply). The penalty for a second parent specified in 45 CFR §250.34(c)(2) applies to the food stamp case only as specified in subsection (c) of this section.

(c) Pursuant to 7 CFR §273.7(g)(2), for household members in

McLennan County who are penalized due to failure to comply with employment services requirements under Title IV of the Social Security Act, DHS will simultaneously apply a noncompliance penalty, described in subsection (b) of this section, to the food stamp case. This includes the second parent on an Aid to Families to Dependent Children-Unemployed Parent (AFDC-UP) case who is disqualified as specified in 45 CFR §250.34(c)(g)(2).

§3.1203. Who May Volunteer. Except for children under age 16, any certified food stamp recipient in McLennan County, exempt or nonexempt, may volunteer for employment services pursuant to 7 Code of Federal Regulations §273.7(f)(4).

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 July 13, 1993.

TR-9325669 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Proposed date of adoption: October 1, 1993

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

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Chapter 10. Family Self-Support Services

Employment Services

• 40 TAC §10.2301

The Texas Department of Human Services (DHS) proposes an amendment to §10.2301, concerning employment services target population in its Family Self-Support Services chapter. The purpose of the amendment is to provide the policy basis for implementation of employment services under the McLennan County Food Stamp Employment and Training (E&T) Demonstration Project. Texas is one of five states approved by the United States Department of Agriculture to operate a demonstration project to test conformance between the E&T and the Job Opportunities and Basic Skills Training (JOBS) programs. In Texas' demonstration project, services for Food Stamp E&T and JOBS participants will be fully integrated following the service delivery model used for the JOBS Program. This amendment specifies that, in McLennan County only, both food stamp and AFDC recipients receive the employment services available under the demonstration project following the rules governing the JOBS Program. Also in this issue of the *Texas Register*, the department is proposing amendments and a new section to Chapter 3, Income Assistance Services, regarding this project.

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 \$83,884 in fiscal year (FY) 1993; \$277,285 in FY 1994; \$294,602 in FY 1995; \$305,371 in FY 1996; and there will be no impact for FY 1997, as the project will end in 1996. There will be no effect on local government or small businesses 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 that food stamp recipients will have the opportunity to receive employment services better targeted to their needs, thereby improving their ability to achieve long-term self-sufficiency. 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 Carol Barron at (512) 450-4242 in DHS's Self-Support Services Department. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-140, 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.

§10.2301. Target Population.

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

(c) In McLennan County only, food stamp household members and AFDC recipients 16 years of age and older are eligible for employment services available through the McLennan County Employment and Training Conformance Demonstration Project under rules governing the Job Opportunities and Basic Skills Training (JOBS) Program as specified in this subsection and subsection (a) of this section, and in §§10.2302-10.2310 of this title (relating to Employment Services).

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 July 13, 1993.

TRD-9325670 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Proposed date of adoption: October 1, 1993

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

Withdrawn Sections

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

TITLE 19. EDUCATION

Part II. Texas Education Agency

Chapter 143. Assignment of Personnel

Subchapter B. Assignment Requirements

• 19 TAC §143.11

The Texas Education Agency has withdrawn from consideration for permanent adoption a proposed amendment to §143.11, which appeared in the June 18, 1993, issue of the *Texas Register* (18 TexReg 3917). The effective date of this withdrawal is July 14, 1993.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325712 Cries Cloudt
Director, Policy Planning
and Evaluation
Texas Education Agency

Effective date: July 14, 1993

For further information, please call: (512) 463-9701

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TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter L. Motor Fuels Tax

• 34 TAC §3.194

The Comptroller of Public Accounts has withdrawn from consideration for permanent adoption a proposed amendment to §3.194, which appeared in the June 25, 1993, issue of the *Texas Register* (18 TexReg 4183). The effective date of this withdrawal is July 14, 1993.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325748 Anne Hildebrand
Chief, General Law
Section
Comptroller of Public
Accounts

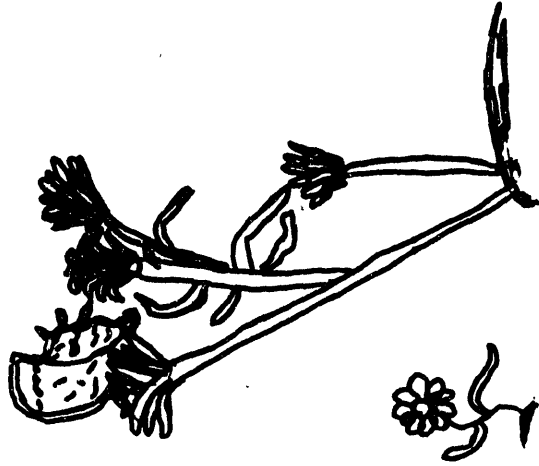
Effective date: July 14, 1993

For further information, please call: (512) 463-4028

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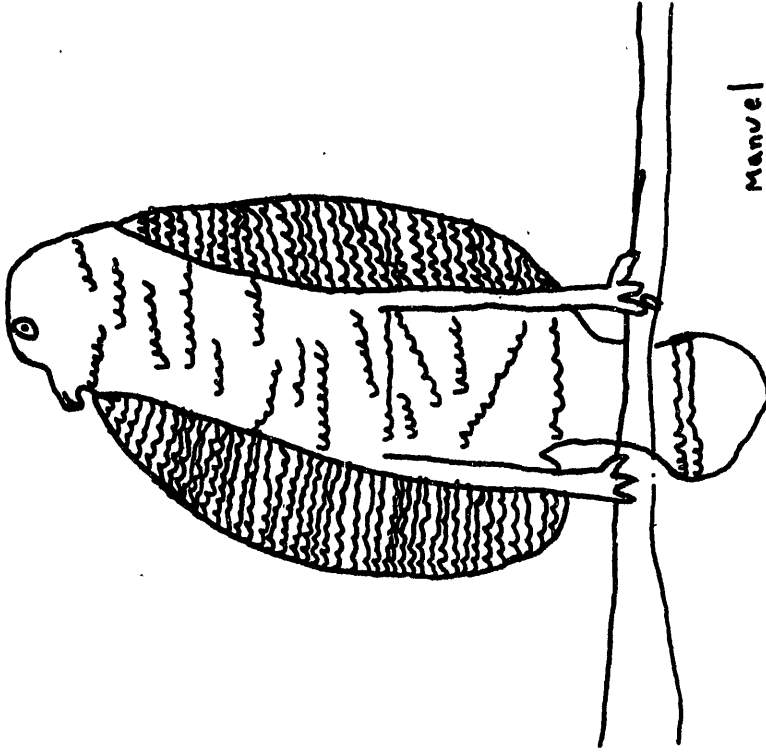


Stephanie Woolf



Name: Stephanie Woolf
Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Manuel Marquez

Name: Manuel Marquez

Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Adopted Sections

An agency may take final action on a section 30 days after a proposal has been published in the *Texas Register*. The section becomes effective 20 days after the agency files the correct document with the *Texas Register*, unless a later date is specified or unless a federal statute or regulation requires implementation of the action on shorter notice.

If an agency adopts the section without any changes to the proposed text, only the preamble of the notice and statement of legal authority will be published. If an agency adopts the section with changes to the proposed text, the proposal will be republished with the changes.

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 1. General Procedures Subchapter A. General Rules of Practice

- 4 TAC §§1.1-1.5, 1.7, 1.10-1.15, 1.17-1.28

The Texas Department of Agriculture (the department) adopts amendments to §§1.1-1.5, 1.7, 1.10-1.15 and 1.17-1.28, concerning general rules of practice changes to the proposed text as published in the June 8, 1993, issue of the *Texas Register* (18 TexReg 3599).

The amendments are adopted in order to clarify and establish more efficient procedures for rulemaking, the processing of licenses and conducting of hearings before the department that are consistent with the requirements of the Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a).

The amendments clarify existing procedures; provide for more efficient methods of service of documents; in regards to action on licenses, make department rules more consistent with Administrative Procedure Texas Register Act; establish venue of contested case hearings held by the department; provide for use of telephone conference-calls in contested case hearings; provide for sanctions for a party's failure to comply with a discovery order; provide for use of substitute administrative law judges; provide for assessment of the costs, of preparation of hearing transcripts; provide procedures for the use in uncontested proceedings; provide a timeline for issuance of the final order in contested cases heard by the department and establish a new schedule for cost of public records.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 6252-13a, which provide the Texas Department of Agriculture with the authority to adopt rules of practice setting forth the nature and requirements of all formal and informal administrative procedures available; the Texas Agriculture Code, §12.001 and §12.006, which gives the department the authority to adopt rules necessary to the administration of the Texas Agriculture Code; and Texas Civil Statutes, Article 6252-13(c)

and (d), which provide the department with the authority to issue guidelines on the eligibility of persons with criminal backgrounds for certain occupations, professions, and licenses.

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 July 12, 1993.

TRD-9325661

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: August 3, 1993

Proposal publication date: June 8, 1993

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

Subchapter B. Collection of Debts

- 4 TAC §§1.51-1.55

The Texas Department of Agriculture (the department) adopts new §§1.51-1.55 concerning collection of debts, without changes to the proposed text as published in the June 8, 1993, issue of the *Texas Register* (18 TexReg 3605).

The new sections provide for the development of procedures and guidelines by the department for determining amounts owned the department and collection of such amounts; provide for issuance of demand letters to delinquent account holders, and provide procedures for referral of collection matters to the office of the Attorney General.

No comments were received regarding adoption of the new sections.

The new sections are adopted under Texas Civil Statutes, Article, 6252-5e, which provide the Texas Department of Agriculture with the authority to establish procedures for the collection of delinquent obligations.

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 July 12, 1993.

TRD-9325662

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: August 3, 1993

Proposal publication date: June 8, 1993

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules Certification

- 16 TAC §23.32

The Public Utility Commission of Texas adopts an amendment to §23.32, without changes to the proposed text as published in the April 6, 1993, issue of the *Texas Register* (18 TexReg 2273).

The commission adopts the amendment for the purpose of conforming §23.32 with federal regulations mandated by the Telephone Consumer Protection Act of 1991.

No comments were received in response to the April 6, 1993, *Texas Register* publication.

The amendment is adopted pursuant to Texas Civil Statutes, Article 1448c, §16(a) and §118, which provide the Public Utility Commission of Texas with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction.

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 July 9, 1993.

TRD-9325633

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

Effective date: August 2, 1993

Proposal publication date: April 6, 1993

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

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 3. Life, Accident and Health Insurance and Annuities

Subchapter FF. Credit Life and Accident and Health Insurance

• 28 TAC §3.5702

The State Board of Insurance of the Texas Department of Insurance adopts an amendment to §3.5702, with changes to the proposed text as published in the April 9, 1993, issue of the *Texas Register* (18 TexReg 2352).

The amendment is necessary to include new requirements for the reporting of data for the experience data calls. The new data will enable the parties to rate hearings to present more detailed information to the board, for use in setting rates.

The amendment to the rule will function in the following manner. Four new forms have been added. New form CI-ACT-CERT will be used to provide the actuarial reserve certification, new form CI-VAL-AFF will be used to submit an affidavit of validity of experience data, new form CI-EXP-L will be used to provide a reporting form for the carriers' credit life general expenses and new form CI-EXP-DIS will be used to provide a reporting form for the carriers' credit disability expenses. Seven other forms were revised. The revised forms were: CI-EX-L (Revised 1992), CI-EX-DIS (Revised 1992), CI-EP-L (Revised 1992), CI-EP-DIS-1/60 (Revised 1992), CI-EP-DIS-61/120 (Revised 1992), CI-R-L (Revised 1992), and CI-R-DIS (Revised 1992). As a result of comment, CI-EP-DIS-1/60 (Revised 1992) and CI-EP-DIS-61/120 (Revised 1992) will be omitted and a revised form CI-EP-DIS (Revised 1992) will replace them. New subsection (f) to §3.5702 contains instructions for completing the actuarial certification and new subsection (g) contains instructions for completing the affidavit of validity form. The amendment to subsection (h)(1)(C), formerly subsection (f)(1)(C), refers to the revised forms and changes the reporting period to the reporting year in order to make the instructions clearer. The amendment to subsection (h)(2)(B), which was formerly subsection (f)(2)(B), changes the reporting of the mean insurance in force for joint coverage. A change was made as a result of comment to new subsection (h)(3), which originally described the reporting of commissions. Under the change, subsection (h)(3) includes the reporting of commissions and service fees and clarifies the reporting of commissions and service fees incurred. New subsection (i) describes the instructions for reporting general expense. The amendment contained in new subsection (j)(1), formerly (g)(1), contains instructions for the use of the presumptive rate in effect at the end of the reporting year when converting actual earned premiums. The amendment to subsection

(j)(2)(A)(iv) refers to the revised forms and provides that the actual earned premium included in those forms is at the presumptive rate at the end of the reporting year, and similarly references the end of the reporting year in explaining that additional forms may not need to be completed. The amendments to subsection (2)(B)(ii) and (C)(iv) add references to subsection (2)(A)(iv). New subsection (l) describes the requirement for diskette filing and the procedure for obtaining an alternative method of filing. New subsection (m) describes the manner in which entities will be advised of the dates for transmission of credit experience annual call documents. Throughout the section, changes were made to show a reference to the revised form designations. Changes were also made to reflect the use of title designations rather than page numbers of National Association of Insurance Commissioners (NAIC) forms, throughout the section. These changes were made because the NAIC may change the locations of these pages in the future. The forms are filed with the Office of the Secretary of State, Texas Register Section, and incorporated by reference. The changes made in the forms as a result of comment, which correspond to the changes to the instructions described in this paragraph, have been included in the forms filed with the Office of the Secretary of State, Texas Register Section, and incorporated by reference. All forms related to this filing can be obtained from the Texas Department of Insurance, Publications Department, MC 108-SA, P. O. Box 149104, Austin, Texas, 78714-9104.

The comments received and the agency's response to the comments are summarized in the following paragraphs. The summaries of the comments and responses are listed for each form to which the comments relate.

Comments Regarding All Credit Data Exhibits. **Comments Regarding Loan Duration.** Two commenters stated that the separation for loan durations of 1-60 months and 61-120 months is no longer necessary because the Department has regulatory authority through 120 months. One of the commenters also noted that the information is not available for all plans of insurance, and if such information is required, it should be limited to data separated for single-premium business only.

Agency response. The agency agrees that the separation of data into two loan durations no longer offers any major benefit. This suggested change will not impact any persons not affected by the original proposal, will not increase costs and will not be more burdensome to companies than the original proposal. Indeed, the agency believes that elimination of the reporting by separate loan durations will reduce the cost of compliance with these rules, and will reduce the paperwork burden of the companies. For these reasons, the forms and instructions contained throughout §3.5702 (relating to Instructions for Preparing Forms) will be changed to eliminate all separation of data by loan duration. This will allow forms CI-EP-DIS-1/60 (Revised 1992) and CI-EP-DIS-61/120 (Revised 1992) to be combined into one form entitled CI-EP-DIS (Revised 1992).

Comments Regarding Loan Duration for Open-end Coverages. Two commenters stated that they were unsure how to report the loan duration for open-end (revolving account) business in which there was not a set duration.

Agency Response. The agency agrees with this comment, but since the data will no longer be separated by duration, this will no longer pose a problem.

Comments regarding Forms CI-EX-L (Revised 1992) and CI-E-DIS (Revised 1992). One commenter suggested revising the "commissions incurred" line to include service fees. The commenter mentioned that the agency may be intending to capture that information in the expense exhibits and suggested adding additional language to clarify what was meant by the term "commissions incurred".

Agency Response. The agency agrees with this comment and has changed the language from "commissions incurred" to "commissions and service fees incurred". A change has also been made to clarify the definition of "commission and service fees incurred".

Comments Regarding Forms CI-EXP-L and CI-EXP-DIS. **Comments Regarding Cost.** All commenters stated that the forms would be costly to the reporting companies. Most stated that costs would far exceed the cost estimate stated in the rule. One commenter commented that the costs may even exceed ten times the estimate. Several commenters stated that new computer programs would have to be developed and would add to the proposed costs.

Agency Response. The cost estimates were based on reasonably anticipated costs. The actual costs of the companies may not be as high as they anticipate. In any event, the benefit of the additional expense information in determining proper rates justifies the costs of securing the data. The more detailed expense information will assist the board in determining reasonable expense components when determining the presumptive rates. The benefit outweighs the additional costs incurred by the reporting companies. The change concerning loan durations made as a result of comment should decrease the cost of reporting data.

Comments concerning Page 1 of the forms. One commenter stated that the reporting of lines 1b, 1c, 2b, 2c, 3b and 3c would require the setting up of a special report. The commenter stated that the primary problem is the requirement for reporting in-force business from prior years' business. The commenter stated that it would be necessary to give appropriate instructions on how to handle monthly outstanding business. Another commenter stated that the numbers distinguishing new policies/certificates issued, the continuation of in-force policies/certificates from previous years, and the cancellation of in-force policies/certificates from previous years is not available for monthly outstanding business. Another commenter stated that the average original term of policies and certificates of insurance on a nationwide or Texas basis was not available.

Agency Response. The importance of the information requested necessitates the setting up of a special report by the reporting companies. The lapses and deaths for monthly outstanding business are not reported in such a manner as to indicate when the policy was written by insurance companies. Therefore, the in-force business from prior years reporting is changed to capture only the single-premium business. Due to the unavailability of the data, lines 1b, 1c, 2b, and 2c will be limited to single-premium business only. Additional lines have been added to capture monthly outstanding balance business which is incepting during the year, in-force business at the beginning of the year, and in-force business at the end of the year, on both nationwide and Texas experience. Additional instructions have been given to clarify reporting due to these changes. For single-premium business, the agency believes that the data requested concerning average term is available for contracts which take effect in the reporting year. However, since the data is captured for each year, it is unnecessary to report data for prior years. Lines 3b and 3d will be eliminated from the form, and the lines will be renumbered appropriately. The text of the section relating to these changes will be adjusted to reflect them.

Comments Concerning Detailed Breakdown of the Expense Components. A commenter stated that the detailed expense information would most likely yield results which are not useful to the Department. Additionally, he stated that reporting companies would use different methods and broad allocations to develop the required splits, making the apparent accuracy of such details meaningless. Another commenter stated that the detail requested in these exhibits seems unduly complex and will likely lead insurers to use approximations and procedures that will invalidate the apparent precision, particularly for multi-line insurers. He also felt that the need for the information requested in the percentage allocated and the basis for allocation columns was unclear and he was not sure what useful conclusion could be drawn from the information. One commenter stated that he shares the concern that administrative expenses incurred by companies are necessary information; however, the staff of TDI should not be required to compile unnecessarily fragmented data. He also stated that the detailed administrative expense breakdowns required by the exhibit will not be meaningful in the regulation of credit insurance and will not benefit the consumers in any way. Another commenter stated that the proposed detail would require insurers to design and implement an extremely refined cost accounting system or to implement some sort of allocation system that, at best, would be "guesstimates" and, at worst, totally arbitrary. One commenter also questioned whether the detailed data being newly requested is necessary for its intended use and justifies the cost of its generation, tabulation, and remittance. Three commenters recommended that the Department not get any more detailed than what is requested in the general expense line from the Analysis of Operation exhibit in the annual statement.

Agency Response. The detailed breakdown of expenses will provide the board with essential information to assist in evaluating rates by term of loan and for rate-making using a component pricing method. This will also provide for the separation of expenses related to acquisition and maintenance. In order to understand the general expense entries in the annual statement, it is essential to understand what these numbers represent. The large variance in the percentage of general expenses between companies emphasizes the need for detailed information about the expenses.

Comment Relating to Contributory-Noncontributory Component. A commenter stated that the data in the exhibits would be misleading for insurers who have any significant amount of noncontributory (creditor-paid) credit insurance business on their books. He also stated that the expenses are considerably lower for creditor-paid credit insurance and that the data collected for the various components in rating-making (general expenses, commissions, taxes, licenses, and fees) should be discrete between creditor-paid and debtor-paid coverages or restricted to debtor-paid coverages.

Agency Response. The agency recognizes the need to capture the appropriate data in order to accurately reflect the general expenses. A question has been added to the form to capture the ratio of premiums written during the reporting period for creditor-paid business to all business, and the ratio of policies and certificates of insurance in force at the end of the reporting period for creditor-paid business to all business.

Comment Relating to Reporting of General Expenses by State. One casualty commenter stated that general expenses by state are not available. He stated that their system has no way of breaking down specific expenses for credit. He also stated that it would be expensive to break down specific expenses and this could not be done for the year 1992.

Agency Response. The expense exhibit is designed for nationwide components and is not requesting information specific by state. The expense exhibit is intended to be directly tied to components which are already required to be broken down in the insurance expense exhibit for casualty carriers.

Comment Relating to Instructions for Casualty Carriers. One casualty commenter stated that the current instructions and forms for casualty carriers are vague. He recommended that the report be limited to writers of \$1 million dollars or more of annual premium. As an alternative, perhaps the report could be limited to the five or ten largest writers of the lines affected. He stated that this approach has been adopted by the Department in other recent rules such as in the collection of auto insurance data.

Agency Response. The agency understands the concern; however, there are only four carriers and the staff can work with those carriers to devise a reasonable and appropriate form to be requested under Article 1.24.

Comments Relating to Forms CI-EP-L (Revised 1992), CI-EP-DIS-1/60 (Revised 1992)

and CI-EP-DIS-61/120 (Revised 1992). Comment Relating to Reporting Year for Earned Premium Conversion. One commenter suggested that if data for more than one year is to be collected, the conversion should only use the rate in effect at the end of the final reporting year.

Agency Response. There are many different methods which could be used for concerning earned premiums and the agency method in the current rule remains unchanged to be consistent with past conversion methods. This allows each year's data to be reviewed separately.

Comment Relating to Allowable Methods for Conversion of Earned Premiums. One commenter stated that if a carrier has the capacity to record both actual and presumptive premiums in parallel and to compile this data in parallel, the parallel method should be permitted. The commenter stated that this method is more accurate for credit disability insurance than the current method proposed. The commenter recommends that insurers be allowed to use this alternative method if accompanied by the certification of an actuary or a company officer for the conversion of actual earned premiums to presumptive earned premiums.

Agency Response. The agency realizes that many alternative methods may be appropriate to convert earned premiums. The agency feels, however, that it is important to maintain consistent reporting from carrier to carrier. The NAIC and previous data calls from this state have used the methodology used in the current rule. Additionally, this method was not proposed for change. The agency believes that the method set forth for conversion of premium should remain as stated in the rule.

The following entities made comments against adoption of the section. State Farm Insurance Companies, Texas Legal Reserve Officials Association (TLROA), CreditRe Corporation, American National Insurance Company, CUNA Mutual Insurance Group, and Consumer Credit Insurance Association. There were no comments in favor of adoption of the section.

The amendment is adopted under the Insurance Code, Articles 3.53 and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 3.53 authorizes the board to issue such rules and regulations as it deems appropriate for the regulation of credit life insurance and credit accident and health insurance. Article 1.04(b) provides the board with authority to determine rules in accordance with the laws of this state. 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.

§3.5702. Instructions for Preparing Forms.

(a) Identification of Forms. These forms are filed with the Office of the Secretary of State, Texas Register Section, and incorporated by reference. They can be obtained from the Texas Department of Insur-

<u>FORM</u>	<u>DESCRIPTION</u>
CI-I-PR	Inventory Information Form Presumptive Rates
CI-I-DR	Inventory Information Form Deviated Rates
CI-ACT-CERT	Actuarial Reserve Certification Form
CI-VAL-AFF	Affidavit of Validity of Experience Data Form
CI-EX-L (Rev. 1992)	Credit Life Insurance Experience Report Form
CI-EX-DIS (Rev. 1992)	Credit Disability Insurance Experience Report Form
CI-EXP-L	Credit Life General Expense Report Form
CI-EXP-DIS	Credit Disability General Expense Report Form
CI-EP-L (Rev. 1992)	Earned Premiums Credit Life Insurance
CI-EP-DIS (Rev. 1992)	Earned Premium Credit Disability Insurance
CI-R-L (Rev. 1992)	Reconciliation to State Page Credit Life
CI-R-DIS (Rev. 1992)	Reconciliation to State Page Credit Disability

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

(f) Actuarial certification form (CI-ACT-CERT). The purpose of this form is to provide verification as to the method used to compute the unearned premium reserves for single premium credit insurance. The form is to be signed by a qualified actuary. A qualified actuary is a member of the American Academy of Actuaries.

(g) Affidavit of validity form (CI-VAL-AFF). The purpose of form CI-VAL-AFF is to provide an affidavit as to the completeness and validity of the credit insurance experience data submitted. The affidavit requires a notarized signature of an officer of the company and certifies that the information submitted for the insurer is a full and true statement of the credit experience for the reporting year(s) requested, according to the best information, knowledge, and belief of the affiant.

(h) Experience forms (CI-EX-L (Revised 1992) and CI-EX-DIS (Revised 1992)). The purpose of these forms is to provide statewide experience data in order to determine if the benefits provided under contracts of credit insurance are reasonable

in relation to premiums charged in order that the board may discharge its statutory obligations for the supervision of credit insurance operations under the Insurance Code, Article 3.53. A separate form CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992) must be filed for each class of business and plan of benefits.

(1) Earned premiums.

(A) Line 1a Net written premiums. Net premiums to be shown on line 1a are to be determined as follows: Gross premium written (before deductions for dividends and experience rating credits) less refunds on terminations.

(B) Line 1d Actual earned premiums. The total of all premiums earned at the premium rates actually charged and in force during the experience period.

(C) Line 1e Earned premiums at presumptive rate. Actual earned premiums adjusted (on form CI-EP-L (Revised 1992) or CI-EP-DIS (Revised 1992)), to the amount which would have been earned had the premium rate during the experience

period been equal to the presumptive rate in effect at the end of the reporting year. Note that if premiums in force differ from the presumptive rate in effect at the end of the reporting year, line 1d will not equal line 1e.

(2) Mean Insurance in force, line 4 Form CI-EX-L (Revised 1992).

(A) Particular care should be exercised to assure sufficiently accurate results in determining the amounts of "mean insurance in force."

(B) The average of the monthly amounts should be calculated and entered as the mean insurance in force on line 4. Exclude reinsurance assumed and do not deduct any ceded. For joint coverage, the amount of insurance in force shall equal the death benefit payable under the contract and shall not be reported as twice the death benefit.

(3) Commissions and Service Fees Incurred, line 6a of Form CI-EX-L (Revised 1992) or line 4a of Form CI-EX-DIS (Revised 1992). The amount to be reported on this line shall be the total amount

of commissions and service fees incurred in the state of Texas (direct business only). Commissions and service fees incurred means those that are paid, plus the change in due and unpaid commissions and service fees. The commissions shall be inclusive of commissions for agents or general agents and shall be reflected separately for each class of business and plan of benefits as indicated at the top of either Form CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992).

(i) General expense forms (CI-EXP-L and CI-EXP-DIS). The purpose of these forms is to provide general expense and allocation information to assist the board in promulgating presumptive premium rates for this state. For credit life coverage, the data should be the total of all classes of business and plans of life benefits. The credit life data will be reported on form (CI-EXP-L). For credit disability coverage, the data should be the total of all classes of business and plans of disability benefits. The credit disability data will be reported on form (CI-EXP-DIS). The reported nationwide general expenses are to be limited to those items listed on pages 2, 3, 4 and 5 of forms CI-EXP-L and CI-EXP-DIS. Commissions are to be reflected solely on forms CI-EX-L (Revised 1992) and CI-EX-DIS (Revised 1992). The expenses shall be limited to the credit insurance general expenses for loan durations not exceeding 120 months.

(1) Number of single premium policies and certificates of insurance for Texas experience.

(A) Line 1a Incepting in the reporting year. The total number of policies and certificates of insurance which took effect (incepted) in the reporting year shall be shown on line 1a of CI-EXP-L or CI-EXP-DIS, as appropriate. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(B) Line 1b In-force from previous years and continuing in-force after the reporting year. The total number of policies and certificates of insurance which took effect before the reporting year and are still in-force at the end of the reporting year shall be reported on line 1b. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(C) Line 1c Policies and certificates going out of force during the reporting year, for any reason. The total number of policies and certificates of insur-

ance which terminated during the reporting year shall be reported on line 1c. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(D) Line 1d Total number of policies and certificates of insurance in force at the start of the reporting year. The sum total of policies and certificates of insurance which are in force at the beginning of the reporting year are to be reflected on line 1d. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(E) Line 1e Total number of policies and certificates of insurance in force at the end of the reporting year. The sum total of policies and certificates of insurance which were in force at the beginning of the reporting year plus those that took effect during the reporting year minus those that terminated during the year are to be reflected on line 1e. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately. Line 1e equals line 1a plus Line 1d minus Line 1c.

(2) Number of single premium policies and certificates of insurance for nationwide experience. The instructions are the same as those listed for lines 1a-1e, described in paragraphs (1)(A)-(E) of this subsection, except that the data is to reflect the nationwide experience rather than being limited to the Texas experience.

(3) Number of monthly outstanding balance policies and certificates of insurance for Texas experience.

(A) Line 3a Incepting in the reporting year in Texas. The total number of policies and certificates of insurance which took effect (incepted) in the reporting year shall be shown on line 3a of CI-EXP-L or CI-EXP-DIS, as appropriate. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(B) Line 3b Total number of policies and certificates of insurance in force at the start of the reporting year. The sum total of policies and certificates of insurance which are in force at the beginning of the reporting year are to be reflected on line 3b. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(C) Line 3c Total number of policies and certificates of insurance in force at the end of the reporting year. The sum total of policies and certificates of insurance which were in force at the beginning of the reporting year plus those that took effect during the reporting year minus those that terminated during the year are to be reflected on line 3c. If coverage for both life and disability are written on the same policy or certificate of insurance, report the coverages as if each coverage had been written separately.

(4) Number of monthly outstanding policies and certificates of insurance for nationwide experience. The instructions are the same as those listed for lines 3a-3c of this subsection except that the data is to reflect the nationwide experience rather than being limited to the Texas experience.

(5) Average original term of policies and certificates of insurance, in months, for single premium business only.

(A) Line 5a Incepting in the reporting year in Texas. The average original term of all single premium policies and certificates of insurance which took effect in Texas ONLY during the reporting year shall be reflected on line 5a. For coverage with odd days, round the term to the nearest whole month.

(B) Line 5b Incepting in the reporting year nationwide. The average original term of all single premium policies and certificates of insurance which took effect during the reporting year, for the carriers' nationwide business, shall be reflected on line 5b. For coverage with odd days, round the term to the nearest whole month.

(6) Expense and allocation table. The expense line items, shown to the left of column 1, track exactly to those in Exhibit 5 of the NAIC Life Annual Statement for life and accident and health carriers. Casualty carriers should contact the Credit Life and Credit Accident and Health Section of the Texas Department of Insurance for more detailed instructions.

(A) Column 2. Enter the amount for each expense line item in column 2. The total of column 2 should reconcile to the amount shown on the page entitled "Analysis of Operations by Lines of Business" of the NAIC Life Annual Statement for the reporting year. For life and accident and health companies, refer to line 22, column 6, for credit life coverages or line 22, column 10, for credit accident and health coverages. Casualty carriers should

contact the Credit Life and Credit Accident and Health Section of the Texas Department of Insurance for more detailed instructions.

(B) Column 3. Percentage allocated. The call differentiates general expenses into two categories—directly incurred versus allocated. Expenses directly incurred are those specifically and uniquely attributable to credit life or credit accident and health insurance. Directly incurred expenses would include salaries, professional fees, marketing expenses, etc. whose expenditure is solely a function of the credit life or credit accident and health insurance transaction. Allocated expenses would include corporate overhead or other expenses shared with lines of insurance other than credit life or credit accident and health. For example, if the insurer sells several lines of insurance in addition to credit life and credit accident and health, the share of corporate management salaries assigned to credit life or credit accident and health would be the result of an allocation.

(C) Column 4 Basis for allocation. If Column 3 contains a percentage greater than 0%, explain the basis of allocation; such as: square feet of office space, number of employees, premium volume, number of claims, policies or certificates of insurance in-force, policies or certificates of insurance issued or any other basis employed.

(D) Examples. Enter the percentage of the general expense line item resulting from an allocation, as opposed to directly incurred expenses, in column 3. Examples include:

(i) If the entire form 1, line 22 amount is an allocation of corporate general expenses, enter that dollar amount in Column 2, line 10—Total, and enter 100% in Column 3, line 10. Explain the basis for allocation in Column 4, line 10.

(ii) If legal fees are incurred only in conjunction with credit life claims or other credit life activities, enter 0% in Column 3, line 4.1.

(iii) If traveling expenses are incurred jointly (and only) for the benefit of credit life and credit accident and health and if the total amount is allocated to each line, enter 100% in Column 3, line 5.1, and explain the basis for allocation in Column 4, line 5.1.

(iv) If the cost of claim investigation and settlement consists partly of contract investigators incurred solely on behalf of credit life claims (\$30,000) and partly as a result of a corporate allocation of claims investigation (\$30,000), enter \$60,000 in Column 2, line 4.5, and enter

50% in Column 3, line 4.5. Explain the basis for the corporate allocation of claims investigation in Column 4, line 4.5.

(7) Additional miscellaneous information.

(A) Line 7a Sundry general expenses. Please list the major components of the expense items referred to as "Sundry General Expenses".

(B) Line 7b Aggregate write-ins. Please list the major components of the expense items referred to as "Aggregate Write-Ins."

(C) Line 7c. If the company writes creditor-paid insurance, fill in the ratio of premiums written during the reporting period for creditor-paid business to all business, and the ratio of policies and certificates in force at the end of the reporting period for creditor-paid business to all business.

(j) Earned premium forms CI-EP-L (Revised 1992) and CI-EP-DIS (Revised 1992).

(1) The purpose of these forms is to convert actual earned premiums to the amount of premiums which would have been earned had all business been written at the presumptive rate in effect at the end of the reporting year. If more than one year's data is requested, each year's data shall use the presumptive rate that was in effect at the end of each reporting year.

(2) Form CI-EP-L (Revised 1992) is applicable to credit life insurance and Form CI-EP-DIS (Revised 1992) is applicable to credit disability insurance. Note that forms CI-EP-L (Revised 1992) and CI-EP-DIS (Revised 1992) should be reproduced as needed to correspond to the class of business and plan of benefits, as shown on the corresponding form CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992).

(A) General.

(i) A form CI-EP-L (Revised 1992) or CI-EP-DIS (Revised 1992), as applicable, must be completed for each Form CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992) where the presumptive earned premium differs from the actual earned premium. More than one form may be required when more than one year's data is presented, due to changes in the presumptive rates or other factors.

(ii) (No change.)

(iii) The overall totals presented on Form CI-EP-L (Revised 1992) or CI-EP-DIS (Revised 1992) must agree to the appropriate lines on the Form CI-EX-L

(Revised 1992) or CI-EX-DIS (Revised 1992) to which they are attached.

(iv) Note that Form CI-EP-L (Revised 1992) and Form CI-EP-DIS (Revised 1992) include actual earned premium at the presumptive rate, in effect at the end of the reporting year, on line A. This data is for balancing purposes only, and in no way indicates that Form CI-EP-L (Revised 1992) or CI-EP-DIS (Revised 1992) must be completed if actual earned premium is equal to presumptive earned premium, in effect at the end of the reporting year.

(B) Form CI-EP-L (Revised 1992)—credit life insurance.

(i) Presumptive earned premium (Column 4) is the product of actual earned premium (Column 1) times the conversion factor (Column 2/ Column 3).

(ii) See also subparagraph (A)(iii) and (iv) of this paragraph.

(C) Form CI-EP-DIS (Revised 1992)—credit disability insurance.

(i) Since deviated rates generally can be expressed as a percentage of the presumptive rates, the conversion factor will tend to be constant for all periods. When using Form CI-EP-DIS (Revised 1992), the conversion factor to be utilized is the average of three ratios taken between presumptive and actual rates for 12-, 24-, and 36-month terms. The sum of these ratios, divided by three, becomes the conversion factor.

(ii) Presumptive premium rates are to be presented on Line A, Columns 2-4 of Form CI-EP-DIS (Revised 1992), as applicable. All ratios (Line b) are to be calculated by dividing Line A by Line a.

(iii) These forms should be reproduced as necessary to present the required conversion for all premium rates in force during the experience period.

(iv) See also subparagraph (A)(iii) and (iv) of this paragraph.

(k) Reconciliation forms (CI-R-L (Revised 1992) and CI-R-DIS (Revised 1992).

(1) The purpose of this form is to present a reconciliation between current-year data presented on the various forms, CI-EX-L (Revised 1992) and CI-EX-DIS (Revised 1992) and the total presented on the page entitled "DIRECT BUSINESS IN THE STATE OF TEXAS DURING THE YEAR" (commonly known as the "state page") (46) of the annual statement.

(2) Form CI-R-L (Revised 1992) is applicable to credit life insurance and Form CI-R-DIS (Revised 1992) is applicable to credit disability insurance.

(A) Due to the volume of forms CI-EX-L (Revised 1992) and CI-EX-DIS (Revised 1992) which may be filed, each such form will be listed by page number only on the appropriate form, CI-R-L (Revised 1992) or CI-R-DIS (Revised 1992). Each form, CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992), must contain a page number to identify it on forms, CI-R-L (Revised 1992) and CI-R-DIS (Revised 1992).

(B) Line references included in column headings refer to the appropriate form CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992).

(C) This form should be reproduced as necessary to include all forms CI-EX-L (Revised 1992) or CI-EX-DIS (Revised 1992).

(l) Experience data submissions on diskette. The experience data of each carrier must be submitted on diskette. The diskette will be furnished by the Texas Department of Insurance. The experience data shall be entered onto the diskette and returned along with a hard copy of the information. Any carrier who cannot comply with the filing of their credit experience data on diskette shall contact the Credit Life and Accident and Health Section of the Texas Department of Insurance immediately, after receiving the credit experience data call packet, to request an alternative method for filing of their experience data. The request for using an alternative method for the submission of experience data shall be forwarded to the Texas Insurance Department, Credit Life and Credit Accident and Health Section, MC 106-1C, P.O. Box 149104, Austin, Texas 78714-9104.

(m) Notice of dates for submission of credit experience annual call documents. The dates for submission of credit insurance annual experience call documents will be listed in a letter written under the Insurance Code, Article 1.24. The letter will list dates for submission that will allow a reasonable period of time for insurers to comply with the request for the documents.

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 July 14, 1993.

TRD-9325717 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Effective date: August 4, 1993

Proposal publication date: April 9, 1993

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

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter S. Interstate Motor Carrier Sales and Use Tax

• 34 TAC §3.446

The Comptroller of Public Accounts adopts an amendment to §3.446, concerning lease price, sales price, and purchase price, without changes to the proposed text as published in the June 4, 1993, issue of the Texas Register (18 TexReg 3551).

The amendment is necessary to clarify the taxable value of leased motor vehicles by providing for both variable priced contracts and fixed price contracts.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 July 13, 1993.

TRD-9325458 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: August 3, 1993

Proposal publication date: May 26, 1993

For further information, please call: (512) 463-4028

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter C. Basic Program Requirements

• 40 TAC §15.310, §15.320

The Texas Department of Human Services (DHS) adopts amendments to §§15.310,

15.320, 15.600, 15.615, and 15.620; and new §§15.601, 15.603, 15.604, 15.607, 15.609, 15.611, 15.612, 15.617, 15.619, 15.621, and 15.623. The new §15.609, and §15.611 are adopted with changes to the proposed text as published in the May 28, 1993, issue of the Texas Register (18 Tex Reg 3397). The amendments to §§15.310, 15.320, 15.600, 15.615, and 15.620; and new §§15.601, 15.603, 15.604, 15.607, 15.612, 15.617, 15.619, 15.621, and 15.623 are adopted without changes and will not be republished.

The amendments and new sections are justified to include additional policy and procedures regarding Medicaid eligibility.

The amendments and new sections will function by ensuring that the uniform application of procedures will occur statewide.

No comments were received regarding adoption of the amendments and new sections. DHS, however, is adopting new §15.609 and §15.611 with minor changes to clarify that the rules regarding applicants and their allowed representatives and allowed signatures also apply to medical assistance only recertifications. In §15.909, subsection (c) was added to include that the requirements in subsections (a) and (b) also apply to medical assistance only recertifications. In §15.611, subsection (d) was added to clarify that the requirements in subsections (a), (b), and (c) also apply to medical assistance only recertifications.

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

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

Issued in Austin, Texas, on July 13, 1993.

TRD-9325871 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: September 1, 1993

Proposal publication date: May 28, 1993

For further information, please call: (512) 450-3785

Subchapter G. Application for Medicaid

• 40 TAC §§15.600, 15.615, 15.620

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413(502), §16, which pro-

vide 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 July 13, 1993.

TRD-9325872 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: September 1, 1993

Proposal publication date: May 28, 1993

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

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• 40 TAC §§15.601, 15.603, 15.604,
15.607, 15.609, 15.611, 15.612,
15.617, 15.619, 15.621, 15.623.

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

§15.609. *Applicants and Their Allowed Representatives.*

(a) The Texas Department of Human Services must allow an individual or individuals of the client's choice to accompany, assist, and represent the client in the application process. A responsible party or bona fide agent is a person who is familiar with the client and knowledgeable of the client's financial affairs. If a client's responsible party is not his spouse, parent, legal guardian, immediate family member, or holder of his power of attorney, evidence of written authorization by that client for the independent party to file for benefits on the client's behalf must be provided.

(b) Nursing facility staff, hospital discharge planning staff, and hospital collection agency staff are not considered bona fide agents to file an application on behalf of a client unless they have the client's written authorization. If none of the persons described in this subsection are available to complete the application for assistance, the eligibility specialist uses the application as a recording document, while documenting on the Medical Assistance Only Worksheet contacts with all sources having knowledge of the client's finances.

(c) The requirements in subsections (a) and (b) of this section also apply to medical assistance only recertifications.

§15.611. *Allowed Signatures.*

(a) In order of preference, the application for assistance should be signed by:

(1) the client, if 18 years old or over, mentally competent, and physically able;

(2) the client's parent(s) or court-appointed guardian, if the client is under age 18;

(3) the client's guardian of estate, if the client is age 18 or over and has a court-appointed guardian. In this situation, the guardian of person is not required to sign;

(4) the client's spouse, if the client is 18 years or over and physically unable to sign;

(5) the individual holding the client's power of attorney (POA), if the client is 18 years or over and physically unable to sign. This would substantiate that the client authorized the POA to act on the client's behalf;

(6) someone other than the persons listed in paragraphs (1)-(5) of this subsection may sign on the signature line for the responsible party if the client is 18 or over, physically unable, and does not have a legal guardian, spouse, or POA.

(b) A person who signs an application or redetermination form for a client must furnish evidence of the authority to complete and sign an application on behalf of a client. Such evidence may be a copy of guardianship papers, POA papers, or, in the absence of a guardianship or POA, a written statement describing the representative's relationship to the client and responsibility for the client's care. Such a statement is not required from the parent or spouse of a client.

(c) If the client makes an "X" on the signature line for applicant/recipient, two witnesses must sign on the signature lines for witnesses.

(d) The requirements in subsections (a), (b), and (c) of this section also apply to medical assistance only recertifications.

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 July 13, 1993.

TRD-9325873 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: September 1, 1993

Proposal publication date: May 28, 1993

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

Community Care for Aged and Disabled

• 40 TAC §48.2911

The Texas Department of Human Services (DHS) adopts an amendment to §48.2911 concerning family care, without changes to the proposed text as published in the June 11, 1993, issue of the *Texas Register* 18 TexReg 3688).

The justification for the amendment is to require clients to pursue eligibility for Medicaid-funded attendant care services or be denied eligibility for family care services.

The amendment will function by allowing limited Title XX funding to only be spent on those clients who are not eligible for Medicaid-funded attendant care services.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs.

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 July 14, 1993.

TRD-9325711 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: September 1, 1993

Proposal publication date: June 11, 1993

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

◆ ◆ ◆
Eligibility

• 40 TAC §48.2918

The Texas Department of Human Services (DHS) adopts an amendment to §48.2918, without changes to the proposed text as published in the June 4, 1993, issue of the *Texas Register* (18 TexReg 3562).

The justification for the amendment is to increase the maximum number of hours per week of primary home care services that a Priority 1 client can receive.

The amendment will function by assisting individuals who need additional hours of service to remain in the community.

No comments were received regarding adoption of the amendment.

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

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 July 13, 1993.

TRD-9325675

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

Effective date: September 1, 1993

Proposal publication date: June 4, 1993

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

Part II. Texas Rehabilitation Commission

Chapter 113. Comprehensive Rehabilitation Services

• 40 TAC §113.1

The Texas Rehabilitation Commission adopts the repeal of §113.1 concerning policy and procedure, without changes to the proposed text as published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2846).

The Texas Rehabilitation Commission repeals §113.1 concerning Comprehensive Rehabilitation Services. The repeal is needed in order to adopt a more detailed Chapter 13 to increase public awareness of the Comprehensive Rehabilitation Services.

The repeal will allow the Texas Rehabilitation Commission to adopt a detailed set of rules which will increase public awareness of the Comprehensive Rehabilitation Services Program.

No comments were received regarding adoption of the repeal.

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

The Statutory Authority Cross Referencing Texas Human Resources Code, Title 7, §11.060, Comprehensive Rehabilitation Fund.

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 July 9, 1993.

TRD-9325666

Charles W. Schlessor
Associate Commissioner
for Legal Services
Division
Texas Rehabilitation
Commission

Effective date: August 3, 1993

Proposal publication date: April 30, 1993

For further information, please call: (512)
483-4051

• 40 TAC §§113.1-113.5

The Texas Rehabilitation Commission adopts new §§113.1-113.5 concerning comprehensive rehabilitation services. Section 113.4 is adopted with changes to the proposed text as published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2846). Sections 113.1, 113.2, 113.3, and 113.5 are adopted without changes and will not be republished.

The new sections are needed to adopt a more detailed Chapter 13 to increase public awareness of the Comprehensive Rehabilitation Services.

The new sections will provide the public with a comprehensive view of services for persons with traumatic spinal cord and post-acute services for persons with traumatic brain injury.

One comment was received recommending that "speech therapists" be changed to "speech language pathologist." The Commission agrees.

Commenting in favor of the new rules was the State Committee of Examiners for Speech-Language Pathology and Audiology.

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

The Statutory Authority Cross Referencing Texas Human Resources Code, Title 7, §11.060, Comprehensive Rehabilitation Fund.

§113.4. Services Provided.

(a) Inpatient Hospitalization at a Comprehensive Rehabilitation Facility. Services may include:

- (1) medical management;
- (2) rehabilitation nursing;
- (3) physical, occupational, and speech therapy;
- (4) pulmonary medical services;
- (5) laboratory testing;
- (6) x-ray services;
- (7) orthotics and prosthetics;
- (8) communication devices;
- (9) drugs, medical supplies, and equipment;
- (10) psychologi-

cal/neuropsychological services;

- (11) social services;
- (12) recreational services;
- (13) nutritional services;
- (14) patient and family education;
- (15) discharge planning; and
- (16) drugs and medical supplies at discharge.

(b) Outpatient Services. Services may include:

- (1) physical therapy;
- (2) occupational therapy;
- (3) speech-language pathology;
- (4) psychological/neuropsychological services;
- (5) personal assistance services;
- (6) recreational services;
- (7) cognitive therapy;
- (8) behavioral therapy;
- (9) clinic follow-up visits;
- (10) orthotic and prosthetic devices;
- (11) communication devices;
- (12) drugs and medical supplies.

(c) Post-Acute Services (residential or non-residential-limited to individuals with TBI). Services may include:

- (1) cognitive retraining;
- (2) behavioral management;
- (3) coping skills;
- (4) compensatory skills;
- (5) bio feedback; and
- (6) traditional therapies.

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 July 9, 1993.

TRD-9325665

Charles W. Schlessor
Associate Commissioner
for Legal Services
Division
Texas Rehabilitation
Commission

Effective date: August 3, 1993

Proposal publication date: April 30, 1993

For further information, please call: (512)
483-4051

Part IX. Texas Department on Aging

Chapter 255. State Delivery Systems

Area Agency Designation

• 40 TAC §255.35.

The Texas Department on Aging adopts an amendment to §255.35(i) concerning identification of area agencies on aging, by the display of a sign outside their physical location, with changes to the proposed text as published in the April 20, 1993, issue of the *Texas Register* (18 TexReg 2551).

The amendment is necessary to assure that participants in Title III programs may more easily locate the focal point for these services in their community and also to insure that greater visibility is provided for area agencies on aging and the programs they manage.

The amendment will function to improve the operation and visibility of area agencies on aging in leadership, advocacy, systems building, access to services, and accountability.

During the public comment period, comments were received from the Texas Association of Regional Councils (TARC).

The TARC stated that many area agencies are in rented space which restrict or prohibit outside signs. They also remarked that there are instances where area agencies are located in metropolitan areas but provide services in

surrounding counties only, which might be a source of confusion to elderly program participants.

Response: The Texas Department on Aging agrees that circumstances may exist which would preclude the display of outside signs. Consequently, the language in Subsection (i)(5), referring to the effective date of implementation of this requirement, has been amended to permit grantees to submit a waiver.

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

§255.35. Operating an Area Agency on Aging.

(a)-(h) (No change.)

(i) Identification of Area Agencies on Aging facilities. Language will be prominently displayed on a sign outside the location utilized as an area agency on aging indicating the name of the area agency on aging to assure clearly visible access to persons wishing to visit the physical location of the area agency on aging.

(1) This signage will adhere to local ordinances concerning signage.

(2) The signage will also conform to the uniform logo requirements for

Area Agencies on Aging prescribed in subsection (f) of this section.

(3) The signage will also conform to the citation requirements of the Texas Department on Aging as the primary funding source as prescribed in subsection (h) of this section.

(4) Failure to physically demonstrate adherence to this policy will be considered noncompliance with this rule.

(5) The effective date for implementation of this standard on signage will be effective no later than December 1993 unless a waiver has been obtained from the Texas Department on Aging.

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

Issued in Austin, Texas, on July 9, 1993.

TRD-9325708

Mary Sapp
Executive Director
Texas Department on
Aging

Effective date:

Proposal publication date: April 20, 1993

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



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, July 29, 1993, 1:00 p.m. The Texas Peanut Producers Board of the Texas Department of Agriculture will meet at the Embassy Suites, 10110 U.S. Highway 281 North, San Antonio. According to the complete agenda, the board will take roll call, introduce guests; discuss and act on minutes; hear audit report; review promotion activities; discuss other business; and adjourn.

Contact: Joy Rogers, P.O. Box 389, Gorman, Texas 76454, (817) 734-2853.

Filed: July 14, 1993, 3:38 p.m.

TRD-9325780

Tuesday, August 17, 1993, 10:00 a.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A, Austin. According to the agenda summary, the board will deliberate and act on determination issued by the department in the matter of Tom Weisman versus Javi Farms, Inc. as contested by Javi Farms, Inc.

Contact: Margaret Alvarez, P.O. Box 12847, Austin, Texas 78711, (512) 463-7604.

Filed: July 14, 1993, 3:38 p.m.

TRD-9325781

Tuesday, August 17, 1993, 1:30 p.m. The Produce Recovery Fund Board of the Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 Congress Avenue, Room 924A, Austin. According to the complete agenda, the board will deliberate and act on determination issued by the Department in the matter of

Chaparral Fruit Sales, Inc. versus Rudy Longoria as contested by Chaparral Fruit Sales, Inc.

Contact: Margaret Alvarez, P.O. Box 12847, Austin, Texas 78711, (512) 463-7604.

Filed: July 14, 1993, 3:39 p.m.

TRD-9325782

Thursday, August 19, 1993, 1:30 p.m. The Office of Hearings of the Texas Department of Agriculture met at the Texas Department of Agriculture, 2626 South Loop West, Suite 130, Houston. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code Annotated §101.001, et seq. and/or §102.001, et seq. (Vernon 1982) by the Commissary as petitioned by G and D Vegetable Company.

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

Filed: July 14, 1993, 10:02 a.m.

TRD-9325736

Advisory Board of Athletic Trainers

Thursday, July 22, 1993, 3:15 p.m. The Advisory Board of Athletic Trainers will meet in Room E-3, Arlington Convention Center, Arlington. According to the complete agenda, the board will discuss approval of the minutes of the February 13, 1993 meeting; discuss and possibly act on: reports of the chairman, executive director, and the program director; appreciation resolution for HCA Sports Medicine Center; request from Vince Primo regarding Tyler Junior College Athletic Trainer Education

Program; violation of the Act and rules by Rusty Owens (Complaint #93-003), Bob Bissell (Complaint #93-004), and Dave Malgrave (Complaint #93-008); amendments to Rules (25 TAC, Chapter 313); continuing education and test committee report by committee chairman; election of officers; and hear announcements and comments not requiring board action.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615. 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: July 14, 1993, 3:44 p.m.

TRD-9325735

Friday, July 23, 1993, 4:00 p.m. The Advisory Board of Athletic Trainers will meet in Room E-3, Arlington Convention Center, Arlington. According to the complete agenda, the board will conduct at the Southwest Athletic Trainers Association 1993 annual meeting and Clinical Symposium: a question and answer session concerning licensing and regulations of athletic trainers.

Contact: Becky Berryhill, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6615. 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: July 14, 1993, 3:44 p.m.

TRD-9325786

State Bar of Texas

Thursday, July 22, 1993, 1:30 p.m. The Executive Committee of the State Bar of Texas will meet at the Del Lago Conference

Center, Lake Conroe. According to the agenda summary, the committee will call the meeting to order; take roll call; hear reports of chair of the board; president; president-elect; Texas Young Lawyers Association president; executive director; general counsel; immediate president; commission for lawyer discipline; update on I.O.L.T.A. activities and planned projects; and hear report from Supreme Court liaison.

Contact: Pat Hiller, 1414 Colorado Street, Austin, Texas 78701, (512) 463-1451.

Filed: July 14, 1993, 4:30 p.m.

TRD-9325788

State Board of Barber Examiners

Tuesday, August 3, 1993, 8:30 a.m. The State Board of Barber Examiners members will meet at 9101 Burnet Road, Suite 103, Austin. According to the complete agenda, the board will discuss approval of minutes of previous minutes; sign teacher and school certificates; sign proposed inter-agency contract; hear reports by the executive director; read letters to the board; discuss National Association of Barber Boards of American; and adjourn.

Contact: Mary Jo King, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: July 14, 1993, 11:57 a.m.

TRD-9325756

Texas Bond Review Board

Thursday, July 22, 1993, 10:00 a.m. The Texas Bond Review Board will meet in Committee Room Five, Fifth Floor, Clements Building, 300 West 15th Street, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; consider proposed issues; discuss other business; and adjourn.

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

Filed: July 13, 1993, 4:43 p.m.

TRD-9325706

Children's Trust Fund of Texas Council

Thursday, July 22, 1993, 10:00 a.m. The Children's Trust Fund of Texas Council will meet at the Texas Medical Association Building, 401 West 15th Street, Austin. According to the complete agenda, the council will make introductions and give overview of agenda; hear CTF chairpersons report; CTF executive director's report; budget oversight subcommittee report; discuss Fis-

cal Year 1994 and 1995 LAR appropriation; program design and implementation subcommittee report; proposals for funding; public awareness advisory subcommittee report; proposals for funding; and adjourn.

Contact: Sue Marshall, 8929 Shoal Creek Boulevard, Austin, Texas 78757-6854, (512) 458-1281.

Filed: July 14, 1993, 10:41 a.m.

TRD-9325743

Texas Department of Commerce

Thursday, July 22, 1993, 9:45 a.m. The Capital Certified Development Corporation Board of Directors of the Texas Department of Commerce will meet at the Holiday Inn Villa Convention Center, 4300 West Highway 80, Midland. According to the agenda summary, the board will call the meeting to order in open session; discuss approval of minutes of June 17, 1993 board meeting; amend corporate bylaws Article 3.03; adjourn board of directors meeting; call to order annual member's meeting; hear annual activities report from the president; presentation of SBA certificate; review minutes of annual member's meeting of June 24, 1992; treasurer's report; introduction of new members; board of director's policy and activity report; SBA 504 loan program; board of director's nominating committee report; election of expired board of directors positions; Zions National Bank presentation; discuss other old and new business; adjourn; call the order in open meeting of the board of director's meeting; nominations and election of corporate officers; presentation of fiscal year 1994 marketing plan; 504 activity report; other old and new business; 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 Kelley at (512) 320-9649 at least two days before this meeting so that appropriate arrangements can be made. Please also contact Eileen Kelley at (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: July 13, 1993, 11:12 a.m.

TRD-9325667

Texas Commission for the Deaf and Hearing Impaired

Friday, July 23, 1993, 10:00 a.m. The Board of the Texas Commission for the Deaf and Hearing Impaired will meet at the Criss Cole Auditorium, 4800 North Lamar

Boulevard, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of June 18, 1993, minutes; open discussion with Commissioner Ladd of the Health and Human Services Commission and his staff regarding the contracting of TCDHI with Texas Commission for the Blind for administrative support services for the next biennium; meet in executive session, Article 62.52-7 §2E, to provide consultation between the commissioners and their attorneys concerning contemplated litigation; information items; schedule next commission meeting (currently scheduled for August 6, 1993); and adjourn.

Contact: Loyce Kessler, 1524 South IH-35, #200, Austin, Texas 78711, (512) 444-3323.

Filed: July 13, 1993, 4:43 p.m.

TRD-9325705

Texas State Board of Dental Examiners

Thursday, July 22, 1993, 1:00 p.m. The Credentials Review Committee of the Texas State Board of Dental Examiners will meet at the TSBDE Offices, 333 Guadalupe Street, Tower 3, #800, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call, review of and recommendations regarding applications for licensure by credentials; and adjourn.

Contact: C. Thomas Camp, 333 Guadalupe Street, Tower 3, Suite 3800, Austin, Texas 78701, (512) 463-6400.

Filed: July 14, 1993, 9:52 a.m.

TRD-9325714

Texas Department of Health

Thursday, July 22, 1993, 10:30 a.m. The Texas Emergency Medical Services Advisory Council Public Information and Education Committee of the Texas Department of Health will meet at the Howard Johnson Plaza-Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the committee will discuss and possibly act on progress on committee charges and bulletin board system report; and discuss other business that may be brought before the committee relating to the committee.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. 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: July 14, 1993, 2:49 p.m.

TRD-9325772

Thursday, July 22, 1993, 1:00 p.m. The Texas Emergency Medical Services Advisory Council Medical Directors Committee of the Texas Department of Health will meet at the Howard Johnson Plaza-Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the committee will discuss and possibly act on: update of "Do Not Resuscitate (DNR)"; and continuing education rules statement to present to the Education Committee; and may discuss other business that may be brought before the committee.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. 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: July 14, 1993, 2:49 p.m.

TRD-9325771

Thursday, July 22, 1993, 3:00 p.m. The Texas Emergency Medical Services Advisory Council Educators Committee of the Texas Department of Health will meet at the Howard Johnson Plaza-Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the committee will discuss and possibly act on committee charges; continuing education task force update; cardiopulmonary resuscitation requirements; continuing education rules statement for presentation to TEMSAC; and draft revisions to education rules; and discuss other business that may be brought before the committee.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. 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: July 14, 1993, 2:48 p.m.

TRD-9325769

Thursday, July 22, 1993, 5:00 p.m. The Texas Emergency Medical Services Advisory Council Provider Committee of the Texas Department of Health will meet at the Howard Johnson Plaza-Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the committee will discuss and possibly act on committee charges and provider licensing rules; and may discuss other business that may be brought before the committee.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. 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: July 14, 1993, 2:49 p.m.

TRD-9325770

Friday, July 23, 1993, 9:30 a.m. The Texas Emergency Medical Services Advisory Council of the Texas Department of Health will meet at the Howard Johnson Plaza-Hotel North, 7800 North IH-35, Austin. According to the complete agenda, the council (TEMSAC) will hear opening remarks; discuss approval of the minutes of previous meeting; discuss and possibly act on: legislative report; Bureau of Emergency Management Chief's report; committee reports on providers, education, public information and education, and medical directors; and proposed continuing education rules; and may discuss other business that may be brought before the council.

Contact: Gene Weatherall, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7550. 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: July 14, 1993, 2:48 p.m.

TRD-9325768

Texas Historical Commission

Thursday, July 22, 1993, 1:00 p.m. The Executive Committee of the Texas Historical Commission will meet at the William P. Clements Building, Fifth Floor, Room One, 300 West 15th Street, Austin. According to the complete agenda, the committee will discuss strategic issues management; sunset review; National Trust assessment; Legislative interim studies; and election of officers.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: July 13, 1993, 1:01 p.m.

TRD-9325678

Thursday, July 22, 1993, 3:00 p.m. The Architecture and Texas Preservation Trust Fund of the Texas Historical Commission will meet at the William P. Clements Building, Fifth Floor, Room One, 300 West 15th Street, Austin. According to the complete agenda, the commission will hear committee and department overview; project update: Shelby, San Jacinto, Polk, Hill, and Dallas County Courthouses; Dr. Pepper Building, Dallas, Aztec Theatre, San Antonio, Texas Historic Preservation Grant (THPG) program update and reallocation of funds; 1994 budget; Texas Historical Commission capitol projects and Texas Historic Preservation Grant; Trust Fund: program assistant/development; 1994 planning; Legislative issues; The Texas Governor's Mansion: appointment to Friends of the Governor's Mansion Board; and Carriage House work.

Contact: Stan Graves/Lisa Harvell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: July 13, 1993, 1:02 p.m.

TRD-9325683

Friday, July 23, 1993, 7:30 a.m. The Archeology Committee of the Texas Historical Commission will meet in the Office of the State Archeologist Library, 105 West 16th Street, Austin. According to the complete agenda, the committee will discuss human remains issue; status of programs and projects; funding; and upcoming projects.

Contact: Cindy Dally, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-6100.

Filed: July 13, 1993, 1:01 p.m.

TRD-9325679

Friday, July 23, 1993, 7:30 a.m. The Publications and Education Committee of the Texas Historical Commission will meet at the Guest Quarters Suite Hotel, 15th Street Cafe, 303 West 15th Street, Austin. According to the complete agenda, the committee will discuss committee activities; and approval of T. R. Fehrenbach Book Award judges.

Contact: Roni Morales, P.O. Box 12276, Austin, Texas 78711-2276, (512) 463-6100.

Filed: July 13, 1993, 1:02 p.m.

TRD-9325681

Friday, July 23, 1993, 8:00 a.m. The National Register Committee of the Texas Historical Commission will meet at the Stephen F. Austin Building Cafeteria, 1700 North Congress Avenue, Austin. According to the complete agenda, the committee will discuss approval of appointments to the State Board of Review; and presentation on the National Register Programs Office.

Contact: Marlene Casarez, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: July 13, 1993, 1:02 p.m.

TRD-9325684

Friday, July 23, 1993, 8:15 a.m. The Department of Antiquities Protection Committee of the Texas Historical Commission will meet at the Department of Antiquities Protection Conference Room, 108 West 16th Street, First Floor, Austin. According to the complete agenda, the committee will introduce staff to new committee members; and give brief overview of department.

Contact: James E. Bruseth, P.O. Box 12276, Austin, Texas 78711, (512) 463-6096.

Filed: July 13, 1993, 1:03 p.m.

TRD-9325686

Friday, July 23, 1993, 8:30 a.m. The Local History Programs Committee of the Texas Historical Commission will meet at the Stephen F. Austin Building Cafeteria, 1700 North Congress Avenue, Austin. According to the complete agenda, the committee will have orientation.

Contact: Frances Richard, P.O. Box 12276, Austin, Texas 78711, (512) 463-6000.

Filed: July 13, 1993, 1:03 p.m.

TRD-9325685

Friday, July 23, 1993, 9:00 a.m. The State Marker Review Board of the Texas Historical Commission will meet at the Stephen F. Austin Building Cafeteria, 1700 North Congress Avenue, Austin. According to the complete agenda, the committee will hold orientation.

Contact: Cynthia Beeman, P.O. Box 12276, Austin, Texas 78711, (512) 463-6000.

Filed: July 13, 1993, 1:02 p.m.

TRD-9325680

Friday, July 23, 1993, 9:30 a.m. The Quarterly Board Meeting of the Texas Historical Commission will meet at the Stephen F. Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the agenda summary, the board will hear chairman's report; information items; and action items.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: July 13, 1993, 1:02 p.m.

TRD-9325682

Commission on Jail Standards

Wednesday, July 21, 1993, 3:00 p.m. The Commission on Jail Standards will meet at 611 South Congress Avenue, Suite 200, Austin. According to the complete agenda, the commission will select an internal auditor.

Contact: Jack E. Crump, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

Filed: July 13, 1993, 1:56 p.m.

TRD-9325690

Texas State Library and Archives Commission

Wednesday, July 21, 1993, 9:00 a.m. The Library Services and Construction Act of the Texas State Library and Archives Commission will meet at the Texas State Library, Lorenzo de Zavala Archives and Library Building, Room 202, 1201 Brazos Street, Austin. According to the complete

agenda, the council will call the meeting to order; discuss approval of minutes of the May 20, 1993 meeting; review and approval of the planning for Statewide Library Development Final Report; discuss future council meetings; hear staff reports; and adjourn.

Contact: Ed Seidenberg, P.O. Box 12927, Austin, Texas 78711, (512) 463-5459.

Filed: July 13, 1993, 1:29 p.m.

TRD-9325689

Wednesday, July 21, 1993, 9:00 a.m. The Library Systems Act Advisory Board of the Texas State Library and Archives Commission will meet at the Texas State Library, Lorenzo de Zavala Archives and Library Building, Room 202, 1201 Brazos Street, Austin. According to the complete agenda, the board will call the meeting to order; discuss approval of minutes of the May 21, 1993 meeting; review and approval of the planning for Statewide Library Development Final report; discuss future meetings; hear staff reports; consideration of appeals of loss of system membership in the Texas Library System: Coldspring Area Public Library, Edwards Public Library (Henrietta); discuss timeline for Library System Act revisions; and adjourn.

Contact: Ed Seidenberg, P.O. Box 12927, Austin, Texas 78711, (512) 463-5459.

Filed: July 13, 1993, 1:28 p.m.

TRD-9325688

Texas Department of Licensing and Regulation

Friday, July 23, 1993, 9:30 a.m. The Texas Commission of Licensing and Regulation of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will call the meeting to order; take roll call and certification of quorum; review and discuss contested cases; agreed orders; rules submission; hear staff reports; meet in executive session; discuss date, time and location for next commission meeting; and adjourn.

Contact: Elvis Schulze, 920 Colorado, Austin, Texas 78701, (512) 463-3127.

Filed: July 13, 1993, 4:11 p.m.

TRD-9325704

Texas State Board of Medical Examiners

Friday, July 30, 1993, 1:00 p.m. The Search Committee of the Texas State Board of Medical Examiners will meet at the

Hobby Airport Hilton, 8181 Airport Boulevard, Houston. According to the complete agenda, the committee will call the meeting to order; take roll call; discussion regarding the search for a new executive director/review applications; and adjourn.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: July 14, 1993, 10:42 a.m.

TRD-9325747

Public Utility Commission of Texas

Wednesday, July 21, 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 commissioners will consider the following dockets: P-11883, P-11991, P-12098, P-12109, 11988, 11647, 11681, 11735, 11795, 10877, 11831, 11826, 11777, 11292, 11892, and 11287.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1993, 3:40 p.m.

TRD-9325696

Wednesday, July 21, 1993, 9:05 a.m. The Administrative Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete revised agenda, the commissioners will also discuss in executive session anticipated litigation regarding Cause Number A 92CA 359, United States District Court for the Western District of Texas, Austin Division, M. F. Guetersloh, Jr. versus State of Texas, et al.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1993, 4:53 p.m.

TRD-9325709

Wednesday, July 21, 1993, 9:05 a.m. The Administrative Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the agenda summary, the division will discuss: reports, discussion and action on outstanding employees of the quarter; five-state audit of Southwestern Bell Telephone; El Paso Electric Company bankruptcy case in United States Bankruptcy Court; Gulf States Utilities merger with Entergy Services case at the Federal Energy Regulatory Commission; monthly budget report; 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 adjourn.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1993, 3:40 p.m.

TRD-9325695

Tuesday, July 27, 1993, 9:00 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 12014; and discuss application of Deaf Smith Electric Cooperative, Inc. for approval of revised tariffs.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 14, 1993, 3:04 p.m.

TRD-9325777

Thursday, September 2, 1993, 9:00 a.m. (Rescheduled from September 6, 1993). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11351-petition of the General Counsel to inquire into the reasonableness of the service practices and rates of Cherokee County Electric Cooperative Association, Inc. regarding switchover fees.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 14, 1993, 3:03 p.m.

TRD-9325773

Monday, September 6, 1993, 9:00 a.m. (Rescheduled from August 9, 1993). The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 11351-petition of the General Counsel to inquire into the reasonableness of the service practices and rates of Cherokee County Electric Cooperative Association, Inc. regarding switchover fees.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1993, 3:41 p.m.

TRD-9325697

Monday, January 31, 1994, 10:00 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the commission will hold a hearing on the merits in Docket Number 11964, application of Southwestern Bell Telephone Company to provide Network Subscriber Infor-

mation Service Pursuant to Public Utility Commission Substantive Rule 23.26.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: July 13, 1993, 3:39 p.m.

TRD-9325694

Stephen F. Austin State University

Monday, July 19, 1993, 1:30 p.m. The Board of Regents Committee of the Whole of the Stephen F. Austin State University met at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the agenda summary, the committee met in open session; convened in executive session to discuss report of all pending litigation; personnel matters regarding specific university employees; and open discussion of Tuesday board items.

Contact: Dr. Dan D. Angel, P.O. Box 6978, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 14, 1993, 11:59 a.m.

TRD-9325758

Tuesday, July 20, 1993, 9:00 a.m. The Board of Regents of Stephen F. Austin State University will meet at the Stephen F. Austin Campus, Room 307, Austin Building, Nacogdoches. According to the agenda summary, the board will meet in open session; convene in executive session to discuss report on all pending litigation; personnel matters regarding specific university employees; discuss approval of April 20, 1993 minutes; discuss personnel; academic and student affairs; financial affairs; buildings and grounds; hear reports; and resolutions of appreciation.

Contact: Dr. Dan D. Angel, P.O. Box 6978, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: July 14, 1993, 12:00 p.m.

TRD-9325759

Texas Guaranteed Student Loan Corporation

Thursday, July 22, 1993, 2:00 p.m. The Finance Committee of the Texas Guaranteed Student Loan Corporation will meet at 555 South Alamo Street, San Antonio. According to the agenda summary, the committee will discuss approval of minutes of May 14, 1993 meeting; internal audit position review; update on salary review; pension plan review; meet in executive session to discuss senior management compensation; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78754, (512) 873-3901.

Filed: July 14, 1993, 3:07 p.m.

TRD-9325778

Friday, July 23, 1993, 9:00 a.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at the Institute of Texan Cultures, Connally Conference Room, 801 South Bowie Street, San Antonio. According to the agenda summary, the board will discuss approval of minutes of April 4, 1993; corporate update on financial and performance statistics; hear president's report; Washington update on direct lending, and loan servicing phase out; review and adoption of direct landing contingency business plans; meet in executive session to consult with attorney on litigation issues; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78754, (512) 873-3901.

Filed: July 14, 1993, 9:31 a.m.

TRD-9325797

Texas Property and Casualty Insurance Guaranty Association

Thursday, July 22, 1993, 9:00 a.m. The Board of Directors of the Texas Property and Casualty Insurance Guaranty Association will meet at 9420 Research Boulevard, Echelon III, Suite 400, Austin. According to the agenda summary, the board will discuss approval of minutes; provide personnel update; claims quarterly status reports; internal auditor's report; state auditor's interim report; sdr seminar update; discuss and take possible action on the procurement of directors' and officers' liability insurance; recommendation for a claims committee; discuss and take possible action regarding the transfer/assumption of policies; self-insurance proposal for the association and a health fair; recommendation for a board retreat; and provide financial report.

Contact: Marvin Kelly, 9420 Research Boulevard, Echelon III, Suite 400, Austin, Texas 78759, (512) 345-9335.

Filed: July 14, 1993, 11:11 a.m.

TRD-9325753

Texas Appraiser Licensing and Certification Board

Thursday, July 22, 1993, 10:00 a.m. The Budget Committee of the Texas Appraiser Licensing and Certification Board will meet in the Executive Conference Room 235-A, Second Floor, TREC Headquarters, 1101 Camino La Costa, Austin. According

to the complete agenda, the committee will call the meeting to order; discuss and possibly make recommendations to the Texas Appraiser Licensing and Certification Board concerning: operating budget and expenditures for Fiscal Year 1993; operating budget for Fiscal Year 1994 and 1995; appropriations for Fiscal Year 1994 and 1995; and other budgetary and fiscal matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 14, 1993, 2:01 p.m.

TRD-9325764

Thursday, July 22, 1993, 2:00 p.m. The Education Committee of the Texas Appraiser Licensing and Certification Board will meet in the Executive Conference Room 235-A, Second Floor, TREC Headquarters, 1101 Camino La Costa, Austin. According to the complete agenda, the committee will call the meeting to order; consider and possibly approve the minutes of the June 24, 1993, education committee meeting; update regarding contract testing; discuss and possibly recommend to the Texas Appraiser Licensing and Certification Board concerning guidelines for acceptable education offerings, including appraiser continuing education (ACE); concerning approval of courses for meeting educational requirements; other educational matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 14, 1993, 2:01 p.m.

TRD-9325766

Friday, July 23, 1993, 9:00 a.m. The Texas Appraiser Licensing and Certification Board will meet in the Executive Conference Room 235, Second Floor, TREC Headquarters, 1101 Camino La Costa, Austin. According to the complete agenda, the board will call the meeting to order; consider approval of the minutes of June 25, 1993 meeting; hear comments and presentations from visitors; discuss and possibly act concerning the application, certification/licensing or other board procedures, policies and interpretations; filed complaints; hear staff reports; selection of date of subsequent meetings; report from the budget committee; discuss and possibly act regarding committee recommendations concerning the operation budget and expenditures for Fiscal Year 1993; operating budget for Fiscal Year 1994 and 1995; appropriations for Fiscal Year 1994 and 1995; and other budgetary and fiscal matters; hear report from the education committee; update on contract testing, discuss and possibly act regarding committee recommendations regarding guidelines for acceptable educational offerings, approval of courses for meeting educational requirements and other

education related matters; discuss necessary changes to the rules resulting from House Bill 2644, 73rd Legislature, 1993; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: July 14, 1993, 2:01 p.m.

TRD-9325765

University of Houston

Monday, July 19, 1993, 2:00 p.m. The Animal Care Committee of the University of Houston met at the Optometry Building, Deans Conference Room, #2104, University of Houston, 4800 Calhoun Boulevard, Houston. According to the agenda summary, the committee discussed and possibly acted on the approval of June minutes; renewal protocols; categories of biomedical experiments; animal program; and inspection of Optometry and Pharmacy/TMC animal facilities.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 743-9222.

Filed: July 14, 1993, 1:48 p.m.

TRD-9325761

University Interscholastic League

Wednesday, August 4, 1993, 9:00 a.m. The Standing Committee on Music of the University Interscholastic League will meet at the Sheraton Hotel, Fifth and IH-35, Austin. According to the agenda summary, the committee will begin with general requirements; review and discuss proposals and staff recommendations for amendments to the Constitution and Contest Rules; unscheduled presentations of proposals for amendments to the Constitution and Contest Rules; and hold business meeting.

Contact: Dick Floyd, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: July 13, 1993, 11:14 a.m.

TRD-9325668

Texas Water Commission

Wednesday, July 14, 1993, 9:00 a.m. The Texas Water Commission met at the Stephen F Austin Building, Room 118, 1700 North Congress Avenue, Austin. According to the emergency revised agenda summary, the commission considered a petition of Steven White doing business as White Brothers Farms, J. M. Frost, III, Fort J. Frost and Devers Canal Rice Producers

Association, Inc., for review of a water rate increase by Trinity Water Reserve, Inc. doing business as Canal System. The emergency status was necessary due to reasonably unforeseeable circumstances.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: July 13, 1993, 1:12 p.m.

TRD-9325687

Texas Workers' Compensation Commission

Thursday, July 22, 1993, 9:00 a.m. The Texas Certified Self-Insurer Guaranty Association of the Texas Workers' Compensation Commission will meet at the Southfield Building, Rooms 910-911, 4000 South IH-35, Austin. According to the agenda summary, the Association will call the meeting to order; discuss approval of minutes; election of chairman; discuss and possibly act on the following applicants: Mother Frances Hospital of Tyler; Red Arrow Freight Lines, Inc.; S and B Engineers and Constructors, Limited; Mercy Hospital of Laredo; Texaco Inc.; PPG Industries, Inc.; St. Mary of the Plains Hospital; rules for proposal; bylaws of the Association; discuss future public meetings; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-3690.

Filed: July 14, 1993, 10:22 a.m.

TRD-9325737

Texas Workers' Compensation Insurance Facility

Friday, July 23, 1993, 8:30 a.m. The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda summary, the committee will discuss approval of the June 23, 1993 minutes; consider and possible act on all matters pertinent to engagement of auditor for 1993, on amended and revised Facility Procedural Handbook, on executive director's compensation, and on Appeals Committee's recommendations; hear report from executive on budget revisions for remainder of 1993; executive director's report; and meet in executive session(s) regarding personnel matters and pending legal matters.

Contact: Russell R. Oliver, 8303 Mopac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: July 14, 1993, 11:17 a.m.

TRD-9325754

Regional Meetings

Meetings Filed July 13, 1993

The Archer County Appraisal District Appraisal Review Board will meet at the Appraisal District Office, 101 South Center, Archer City, July 20, 1993, at 8:30 a.m. Information may be obtained from Edward H. Trigg, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9325691.

The Capital Area Planning Council Executive Committee will meet at 2520 IH-35 South, Suite 100, Austin, July 21, 1993, at 1:30 p.m. Information may be obtained from Richard G. Ecan, 2520 IH-35 South, Austin, Texas 78704, (512) 443-7653. TRD-9325707.

The Central Counties Center for Mental Health Mental Retardation Services Board of Trustees will meet at 304 South 22nd Street, Temple, July 20, 1993, at 7:45 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9325677.

Meetings Filed July 14, 1993

The Brazos River Authority Board of Directors met at 4400 Cobbs Drive, Waco, July 19, 1993, at 9:00 a.m. (Revised agenda). Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9325757.

The Cash Water Supply Corporation will meet at the Administration Office, FM 1564 East, Greenville, July 20, 1993, at 7:00 p.m. (Rescheduled from July 13, 1993). Information may be obtained from Donna Mohon, P.O. Box 8129, Greenville, Texas 75404, (903) 883-2695. TRD-9325755.

The Central Plains Center for Mental Health Mental Retardation and SA Board of Trustees will meet at 710 West Fifth Street, Plainview, July 22, 1993, at 6:00 p.m. Information may be obtained from Seth Halbert, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9325746.

The Central Texas Mental Health and Mental Retardation Center Board of Trustees met at 408 Mulberry Drive, Brownwood, July 19, 1993, at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, Ext. 102. TRD-9325745.

The Colorado River Municipal Water District Board of Directors will meet at 400 East 24th Street, Big Spring, July 22, 1993, at 9:00 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring,

Texas 79721, (915) 267-6341. TRD-9325762.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, July 20, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904. TRD-9325744.

The Gulf Bend Mental Health Mental Retardation Center Local Interagency Community Management Team will meet at 1404 Village Drive, Victoria, July 21, 1993, at noon. Information may be obtained from Carey Ann Serrano, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9325742.

The Hood County Appraisal District Board of Directors will meet at 1902 West Pearl Street, District Office, Granbury, July 20, 1993, at 7:30 p.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9325789.

The Lamar County Appraisal District Board will meet at the Lamar County Appraisal District Office, 521 Bonham Street, Paris, July 20, 1993, at 5:00 p.m. Information may be obtained from Joe Welch, 521 Bonham, Paris, Texas 75460, (903) 785-7822. TRD-9325763.

The Lower Colorado River Authority Retirement Benefits Committee will meet at 3701 Lake Austin Boulevard, Hancock Building, Room H-303, Austin, July 20, 1993, at 10:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9325741.

The Lower Colorado River Authority Retirement Benefits Committee will meet at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, July 20, 1993, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9325740.

The Panhandle Regional Planning Commission Board of Directors will meet at 415 West Eighth Avenue, PRPC Board Room, Amarillo, July 22, 1993, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257. TRD-9325760.

The South Texas Private Industry Council, Inc. will meet at 901 Kennedy Street, Zapata, July 22, 1993, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9325787.

The Wise County Appraisal District Appraisal Review Board will meet at 206 South State Street, Decatur, July 20, 1993,

at 9:00 a.m. Information may be obtained from Lareesea Pittman, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9325767.

Meetings Filed July 15, 1993

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, July 19, 1993, at 7:00 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9325798.

The Dawson County Central Appraisal District Appraisal Review Board will meet at the Lamesa Branch Howard College, 1810 Lubbock Highway, Lamesa, July 23, 1993, at 9:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9325803.

The Deep East Texas Council of Governments Regional Economic Development Committee will meet at the Fin and Feather Lodge, FM 2928, Sabine County, Hemphill, July 22, 1993, at 10:30 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9325792.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at the Fin and Feather Lodge, FM 2928, Sabine County, Hemphill, July 22, 1993, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9325793.

The Deep East Texas Council of Governments Board of Directors will meet at the Fin and Feather Lodge, FM 2928, Sabine County, Hemphill, July 22, 1993, at 1:00 p.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9325795.

The Hays County Appraisal District Appraisal Review Board will meet at 632A East Hopkins, San Marcos, July 20, 1993, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9325796.

The Lampasas County Appraisal District Board of Directors will meet at 109 East Fifth Street, Lampasas, July 26, 1993, at 7:00 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76650, (512) 556-8058. TRD-9325804.

The Mills County Appraisal District will meet at the Mills County Courthouse Jury Room, Goldthwaite, July 20, 1993, at 9:00 a.m. Information may be obtained from

Cynthia Partin, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2252. TRD-9325800.

The Mills County Appraisal District will meet at the Mills County Courthouse Jury Room, Goldthwaite, July 22, 1993, at 6:30 p.m. Information may be obtained from Cynthia Partin, P.O. Box 565, Goldthwaite, Texas 76844, (915) 648-2252. TRD-9325799.

The North Central Texas Council of Governments for the North Central Texas Job Training Consortium Private Industry Council will meet at 616 Six Flags Drive, Centerpoint Two, Arlington, July 21, 1993, at 2:00 p.m. Information may be obtained from Mike Gilmore, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300, Ext. 162. TRD-9325802.

The Wheeler County Appraisal District Board of Directors met at the District's Office, County Courthouse Square, Wheeler, July 19, 1993, at 7:30 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9325801.



In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Comptroller of Public Accounts Consultant Contract Award

In accordance with the provisions of Texas Civil Statutes, Article 6252-11c, the Comptroller of Public Accounts furnishes this notice of consultant contract award.

The consultant proposal request was published in the March 9, 1993, issue of the *Texas Register* (18 TexReg 1593).

The consultant will develop and conduct a limited review of the costs and practices of facilities management of educational and general facilities in two public higher education institutions. The program is intended to produce recommendations for the improvement of facilities management practices and the reduction of costs in the areas of general repairs and maintenance of facilities, deferred maintenance, grounds maintenance, utilities, security and custodial services, moving and rearrangements, including all personnel costs.

The contract is awarded to Voelker, Castilla, and Kopczynski, Inc., 4106 Office Parkway, Dallas, Texas 75204. The total dollar value of the contract is \$129,745. The contract was executed July 12, 1993, and extends through November 30, 1993.

Issued in Austin, Texas, on July 13, 1993.

TRD-9325692 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: July 13, 1993

Request for Proposals

Pursuant to House Bill 2626 (73rd Legislature, 1993), the Office of Comptroller of Public Accounts (Comptroller) announces its Request for Proposals (RFP) for the Performance of a Disparity/Capacity Study Regarding State Procurement and Contracting Practices. The purpose of the RFP is to obtain proposals regarding the performance of a disparity/capacity study that can be used as the basis for ensuring that Historically Underutilized Businesses (HUBs) will have adequate access to the State's procurement process. The evaluation will be based on criteria set forth in the RFP. The Successful Proposer will be expected to begin performance of the contract on or about September 7, 1993.

Contact: Parties interested in submitting a proposal should contact Walter Muse, Legal Counsel, Office of Comptroller of Public Accounts, 111 East 17th Street, Room G-26, Austin, Texas 78774, (512) 475-0866, to obtain a complete copy of the RFP. The RFP will be available for pick-up at the above-referenced address on July 20, 1993, between 1:00 p.m. and 5:00 p.m., Central Zone Time (CZT), and during normal business hours thereafter.

Closing Date. Proposals must be received in the Office of Legal Counsel at the address above no later than 4:00 p.m. (CZT), on August 16, 1993. Proposals received after this time and date will not be considered.

Award Procedure. All proposals will be subject to evaluation by a committee based on the evaluation criteria set forth in the RFP. The committee will determine which proposal best meets these criteria and will make a recommendation to the Deputy Comptroller. The Deputy Comptroller will review the committee's recommendation and will make a recommendation to the Comptroller, who will make the final decision. A proposer may be asked to clarify its proposal, which may include an oral presentation prior to final selection.

The Comptroller's Office reserves the right to accept or reject any or all proposals submitted. The Comptroller's Office is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits the Comptroller's Office to pay for any costs incurred prior to the execution of a contract.

The anticipated schedule of events is as follows. Issuance of RFP—July 20, 1993, at 1:00 p.m. (CZT); submission of letter of intent to bid—July 27, 1993, at 4:00 p.m. (CZT); proposals due—August 16, 1993, by 4:00 p.m. (CZT); announcement of apparent successful proposer—August 25, 1993, or as soon thereafter as practical; and contract execution—September 1, 1993, or as soon thereafter as practical.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325751 Arthur F. Lorton
Senior Legal Counsel
Comptroller of Public Accounts

Filed: July 14, 1993

Texas Department of Health

Notice of Intent to Revoke A Certificate of Registration

Pursuant to Texas Regulations for Control of Radiation (TRCR), Part 13, (25 Texas Administrative Code, §289.112), the Bureau of Radiation Control (bureau), Texas Department of Health (department), filed a complaint against the following registrant: All Animal Veterinary Services, Inc., Conroe, R11988.

The department intends to revoke the certificate of registration; order the registrant to cease and desist use of radiation machine(s); order the registrant to divest himself of such equipment; and order the registrant to present evidence satisfactory to the bureau that he has complied with the order and the provisions of the Health and Safety Code, Chapter 401. If the fee is paid within 30 days of the

date of the complaint, the department will not issue an order.

This notice affords the opportunity to the registrant for a hearing to show cause why the certificate of registration should not be revoked. A written request for a hearing must be received by the bureau within 30 days from the date of service of the complaint to be valid. Such written request must be filed with David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189. Should no request for a public hearing be timely filed or if the fee is not paid, the certificate of registration will be revoked at the end of the 30-day period of notice. 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 July 8, 1993.

TRD-9325676 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health.

Filed: July 13, 1993

Texas Department of Housing and Community Affairs

Notices of Public Hearing

The Texas Department of Housing and Community Affairs (TDHCA) announces that public hearings will be held for the Nonprofit Development and Capacity Enhancement Program. The public hearings will occur in the five cities where the TDHCA is currently negotiating with the Resolution Trust Corporation (RTC) to acquire multi-family property. The five cities are: Bryan, College Station, Coppell, El Paso, Sherman.

TDHCA has initiated the Program to provide newly created community housing development organizations (CHDOs) an opportunity to own and manage low and very low income housing. Under the Program, TDHCA purchases multi-family properties through the Resolution Trust Corporation's Affordable Housing Disposition Program and re-sells the properties to a local CHDO. The RTC AHD Program requires a percentage of units in each complex to be set aside for low and very low income occupancy.

TDHCA's primary objective is to increase the capacity of local CHDOs by assisting them with acquisition and technical training (in management and maintenance) of multi-family properties. This will in turn increase the supply of affordable housing for low and very low income Texans. To achieve this objective, the TDHCA will work jointly with newly certified CHDOs to help them develop the capacity to independently own and operate the multi-family properties. Increasing the number and capacity of CHDOs will also prevent absentee ownership of multi-family properties in Texas by out-of-state developers.

Certified CHDOs are local nonprofit housing corporations committed to providing decent and affordable housing to low and moderate income persons. They are highly aware of their local housing needs, committed to providing decent and affordable housing to low and moderate income persons, and tax-exempt under the Internal Revenue Code, §501(c).

Local officials, nonprofit housing corporations, community action agencies, and other citizens are encouraged to attend. For more information regarding the AHA Program, please contact: Wendy Maceo, Loan Administration, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711, (512) 475-3964.

The hearings are scheduled at the following locations: Wednesday, July 14, 1993-Bryan Municipal Building, City Council Chambers, 300 South Texas Avenue, Bryan, Texas 77803 at 4:00 p.m.; Thursday, July 15, 1993-Bryan/College Station Chamber of Commerce (for the College Station public hearing), Suite 175, 4001 East 29th Street, College Station, Texas 77805 at 2:00 p.m.; Wednesday, July 21, 1993-Rosa Viola Hill Smith Community Center, 2001 North Hoard Street, Sherman, Texas 75090 at 3:00 p.m.; Thursday, July 22, 1993-City Hall, City Council Chambers, 255 Parkway Boulevard, Coppell, Texas 75019 at 7:00 p.m.; Thursday, July 29, 1993-El Paso Community College (Valle Cerde Campus), President's Office Conference Room, 919 Hunter Road, El Paso, Texas 79998 at 2:00 p.m.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for person who are hearing impaired, or large print or Braille, should contact Aurora Carvajal at (512) 475-3822 five work days prior to the public hearing so that appropriate arrangements can be made. Individuals using TDD machines call 1-800-RELAY TX.

Issued in Austin, Texas, on July 8, 1993.

TRD-9325629 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 12, 1993

The Texas Department of Housing and Community Affairs (the Department) hereby gives notice that it will hold a public hearing on Tuesday, July 27, 1993, from 9:00 a.m. to 5:00 p.m., at the Sam Houston Building, 201 East 14th Street, Room 117, with respect to its proposed HOME Investment Partnership Program (HOME Program) draft rules.

The State of Texas HOME Program is preparing for its Fiscal Year 1993 Application Cycle. Approximately \$29 million in HOME funds is available for competition.

All interested persons are invited to attend this public hearing and to express their views on the proposed draft rules. Questions or request for additional information may be directed to David Garza, HOME Program Manager, Housing Finance and Development Division, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711, (512) 475-3109. Persons who plan to attend the hearing are encouraged, in advance of the public hearing, to inform the Department either in writing or by telephone. Any interested persons who are unable to attend the public hearing may submit their views in writing to the Department prior to the date scheduled for the hearing.

Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Issued in Austin, Texas, on July 13, 1993.

TRD-9325693

Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 13, 1993

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Texas Department of Insurance
Public Meeting

The State Board of Insurance of the Texas Department of Insurance at a public meeting held at 2:00 p.m. July 12, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, adopted a proposal filed on behalf of the Texas Workers' Compensation Insurance Facility (Facility) to amend the tabular surcharge plan and rate differentials applicable to risks written through the Facility. The amendments were proposed in a petition filed by the Facility on June 2, 1993, and amended by the Facility on July 6, 1993. For further information see Board Order Number 60402.

According to the Facility's petition, the adopted changes reduce the maximum tabular surcharge from 15% to 14%, the mandatory differential factor of 15% is eliminated for risks with an experience modifier and the differential factor for risks with no experience modifier may not exceed 28.5%. These amendments are effective for policies written by the Facility with an effective date on and after July 13, 1993.

The State Board of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Article 5.76-2.

The Agency hereby certifies that the adopted amendments have been reviewed by the legal counsel and found to be within the Agency's authority to adopt.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325715

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

Filed: July 14, 1993

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Public Utility Commission of Texas
Notices of Intent to File Pursuant to
Public Utility Commission Substantive
Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of a new Plexar-Custom Service for Pine Tree Independent School District ("Pine Tree ISD") in Longview.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of a new Plexar-Custom Service for Pine Tree Independent School District in Longview, Texas pursuant to Public Utility Commission Substantive Rule 23.27. Docket Number 12150.

The Application. Southwestern Bell Telephone Company is requesting approval of a new Plexar-Custom Service for Pine Tree Independent School District in Longview, Texas. The geographic service market for this specific service is the Longview/Tyler area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 9, 1993.

TRD-9325638

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

Filed: July 12, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific Plexar-Custom Service for the City of Eules.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for the City of Eules pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12137.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the City of Eules. The geographic service market for this specific service is the Eules area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 12, 1993.

TRD-9325698

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

Filed: July 13, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific Plexar-Custom Service for Mercy Regional Medical Center, Laredo.

Docket Title and Number. Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Mercy Regional Medical Center pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12140.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Mercy Regional Medical Center. The geographic service market for this specific service is the Laredo area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 12, 1993.

TRD-9325699

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

Filed: July 13, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific Plexar-Custom Service for Longview Bank and Trust, Longview.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Longview Bank and Trust pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12143.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Longview Bank and Trust. The geographic service market for this specific service is the Longview area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 12, 1993.

TRD-9325700

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

Filed: July 13, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific Plexar-Custom Service for Northside ISD, San Antonio.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Northside ISD pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12146.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Northside ISD. The geographic service market for this specific service is the San Antonio area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 12, 1993.

TRD-9325701

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

Filed: July 13, 1993

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific Plexar-Custom Service for the University of Texas at Houston.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for the University of Texas at Houston Pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12147.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the University of Texas at Houston. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on July 12, 1993.

TRD-8325702

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

Filed: July 13, 1993

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Notice of Intent To File Pursuant to PUC 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 and residence rates for new customers of SignalRing (currently tarified as Call Screening), Call Waiting, and Three Way Calling.

Tariff Title and Number. Application of United Telephone Company of Texas for Approval of Promotional Business and Residence Rates for New Customers of SignalRing, Call Waiting, and Three Way Calling, pursuant to Public Utility Commission Substantive Rule 23.28; Tariff Control Number 12155.

The Application. United Telephone Company of Texas is requesting approval of promotional business and residence rates for new customers of SignalRing, Call Waiting, and Three Way Calling, for a 45-day period beginning September 1, 1993, and ending October 15, 1993. Any of the three services will be provided to the customer for one month without charge beginning with the date of connection. Approval of the proposed promotion will allow United Telephone Company of Texas to waive the monthly charges for a thirty day period. The geographic service market for this promotion is the following exchanges: Anderson, Arp, Athens, Bridgeport, Brownsboro, Chandler, Cooper, Dublin, Eustace, Flat, Frankston, Gatesville, Hamilton, Hico, Jonesboro, Kaufman, Kemp, Koon Creek, Lake Palestine, Mabank, Malakoff, Martins Mill, Murchison, Navasota, Neches, Paradise, Payne Springs, Plantersville, Possom Kingdom Lake, Pottsville, Run Away Bay, Shiro, Stephenville, Tool/Seven Points, Trinidad, Troup, and Washington.

Persons who wish to comment upon the 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 July 9, 1993.

TRD-9325635

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

Filed: July 12, 1993

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Railroad Commission of Texas
Concurring Statement of Commissioner
Barry Williamson

Motor Transportation Regulations. Proposed Amendment to §5.582 relating to Rate Deviations pursuant to Senate Bill 1313 and House Bill 1156--Docket Number 005.582B1AR.

In the process of formulating these rules for publication in the *Texas Register*, I proposed to exercise authority expressly granted to the Commission by the Legislature to expand rate flexibility for common carrier shipments. I regret that the Commission did not choose to seek public comment on these proposals.

First, in accordance with the Motor Carrier Act, §4(a)(8), I proposed a rule which would permit the rates for shipments weighing 500 pounds or less to deviate 10%, or in the alternative, 5.0%. Despite the support of the Common Carrier Motor Freight Association, Inc., in its September 22, 1992, rulemaking petition, for the 5.0% deviation, the Commission voted not to publish this proposed rule change.

Similarly, in accordance with the Motor Carrier Act, §4(a)(9), I proposed a rule which would permit the rates for shipments weighing between 501 pounds and 9,999 pounds to deviate 15%, or in the alternative, 10%. The currently permitted deviation is 5.0%. The Commission voted not to publish this proposed rule change, as well.

The Legislature has given the Commission strong encouragement to reform the motor carrier industry. I do not think we should postpone needed reforms until the Legislature requires us to. With regard to transportation reform, the Railroad Commission should lead-not follow.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325735

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

Filed: July 14, 1993

◆ ◆ ◆
Dissenting Statement of Commissioner
Barry Williamson

In the process of formulating these rules for publication in the *Texas Register*, I wanted the Commission to fully realize the goals of the Texas Legislature in Senate Bill 1313 to improve the efficiency of Texas-certificated Specialized Motor Carriers (SMCs). Because these goals are not met by the proposed rule adopted by the majority, I must dissent.

First, in accordance with §10 of Senate Bill 1313, §6a(a), I opposed the majority's proposal to limit the ability of

SMCs, on return shipments, to transport only specialized commodities. The Legislature suggested to the Commission that, by rule, it may permit SMCs to transport any commodity the Commission permits. The Commission Staff's original draft would have allowed for all commodities to be transported. I believe that, in line with the Legislature's intent to introduce meaningful reform in the motor carrier industry, we should have followed the Legislature's lead and opted for the broader interpretation. I regret that I was outvoted.

Similarly, in accordance §10, §6a(a)(1), I opposed the majority's proposal to limit the type of equipment that may be used by SMCs on return shipments to flatbed-type vehicles only. The Legislature suggested to the Commission that, by rule, it may permit SMCs to use any type of equipment the Commission permits. I also made a motion to strike the language "with the same equipment" from proposed subsection (b) in order to prevent the rule from being virtually useless. As it reads now, the backhaul provision is applicable only to SMCs who perform their certificated front-hauls in flatbed-type vehicles. This guts the intent of the statute. I regret that I was again outvoted.

Finally, I proposed that the rule not be limited solely to "intrastate" shipments. I believe this discriminates needlessly against customers along the borders of Texas. Many SMCs have dual authority under the Railroad Commission for intrastate shipments and under the Interstate Commerce Commission for interstate shipments. An SMC certified in Texas and with the ICC to haul oilfield supplies should be allowed to make an interstate shipment of oilfield supplies from, say Midland to Lake Charles, Louisiana, and on its reverse trip, be able to pick up roofing materials in Port Arthur for return to Midland. The goal of the Legislature was to increase the loaded-mile factors of Texas SMCs. Unfortunately, this rule, as it is proposed, would not allow Texas carriers who happen to transport to locations outside of Texas to improve their load factors through backhauls.

Because this proposed rule differs so dramatically from that suggested by the legislation, I cannot support it. I encourage parties to fully flesh out the issues in their comments to this rule.

Issued in Austin, Texas, on July 14, 1993.

TRD-9325734

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

Filed: July 14, 1993

◆ ◆ ◆
Texas Water Commission
Notice of Application For Waste
Disposal Permit

Attached are Notices of Applications for waste disposal permits issued during the period of June 28-July 9, 1993.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester would be adversely affected by the granting of the application. If the Commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the

public interest, the Commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the Commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Imperial Holly Corporation; a sugar refining plant; the plant site is at 198 Kempner Street, bordered on the south by Kempner Street, and on the west by Ulrich Street, on the north by Avenue D, and on the east by Oyster Creek, in the City of Sugar Land, Fort Bend County; renewal; 00442.

Recovery and Reclamation, Inc.; a commercial Class I hazardous industrial waste management to authorize operation of a container storage unit in conjunction with its battery recycling operations. Wastes to be managed at this facility are classified as ignitable, corrosive, toxicity characteristic, and reactive wastes; the facility is located on an 8.7 acre tract of land, approximately 500 feet west of Highway 17 and 1,000 feet north of Interstate Highway 20 at 2001 Western Boulevard, just outside the City of Pecos, Reeves County; new; HW50352.

Temple-Inland Forest Products Corporation; to authorize post closure care for three former surface impoundments which have been closed as two landfills; the wastes managed at this facility are Class I hazardous and non-hazardous industrial solid waste generated on-site from wood preserving operations; the industrial solid waste management facility is located on the northwest corner portion of a 344-acre industrial manufacturing complex, bordered by Mill Street on the south, Neil Pickett Drive on the west, Pine Valley Road and Borden Drive on the north and First Street on the east, generally within the incorporated limits of the City of Diboll, Angelina County; new; HW50102-000.

Rollins Environmental Services (Texas) Inc.; in order to add a new waste management area to the compliance plan for inclusion in the proposed corrective action program; a commercial hazardous and non-hazardous storage, processing and disposal facility; the facility is located one mile south-southwest of the San Jacinto Monument at 2027 Battleground Road in Deer Park, Harris County; amendment; CP50089-001.

Issued in Austin, Texas, on July 9, 1993.

TRD-9325623 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: July 12, 1993

City of West, P.O. Box 97, West, Texas 76691, received April 29, 1993, application for financial assistance in the amount of \$1,000,000 from the State Water Pollution Control Revolving Fund.

City of Nacogdoches, 202 East Pilar, Nacogdoches, Texas 75963, received May 28, 1993, application for financial assistance in the amount of \$1,670,000 from the State Water Pollution Control Revolving Fund.

City of Argyle, 506 Highway 377 N, Argyle, Texas 76226, received June 18, 1993, application for financial assistance in the amount of \$1,540,000 from the Water Quality Enhancement Account of the Texas Water Development Board and the State Water Pollution Control Revolving Fund.

Jefferson County Water Control and Improvement District Number 10, 3707 Central Boulevard, Nederland, Texas 77627, received June 1, 1993, application for financial assistance in the amount of \$1,980,000 from the Water Quality Enhancement Account of the Texas Water Development Board and the State Water Pollution Control Revolving Fund.

City of Brownwood, P.O. Box 1389, Brownwood, Texas 76804, received June 1, 1993, application for financial assistance in the amount of \$7,835,000 from the State Water Pollution Control Revolving Fund.

El Paso Water Utilities/Public Service Board, P.O. Box 511, El Paso, Texas 79961, received June 22, 1993 application for financial assistance in an amount not to exceed \$56,414 from the Research and Planning Fund.

City of Del Rio, 109 West Boardway, Del Rio, Texas 78840, received May 14, 1993, application for financial assistance in the amount of \$3,508,710 from the Economically Distressed Account of the Water Development Fund.

City of Brownsville, 1425 Robin Hood Drive, Brownsville, Texas 78520, received November 21, 1991, application for financial assistance in the amount of \$538,218 from the Economically Distressed Areas Account of the Water Development Fund.

Colorado River Municipal Water District, P.O. Box 869, Big Spring, Texas 79721, received June 30, 1993, application for financial assistance in an amount not to exceed \$64,356 from the Research and Planning Fund.

San Antonio River Authority, P.O. Box 830027, San Antonio, Texas 78283, received June 15, 1993, application for financial assistance in an amount not to exceed \$100,000 from the Water Loan Assistance Fund.

Additional information concerning this matter may be obtained from Craig D. Pedersen, Executive Administrator, P.O. Box 13231, Austin, Texas 78711.

Issued in Austin, Texas, on July 7, 1993.

TRD-9325710 Craig D. Pedersen
Executive Administrator
Texas Water Development Board

Filed: July 14, 1993

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Texas Water Development Board Applications Received

Pursuant to the Texas Water Code, §6.195, the Texas Water Development Board provides notice of the following applications received by the Board.

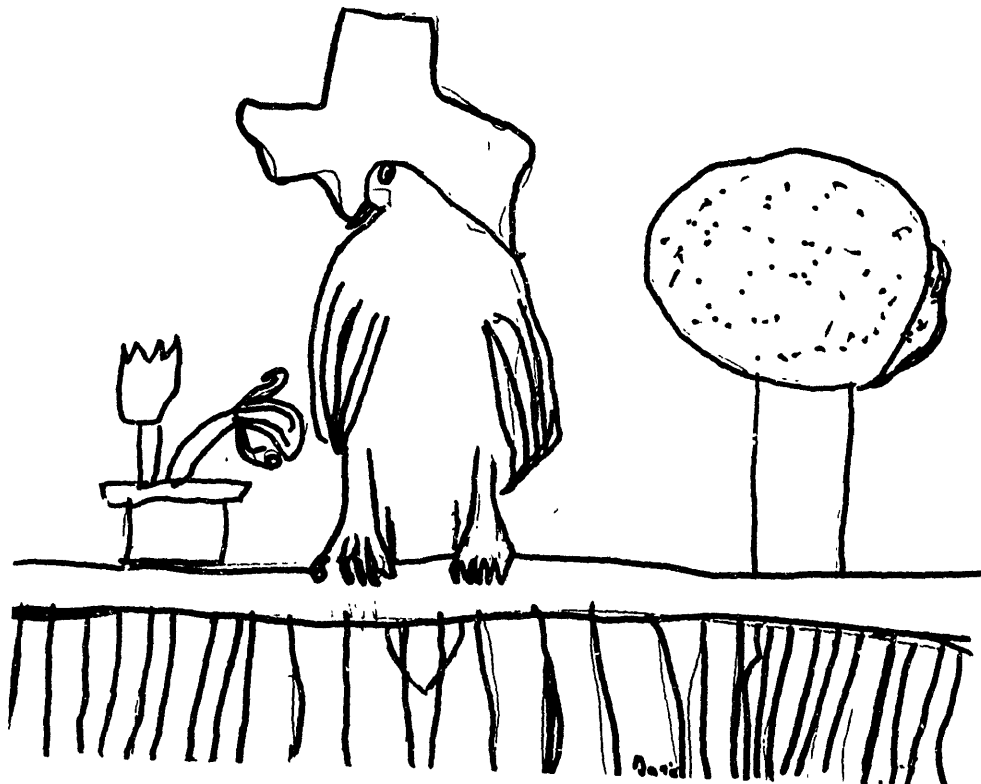
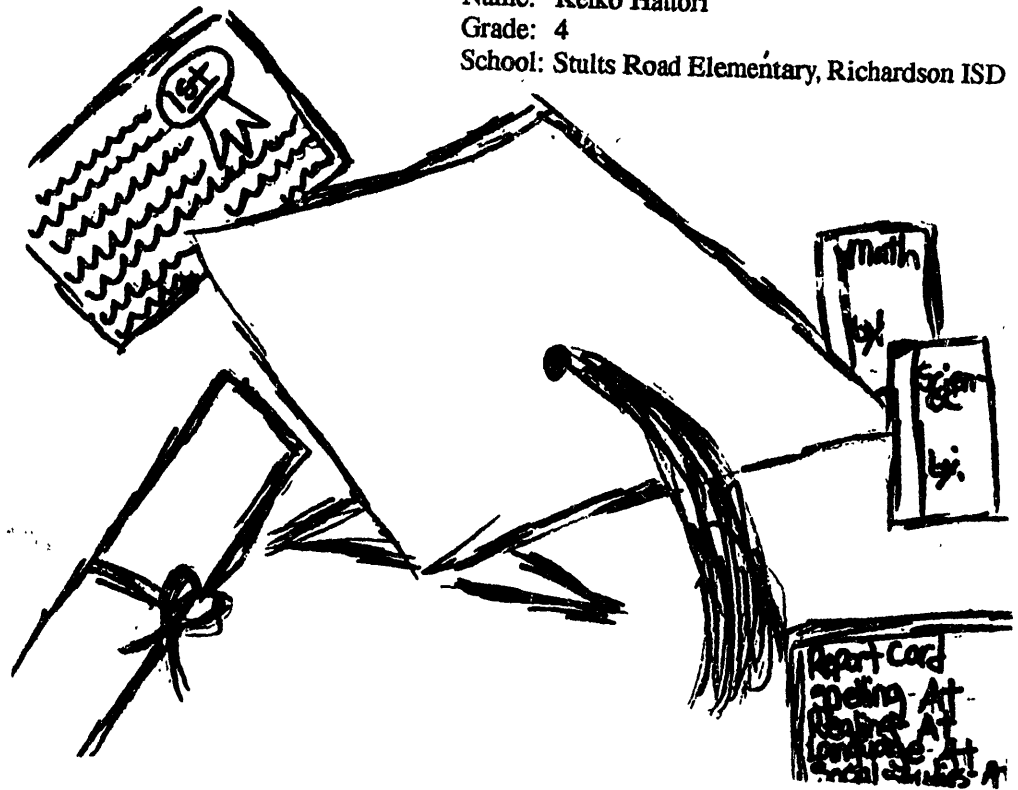


Name: Steve Roy
Grade: 12
School: Plano East Senior High, Plano ISD



Name: Carie Clouse
Grade: 12
School: Plano East Senior High, Plano ISD

Name: Keiko Hattori
Grade: 4
School: Stults Road Elementary, Richardson ISD



Name: Daniel Valdez
Grade: 2
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 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 preceding publication. No issues will be published on July 30, November 5, November 30, and December 25. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19

65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7
70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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