

Texas Register

Volume 18, Number 57, July 27, 1993

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Texas Register



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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

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

Open Meetings - notices of open meetings.

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

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

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

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

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
Part I. Texas Department of Human Services
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The Table of TAC Titles Affected is cumulative for each volume of the Texas Register (calendar year).

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

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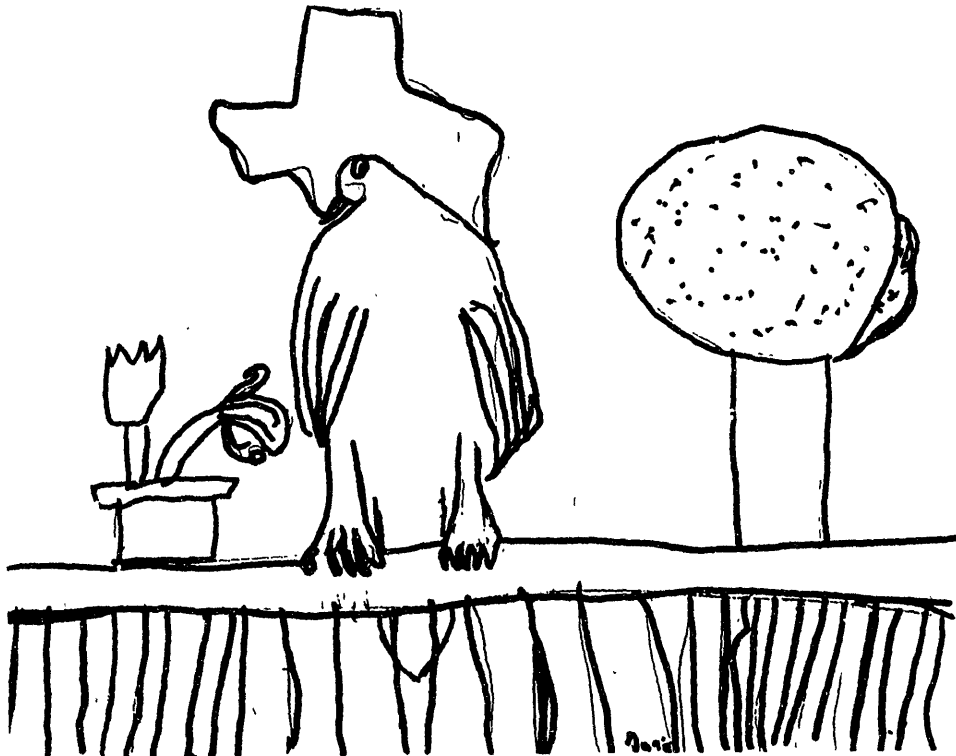
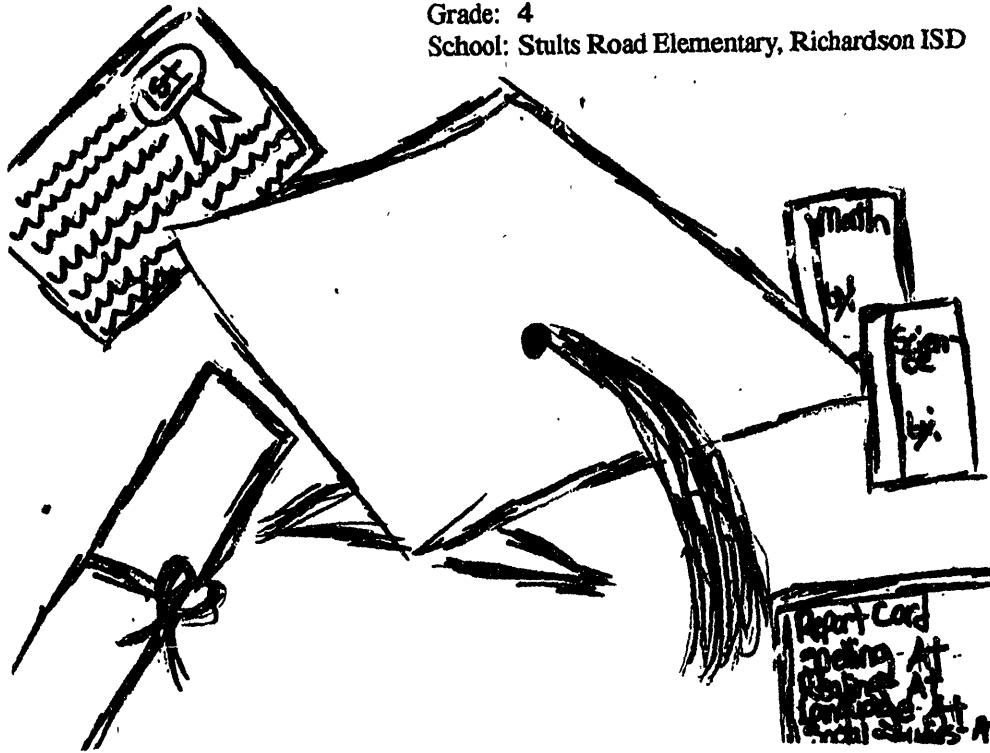
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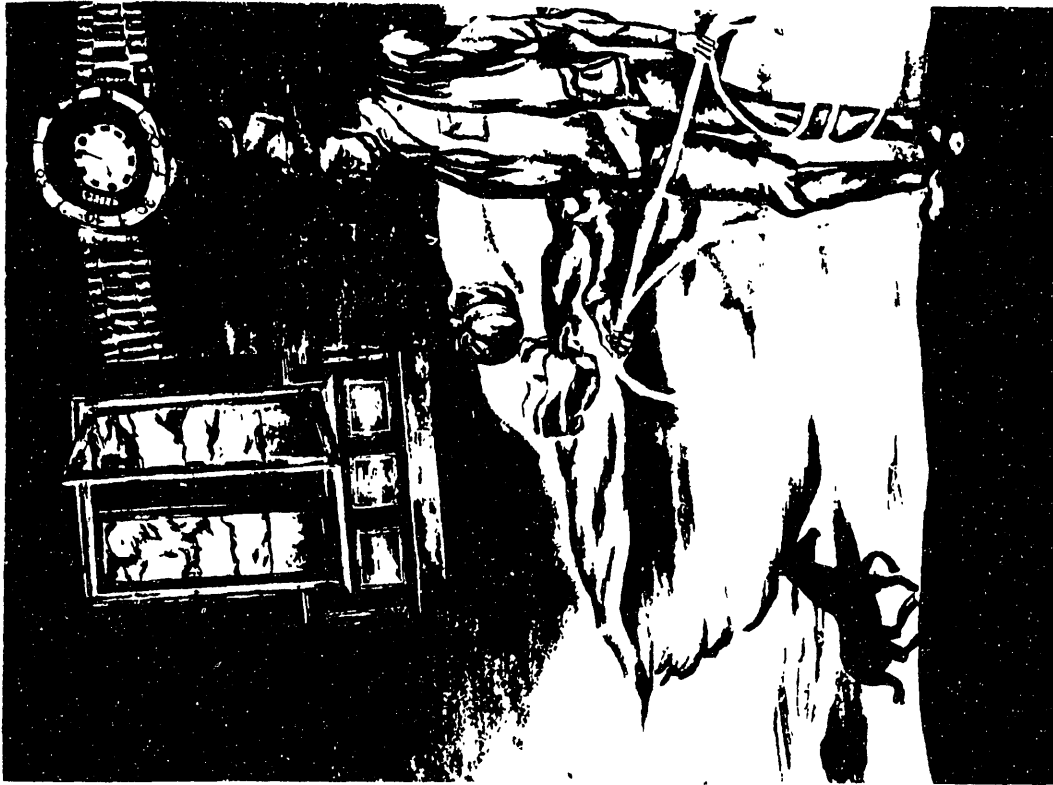
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Name: Keiko Hattori
Grade: 4
School: Stults Road Elementary, Richardson ISD



Name: Daniel Valdez
Grade: 2
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Steve Roy
Grade: 12
School: Plano East Senior High, Plano ISD



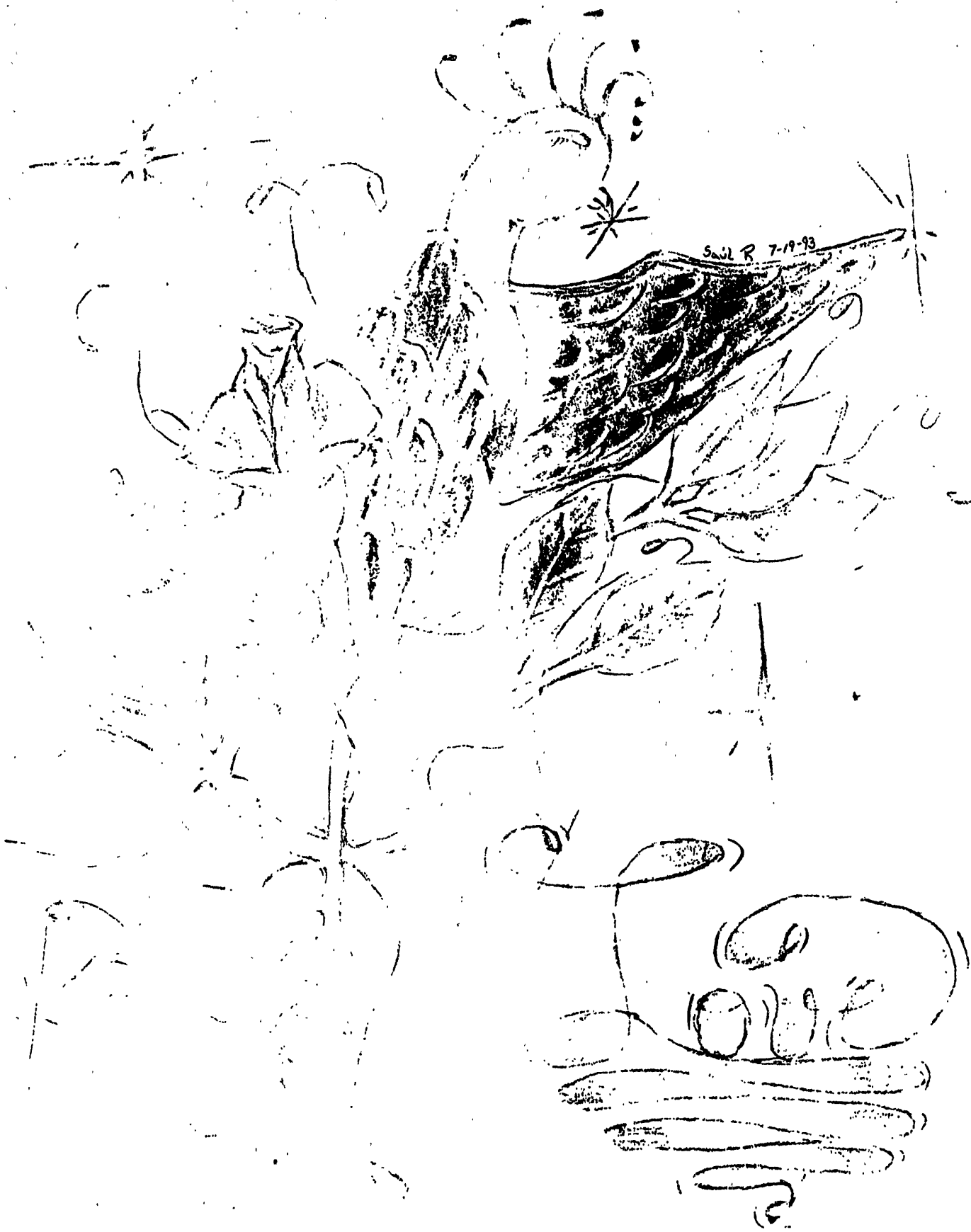
Name: Carie Clouse
Grade: 12
School: Plano East Senior High, Plano ISD



Name: Jim Buchanan
Grade: 11
School: Plano East Senior High, Plano ISD



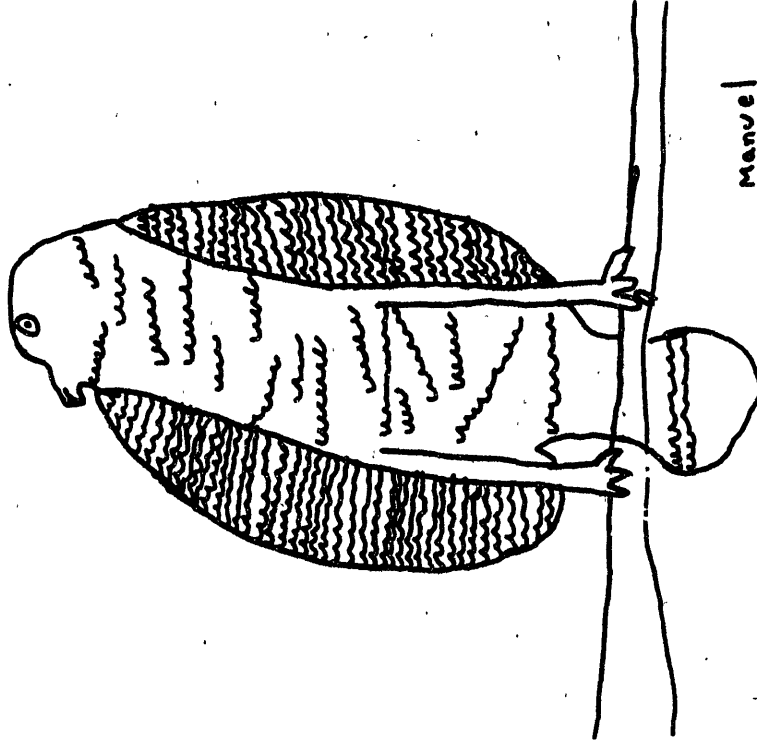
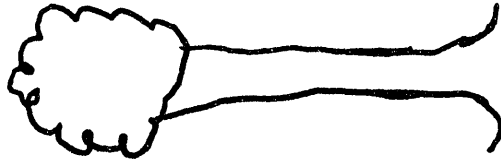
Name: Steve Bishop
Grade: 12
School: Plano East Senior High, Plano ISD



Name: Saul Rodriguez
School: Saint Edwards State Migrant Program 1993



Stephanie woolf.



Manuel Marquez

Name: Manuel Marquez

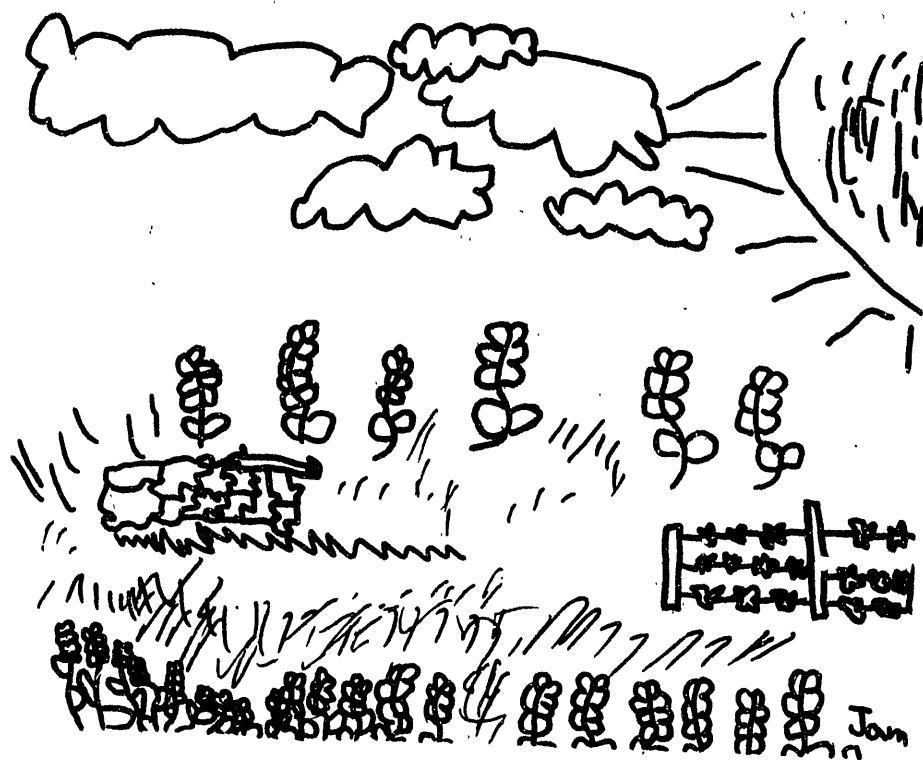
Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Name: Stephanie Woolf

Grade: 2

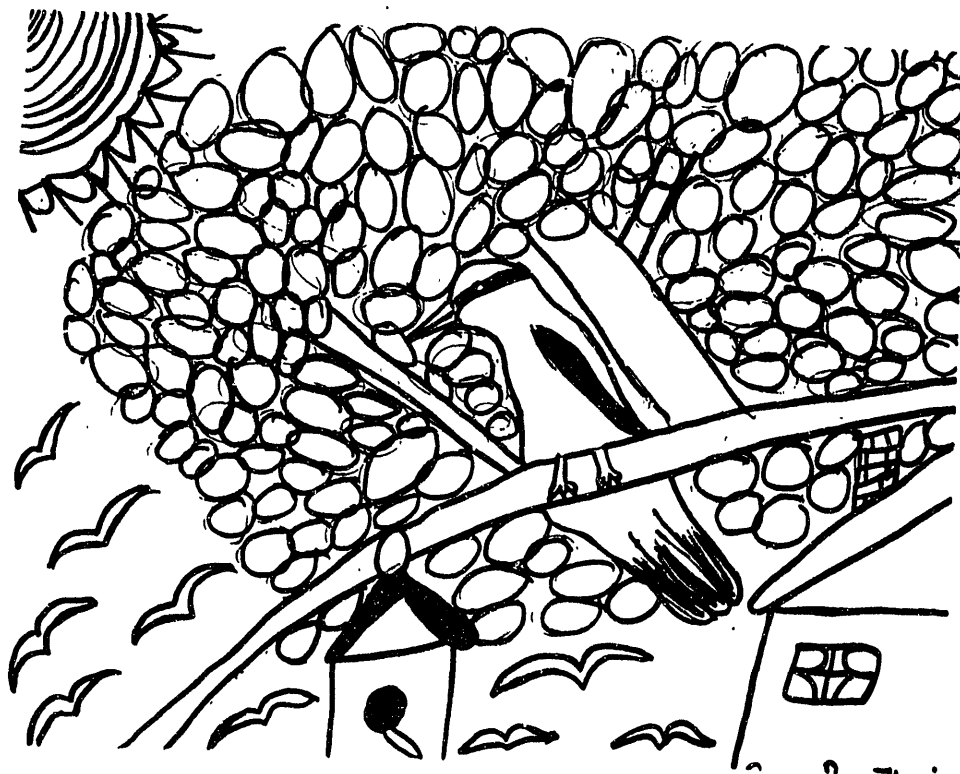
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: James Stephens

Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Cassandra Harris

Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

The Governor

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

Appointments Made July 16, 1993

To be a member of the Texas Public Finance Authority Board of Directors for a term to expire February 1, 1999: Cheryl D. Creuzot, 1300 Post Oak Boulevard, Suite 1200, Houston, Texas 77056. Ms. Creuzot will be replacing Harry Whittington of Austin, whose term expired.

To be a member of the Board of Tax Professional Examiners for a term to expire March 1, 1999: Cora Viescas, 10123 Stoneway, El Paso, Texas 79925. Ms. Viescas is being reappointed.

To be a member of the Board of Tax Professional Examiners for a term to expire March 1, 1999: Darla P. Doss, 310 South Crosby Street, Crosbyton, Texas 79322. Ms. Doss will be replacing Herb Barnhart of Denton, who resigned.

To be Presiding Officer of the Board of Public Health for a term at the pleasure of the Governor: Ruth F. Stewart of San Antonio. Ms. Stewart is being appointed pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1999: Ruth F. Stewart, R.N., 4007 Burning Tree Drive, San Antonio, Texas 78240-1015. Ms. Stewart is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1997: Ramiro R. Casso, M.D., 3400 Pecan, McAllen, Texas 78501. Dr. Casso is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1999: David L. Collins, 7719 Chasewood Drive, Missouri City, Texas 77489. Mr. Collins is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1995: William A. Scott, 3600 Montrose #808, Houston, Texas 77006. Mr. Scott is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1995: Stephen L. Tatum, 21 Westover

Road, Fort Worth, Texas 76107. Mr. Tatum is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Board of Public Health for a term to expire February 1, 1997: Betsy Triplett-Hurt, P.O. Box 72, Odessa, Texas 79760-0072. Ms. Triplett-Hurt is being appointed to a new position pursuant to Texas Civil Statutes, Article 4413.504.

To be a member of the Texas Historical Records Advisory Board for a term to expire January 23, 1996: Bruce T. Aiken, 365 Sagua La Grande, Brownsville, Texas 78521-1968. Mr. Aiken will be replacing Dr. David Farmer of Dallas, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Sherry Elaine Adrian, Ph.D., 2502 Timberline Drive, Austin, Texas 78746. Dr. Adrian will be replacing Heather Mooney of El Paso, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Jacquelyn Alexander, Ph.D., 10107 Pemhaven, San Antonio, Texas 78240. Dr. Alexander will be replacing Beverly Salas of Austin, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Mary R. Amos, 10542 Crete, El Paso, Texas 79924. Ms. Amos is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Philip C. Bell, 1922 Westview Terrace, Arlington, Texas 76013. Mr. Bell is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Bertha ? Bert? Joyce Campbell, 16434 Havenpark Drive, Houston, Texas 77059. Ms. Campbell is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Sharon Myers Davis, 802 East Neches, Palestine, Texas 75801. Ms. Davis will be replacing Ruby Morris of Midland, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Sharon Mills Eubank, Ed.D., 914 Maplecrest, Lancaster, Texas 75146. Dr. Eubank is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Emily Tubb Head, 2019 Stebbins Drive, Houston, Texas 77043. Ms. Head is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Bertina L. Hildreth, Ph.D., 720 Smokerise Circle, Denton, Texas 76205. Dr. Hildreth will be replacing Dr. Alba Ortiz of Austin, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Robert Andrew Lopez, 11141 Tahoka, El Paso, Texas 79936. Mr. Lopez will be replacing Dorinda Fox of Bryan, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Ronald M. Medrano, H.C.R. #2 Box 7502, Sandia, Texas 78383. Mr. Medrano will be replacing Sara Gonzalez of Port Aransas, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Dian B. Parks, 10102 Glencarrie Lane, Austin, Texas 78750. Ms. Parks is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: M. Carmen S. Ramirez, 9305 Hollings, El Paso, Texas 79924. Ms. Ramirez is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Randy Soffer, Ph.D., 9000 Poppy Drive #1966, Dallas, Texas 75218. Dr. Soffer is being reappointed.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Virginia M. Sowell, Ph.D., 4610-28th Street, Lubbock, Texas 79410. Dr. Sowell

will be replacing Dr. Kevin McFarley of Austin, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Dominga A. Vela, Route 4, Box 879-F, Edinburg, Texas 78539. Ms. Vela will be replacing Louise D. Hunter of Wichita Falls, whose term expired.

To be a member of the Continuing Advisory Committee for Special Education for a term to be determined by lot at a later date: Cheryl A. Washington, 620 Meadow Gate, Converse, Texas 78109. Ms. Washington will be replacing Edith Lynn Isaacks of San Antonio, whose term expired.

Issued in Austin, Texas, on July 20, 1993.

TRD-9326088

Ann W. Richards
Governor of Texas



Proposed Sections

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

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

TITLE 16. ECONOMIC 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 proposes an amendment to §3.31, concerning gas well allowables. This amendment will change the date by which the commission must determine the lawful demand for gas. This change is authorized by §86.085 of the Natural Resources Code as amended by Senate Bill 141. The change is necessary to allow commission staff adequate time to determine the lawful demand for gas and to assign allowables accordingly.

Jeanette Matthews, budget analyst, Oil and Gas Division, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Larry G. Borella, hearings examiner, Legal Division, 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 economic benefit associated with a more accurate determination of the lawful market demand for gas. There will be no effect on small businesses. There will be no fiscal implications for local governments not costs of compliance with the proposed rule revision for small business as a result of enforcing or administering it. There is no anticipated economic cost to person who are required to comply with the rule as proposed.

The amendment is proposed under the Texas Natural Resources Code, §§81.051, 81.052, 85.053, 85.055, 86.041, 86.042, and 86.085, 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 determine the lawful market demand for gas to be produced from each reservoir; and to effectuate the provisions and purposes of Chapter 86 of the Natural Resources Code.

§3.31. Gas Well Allowable.

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

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

(1) On or before the 25th [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)-(G) (No change.)

(e)-(k) (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 19, 1993.

TRD-9328092

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

Earliest possible date of adoption: August 27, 1993

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 505. The Board

• 22 TAC §505.10

The Texas State Board of Public Accountancy proposes amendments to §505.10, concerning board committees. The amendments to §505.10(e) propose to merge the functions and responsibilities of the licensee education committee and the sponsor compli-

ance committee. The new committee will be called the continuing professional education committee.

The amendments to §505.10(e) propose to change the name of the examination committee to the qualifications committee and expand its area of responsibility to include not only examinations, but also educational qualifications and work experience requirements for CPA candidates.

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

Mr. Treacy also 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 greater efficiency and effectiveness of the board's standing committees. 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 J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 41a-1, § 6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules regarding board committees.

§505.10. Board Committees.

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

(e) Standing committee structure and charge to committees. The standing committees shall consist of the following individuals and shall be charged with the following responsibilities.

(1) The executive committee shall comprise the board chairman, vice chairman, secretary, treasurer, immediate past chairman of the board if still serving on the board, and one other officer elected by the board. The functions of the executive committee shall be to advise, consult with, and make recommendations to the board concerning matters requested by the board chairman, litigation, and/or proposed changes in the board rules of professional conduct (the rules). The executive committee may act on behalf of the full board in matters of urgency, or when a meeting of

the board is not feasible; the executive committee's actions are subject to full board ratification at its next regularly scheduled meeting.

(2) The continuing professional education committee [licensee education committee] shall comprise at least two board members, one of whom shall serve as chairman, assisted by at least two non-board members who shall serve in an advisory capacity. The committee shall make recommendations to the board regarding:

(A) the mandatory continuing professional education program as it relates to reporting and attendance requirements, registration and monitoring of continuing professional education sponsors, disciplinary actions, reporting forms, and office procedures; [and]

(B) proposed changes in board rules, opinions, and policies related to the mandatory continuing professional education program as it relates to licensees and to relations with sponsors of continuing professional education;[.]

(3) The sponsor compliance committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall:]

(C)[(A)] investigations of [investigate] sponsor compliance with the terms of the sponsor agreements, including the related record keeping requirements;

(D)[(B)] the results of monitoring [monitor] continuing professional education courses for the purpose of evaluating the facilities, course content as presented, and the adequacy of the course presenter(s); and

(E)[(C)] make recommendations to the board concerning] any significant deficiencies observed in carrying out subparagraphs (C) and (D) [(A) and (B)] of this paragraph. [; and]

[(D)] make recommendations to the board with regard to proposed changes in board rules, opinions, and policies relating to relations with sponsors.]

(4) The qualifications committee [examination committee] shall comprise at least two board members, one of whom shall serve as chairman. The committee shall make recommendations to the board regarding:

(A) the educational qualifications of an applicant for the Uniform Certified Public Accountant Examination in accordance with Chapters 511.51 through 511.59 of this title (relating to Educational Requirements);

(B)[(A)] the administration, security, discipline, and other aspects of the conduct of the Uniform Certified Public Accountant Examination in Texas;

(C) the work experience [qualification] of an applicant for the certified public accountant certificate in accordance with Chapters 511.121 through 511.124 of this title (relating to Experience Requirements); and/or

(D) where applicable, the equivalency examination measuring the professional competency of an applicant for a CPA certificate by reciprocity; and

(E)[(B)] proposed changes in board rules, opinions, and policies relating to the qualifications [examination] process.

(5) The licensing committee shall comprise at least two board members, one of whom shall serve as chairman. The committee shall make recommendations to the board regarding:

(A) applications for certification, [or] registration, and licensure [under the Act, §§10, 12, 13, or 14];

(B) [(C)] requests or applications for reinstatement of any certificate, registration, or license which the board previously has revoked, suspended, or refused to renew [under the Act, §21]; and

[(B)] applications for licensure under the Act, §9;]

(C) [(D)]. proposed changes in board rules, opinions, and policies as they relate to the licensing process.

(6) (No change.)

(7) The constructive enforcement committee shall comprise at least two board members, one of whom shall serve as chairman, assisted by any number of non-board members who shall serve in an advisory capacity. The committee shall:

(A) investigate complaints forwarded from the technical standards review committee, the continuing professional education committee [licensee education committee], or the behavioral enforcement committee;

(B) prepare recommendations, as requested, concerning each matter referred to the committee;

(C) inform the appropriate committee when possible violations of the Act or the rules are observed;

(D) follow up on board orders to insure that certificate or registration holders and others adhere to sanctions prescribed by or agreements with the board; and

(E) make recommendations to the board concerning proposed changes in board rules, opinions, and policies relating to the constructive enforcement program.

(8)-(12) (No change.)

(f)-(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 12, 1993.

TRD-9326142

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 505-5566

Chapter 511. Certification as a CPA

CPA Examination • 22 TAC §511.72

The Texas State Board of Public Accountancy proposes an amendment to §511.72, concerning uniform CPA examination subjects. The amendment to §511.72 proposes that the board will use the new subjects on the reformatted uniform CPA examination available after May 1994, from the American Institute of Certified Public Accountants.

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

Mr. Treacy 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 administrative rules that are consistent with the reformatted uniform CPA examination. 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 J. Randel (Jerry) Hill, General Counsel,

Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701.

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

§511.72. Uniform Examination-Subjects.

(a) Through the November 1993 examination, the [The] board shall utilize the uniform CPA examination available from the American Institute of Certified Public Accountants covering the following subjects:

- (1) auditing;
- (2) business law;
- (3) theory of accounts; and
- (4) accounting practice.

(b) Beginning with the May 1994 examination, the board shall utilize the uniform CPA examination available from the American Institute of Certified Public Accountants covering the following subjects:

- (1) auditing;
- (2) business law and professional responsibilities;
- (3) accounting and reporting; and
- (4) financial accounting and reporting.

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 21, 1993.

TRD-9326140

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 505-5566

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Chapter 527. Quality Review

• **22 TAC §527.4**

The Texas State Board of Public Accountancy proposes an amendment to §527.4, concerning the quality review program. The changes to §527.4(2) provide that new practice units registered with the Board after January 1, 1992, shall enroll in the quality review program of a sponsoring organization within one year of its licensing date. The changes to §527.4(4), (5), and (6) are structural changes only to enhance the clarity of the rule and are not substantive.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that all CPA firms, registered both before and after January 1, 1992, and performing accounting and/or auditing engagements, will have a systematic review of their work product, producing a better educated industry to provide the public with accounting services.

The cost of compliance with the rule for businesses, large and small, and for persons who are required to comply, will be the cost to the CPA firm of the quality or peer review set by the relevant sponsoring organization.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701.

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

§527.4. Quality Review Program. The following operations of the program shall be conducted by the board.

(1) **Applicability.** Participation in the program is required of each practice unit/licensee licensed or registered with the board who performs accounting and/or auditing engagements, including, but not limited to, audits, reviews, compilations, forecasts, projections, or other special reports.

(2) **Operation.**

(A) Each [The board shall effect the program by requiring that each] practice unit/licensee licensed or registered with the board as of January 1, 1992, shall schedule a review to commence no later than December 31, 1994. Each practice unit shall enroll with one of the sponsoring organizations approved in accordance with paragraph (6) of this section. Each practice unit shall adopt the review date assigned by the appropriate sponsoring organization and shall notify the board of such date. [It is the responsibility of the practice unit to anticipate its needs for review services in sufficient time to enable the reviewer to complete the review within six months after the end of the review date.]

(B) Each new practice unit/licensee registered with the Board after January 1, 1992, shall enroll in a program of an approved sponsoring organization within one year from its initial

licensing date, shall adopt the review date assigned by the sponsoring organization, and shall notify the Board of such date.

(C) It is the responsibility of the practice unit to anticipate its needs for review services in sufficient time to enable the reviewer to complete the review within six months after the end of the review date.

(3) (No change.)

(4) **Oversight.** The board shall appoint a Quality Review Oversight Board (QROB) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on reviews. Oversight procedures to be followed by the QROB shall be provided for by rules promulgated by the board. Information concerning a specific firm obtained by the QROB during oversight activities shall be confidential, and the firm's identity shall not be reported to the board. The QROB shall consist of three members, none of whom are current members of the board. The QROB's membership shall consist of:

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

(5) **Compensation.** Compensation of QROB members shall be set by the board. [Oversight procedures to be followed by the QROB shall be provided for by rules promulgated by the board. Information concerning a specific firm obtained by the QROB during oversight activities shall be confidential, and the firm's identity shall not be reported to the board.]

(6) **Sponsoring organizations.** Qualified sponsoring organizations shall be the SEC [Securities and Exchange Commission] Practice Section (SECPs); Private Companies Practice Section (PCPS); American Institute of Certified Public Accountants Quality Review Program, state CPA Societies fully involved in the administration of the AICPA Quality Review Program, and such other entities which register with and are approved by the board on their adherence to the quality review minimum standards.

(7)-(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 21, 1993.

TRD-9326141

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 505-5566

◆ ◆ ◆
• 22 TAC §527.6

The Texas State Board of Public Accountancy proposes amendments to §527.6, concerning the quality review program and reporting to the board. The changes to §527.6(b) and (d) are proposed to inform CPAs that they must provide the board with a copy of the acceptance letter received from the sponsoring organization after their first review, and if corrective action was required, the final acceptance letter.

The changes to §527.6(a), (c), (e), (f), and (g) are structural and grammatical changes only to clarify the rule and are not substantive.

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

Mr. Treacy has also determined that for each year for the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that CPAs properly report the results of their reviews to the board, producing a better educated industry to provide the public with accounting services. 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 J. Randel (Jerry) Hill, General Counsel, Texas State Board of Public Accountancy, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules regarding quality review.

§527.6. Reporting to the Board.

(a) A practice unit which is a member of the American Institute of Certified Public Accountants Division for CPA Firms and which has a peer review performed under the auspices of the Private Companies Practice Section (PCPS) or the SEC [Securities and Exchange Commission] Practice Section (SECPS) shall submit to the board a copy of the peer review report, letter of comments (LOC), letter of response (LOR), and acceptance letter.

(b) For the first quality review covering a review year ending after January 1, 1992, a practice unit shall submit to the board:

(1) a copy of the report and the acceptance letter from the sponsoring organization, if such report is unqualified; or

(2) a copy of the report, [the] LOC, [the] LOR, and [notice of] acceptance

letter, [from the sponsoring organization] if the report is modified (qualified in any respect or adverse). [Information submitted in accordance with this subsection shall be held confidential pursuant to the Public Accountancy Act of 1991, §25.]

(c) For a practice unit's second and subsequent [quality] review, including any [quality] review carried out on an accelerated basis as part of the corrective action taken as a result of the previous quality review, a practice unit shall submit to the board a copy of that [quality] review report, LOC, LOR, and [notice of] acceptance letter. [from the sponsoring organization.]

(d) If corrective action (other than an accelerated review) is required by the sponsoring organization after a modified review, the practice unit shall submit to the board a copy of the final acceptance letter received from the sponsoring organization.

(e)[(d)] A Texas practice unit of a multiple office firm not subject to peer review or quality review tests and procedures shall submit to the sponsoring organization, an affidavit which includes affirmation, together with the date thereof, that a firm inspection of all Texas practice units was performed which was at least as extensive as a review required by the relevant review program and that the workpapers of such inspection were reviewed and accepted as part of the peer review or quality review procedures.

(f)[(e)] Any report or document required to be submitted under subsections (b), (c) or (d) [(b) or (c)] of this section shall be filed with the board within 10 days of receipt of the notice of acceptance by the sponsoring organization.

(g)[(f)] Any document submitted to the board under subsection (b), (c) or (d) [(b) or (e)] of this section is confidential pursuant to the Public Accountancy Act of 1991, §15B(c), and after review by the Quality Review Committee, shall either be promptly destroyed by the board's staff, or at the instruction of the committee submitted to the enforcement staff for opening a complaint file relative to such submission.

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 21, 1993.

TRD-9326143

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 505-5566

Part XXIII. Texas Real Estate Commission

Chapter 535. Provisions of the Real Estate License Act

Requirements For Licensure

• 22 TAC §535.51, §535.53

The Texas Real Estate Commission proposes amendments to §535.51, concerning general requirements for licensure and to §535.53, concerning corporations and limited liability companies.

House Bill 991, 73rd Legislature, amends Texas Civil Statutes, Article 6573a, effective September 1, 1993, to include limited liability companies within the definition of the term "person". Limited liability companies, like corporations, will be required to hold a Texas real estate broker license to provide real estate brokerage services. House Bill 991 also requires the officer or manager designated by a corporation or limited liability company to act on its behalf to be individually licensed as a Texas real estate broker in order for the corporation or limited liability company to obtain or renew a license.

The amendment to §535.51 adopts by reference a revised application form used by a corporation to obtain a real estate broker license. The amendment also adopts a new application form for use by a limited liability company. The forms contain questions about the organization and its designated officer or manager concerning license history, criminal convictions or civil judgments, and general background.

The amendment to §535.53 conforms the section with the individual license requirement imposed by House Bill 991 on the designated manager of a limited liability company. The amendment also clarifies that unless the limited liability company or corporation's designee is individually licensed as an active Texas real estate broker, the corporation or limited liability company may not obtain or renew a license. The amendment also treats limited liability companies in the same manner as corporations in provisions concerning need for a license, residency requirements and application of the law to the business entity.

Mark A. Moseley, general counsel, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Moseley 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 conforming the sections with applicable state law. 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 Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.51. General Requirements.

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

(d) The commission adopts by reference the following forms approved by the commission [in 1991] which are published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188:

(1) (No change.)

(2) Application for Real Estate Broker License by a Corporation, TREC Form BLC-2 [BLC-1];

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

(6) Application for Late Renewal of Real Estate Salesman License Privileges, Form TREC SLR-1; [and]

(7) Application for Moral Character Determination, TREC Form MCD-1; and

(8) Application for Real Estate Broker License by a Limited Liability Company, TREC Form BLLLC-1.

§535.53. Corporations and Limited Liability Companies.

(a) An individual must hold an active Texas real estate broker license [A Texas-licensed real estate broker is qualified] to act as the designated person for a corporation or limited liability company licensed as a [holding] Texas real estate broker [licensure].

(b) There is only one designated person for each [corporate] broker license issued to a corporation or limited liability company.

(c) This section applies only to corporations or limited liability companies which are created under the laws of this state [chartered by State of Texas].

(d) An individual who is an officer of a corporation or the manager of a limited liability company and is acting in behalf of the [board of directors of said] corporation or limited liability company is not required to have a license in order to sell real estate owned by the corporation or limited liability company, provided he receives no special compensation therefor.

(e) If a corporation or limited liability company is to be licensed, one of its officers or managers must be licensed as an active Texas real estate broker [qualify as though he were the applicant for licensure and be appointed as the corporation's designated person. To be eligible to be the designated person for a corporation which is

licensed as a broker or which is applying for such license, one must fulfill the same requirements as if he were applying for broker licensure].

(f) A corporation or limited liability company formed under the laws of [incorporated in] a state other than Texas may be accepted as a Texas resident for purposes of this section if it is qualified to do business in Texas; its [corporate] officers or managers, its principal place of business and all of its assets are located in Texas; and all of its officers and directors or managers and members are Texas residents.

(g) An individual whose real estate broker license has been suspended or revoked may not, during the period of such suspension or revocation, act as the designated person for a corporation or limited liability company licensed as a real estate broker.

(h) A corporation or limited liability company licensed as a real estate broker must designate another of its officers or managers to act for it during any period of time in which its designated person ceases to be an officer or manager of the corporation or limited liability company or in which the individual real estate broker license of its designated person has been suspended or revoked. A corporation or limited liability company is not authorized to exercise its licensure privileges until another of its officers or managers has been designated to act for it during any such period.

(i) A corporation or limited liability company may not renew its license unless the person designated by it is licensed as an active Texas real estate broker.

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 20, 1993.

TRD-9326089

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 465-3900

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Requirements for Licensure

• 22 TAC §535.66

The Texas Real Estate Commission proposes an amendment to §535.66, concerning educational programs and accreditation. The amendment would permit a school accredited by the commission participating in a job retraining recognized by federal, state, or local government to provide job placement services to the extent required by the program and to advertise participation in the program.

The current section prohibits a school from promoting itself as a job placement agency.

Don Rose, director of education, 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. Rose 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 persons wishing to enter the real estate industry may participate in job retraining programs in schools accredited by the commission. 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 Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendments are proposed under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.66. Educational Programs: Accreditation.

(a)-(m) (No change.)

(n) Schools or their representatives shall not promote their school in such a manner as to state or imply that employment earning potential will accrue its students as a result of participation in the school's educational program. Except as provided by this section, no [No] school shall promote itself directly or indirectly as a job placement agency. A school participating in a job retraining program recognized by federal, state, or local government may provide job placement services for students enrolled in the program to the extent required by the program and may advertise its participation in the program. Schools are responsible to the commission for ensuring that instructors or other persons associated with the school do not recruit or solicit prospective salesmen on the school premises.

(o)-(s) (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 20, 1993.

TRD-9326087

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 465-3900

Fees

• 22 TAC §535.101

The Texas Real Estate Commission proposes an amendment to §535.101, concerning fees. The amendment increases from \$10 to \$20 the fee for filing a request for a license for an additional office or place of business for a real estate broker or for replacing a lost or destroyed license. The amendment also sets new fees authorized by House Bill 991, 73rd Legislature, for filing requests for a license due to a change of name or return to active status, preparation of a license history, or filing an application for a moral character determination.

The amendment permits the commission to recover the costs of processing the requests for licenses, license histories, and moral character determinations.

Alan Waters, Director of Staff Services, has determined that for the first five-year period the rule is in effect there will be fiscal implications for state government as a result of enforcing or administering the rule. Additional revenues of approximately \$39,000 are estimated for fiscal year 1994, and each of the following four fiscal years. No fiscal implications are expected for local government.

Mr. Waters 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 adequate funding for the commission's appropriative authorization. There will be no effect on small businesses. Persons who are required to comply with the rule will pay fee increases ranging from \$10 to \$15.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §11, which authorize the Texas Real Estate Commission to charge and collect fees.

§535.101. Fees.

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

(c) The commission shall charge and collect the following fees:

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

(6) a fee of \$20 [\$10] for filing a request for a license for each additional office or place of business;

(7) a fee of \$20 for filing a request for a license for a change of place of business, change of name, return to active status or change of sponsoring broker;

(8) a fee of \$20 [\$10] for filing a request to replace a license lost or destroyed;

(9) a fee of \$400 for filing an application for approval of an [a real estate] education program under Texas Civil Statutes, Article 6573a (the Act), §7(f);

(10) a fee of \$200 a year for operation of an [a real estate] education program under Act. §7(f); [and]

(11) a fee of \$15 for transcript evaluation;

(12) a fee of \$10 for preparing a license history; and

(13) a fee of \$25 for the filing of an application for a moral character determination.

(d)-(e) (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 20, 1993.

TRD-9326086

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 465-3900

Suspension or Revocation of Licensure

• 22 TAC §535.164

The Texas Real Estate Commission proposes an amendment to §535.164, concerning disclosure of agency. The amendment would adopt by reference a revised disclosure form which Texas real estate licensees would be required to use. The proposed form Agency Disclosure Form 1-2, contains information about the services real estate brokers provide to consumers; the form also describes agency relationships that may be created between a licensee and a consumer in a real estate transaction.

Senate Bill 314, 73rd Legislature, requires a real estate broker who acts as an agent for more than one party to a transaction to provide the parties with an applicable agency disclosure from promulgated by the Texas Real Estate Commission that defines common agency relationships, duties of the broker, and potential conflicts that may develop. The broker also is required to enter into written agreements with each party authorizing the broker to represent more than one party. Senate Bill 314 provides restrictions on the broker's disclosure of confidential information or the parties' willingness to accept or pay more than the asking or offered price.

The proposed disclosure form is intended to enable a broker to comply with Senate Bill 314 and provide disclosure of the choices of agency relationships available to a consumer. A consumer may confirm on the form that no agency relationship has been established or confirm that the broker is representing the owner, the buyer or tenant, or both owner and buyer or tenant. The text of the section is printed on the reverse side of the form.

The amendment would require a real estate licensee to furnish a copy of the disclosure form signed by the licensee to a prospective buyer, seller, landlord or tenant upon a face-to-face meeting with the licensee or in a written communication from the licensee regarding a real estate transaction. The current section requires a disclosure form to be furnished prior to discussion of the buyer or tenant's negotiating position or before a written offer is prepared.

Six exceptions are provided. Licensees would not be required to furnish the disclosure form if the licensee is acting solely as principals, if the transaction is for a residential lease for one year or less and no sale is involved, if another licensee represents the consumer, if the prospective buyer, seller, landlord, or tenant is a real estate licensee, if the written communication is a solicitation of business or an initial response to a request for information, or if the face-to-face meeting occurs at a property being held open for prospective purchasers and there is no substantive discussion regarding a transaction.

The amendment also would require a real estate licensee who represents a principal in a transaction to disclose that representation upon face-to-face contact or transmittal of written communication, whichever first occurs, using existing Agency Disclosure Form 2-1, Disclosure of Buyer or Tenant Agency.

Mark A. Moseley, 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. Moseley 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 increased consumer awareness of available real estate services and agency relationships. There will be no effect on small businesses as a result of enforcing the rule. The only anticipated economic cost to persons who are required to comply with the rule as proposed is the cost of copies of the form, estimated to be \$3.50 for a pad of 50 copies.

Comments on the proposal may be submitted to Mark A. Moseley, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

The amendment is proposed under Texas Civil Statutes, Article 6573a, §5(h), which provide the Texas Real Estate Commission with the authority to make and enforce all rules and regulations necessary for the performance of its duties.

§535.164. Disclosure of Agency.

(a) The Texas Real Estate Commission adopts by reference Agency Disclosure Form 1-2 [1-1], approved by the Texas Real Estate Commission in 1993 [1990]. This document is published by and available from Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188.

(b) Except as provided by subsection (d), a real estate licensee shall fur-

nish a prospective buyer, seller, landlord, or tenant with a copy of TREC Agency Disclosure Form 1-2 ("the form") signed by the licensee upon the first of the following events regarding a real estate transaction [A real estate licensee dealing face-to-face with a prospective buyer or tenant shall provide the prospective buyer, tenant, or its representative with a copy of the Agency Disclosure Form signed by the licensee before the time the first of the following events occurs]:

(1) a face-to-face meeting with the licensee; or [discussing any position the prospective buyer or tenant may wish to take in negotiating a contract to purchase, rent, or lease a specific property, such as the amount or terms to be offered; provided, however, that a real estate licensee may qualify a prospective buyer or tenant to a price range or generally discuss prices and financing prior to making disclosure in accordance with section; or]

(2) a written communication from the licensee [preparing a written offer to purchase, rent, or lease real property].

(c) The licensee should retain a copy of the form [Agency Disclosure Form] signed by the prospective buyer, seller, landlord, or tenant, or its representative in order to demonstrate compliance with this section.

(d) A real estate licensee is not required to provide a copy of the form to a prospective buyer, seller, landlord, or tenant in the following instances:

(1) the licensee is acting solely as a principal and not as an agent;

(2) the proposed transaction is for a residential lease for one year or less and no sale is involved;

(3) the prospective buyer, seller, landlord, or tenant is represented by another real estate licensee; or

(4) the prospective buyer, seller, landlord, or tenant is a real estate licensee.

(5) the written communication from the licensee is a solicitation of business or an initial response to a request for information; or

(6) the face-to-face meeting with a licensee occurs at a property which is being held open for prospective purchasers, and there is no substantive discussion regarding a transaction [This section does not apply to a real estate licensee who enters into a written agreement to represent a prospective buyer or tenant prior to the occurrence of either of the two preceding events, or to a real estate licensee acting as a principal and not as an agent, or to residential leases for one year or less where no sale is contemplated].

(e) (No change.)

(f) A real estate licensee who represents a principal in a proposed real estate transaction shall disclose the representation to the other principal, to any real estate licensee representing the other principal and to any other authorized representative of the principal upon face-to-face contact or transmittal of written communication, whichever first occurs, using Agency Disclosure Form 2-1, Disclosure of Buyer or Tenant Agency. The term "real estate licensee" includes licensed associates of the licensee.

(g) If a buyer, seller, landlord, or tenant has an authorized representative other than a real estate licensee, such as a trustee, attorney or attorney-in fact, a real estate licensee dealing only with the authorized representative shall provide the authorized representative with a copy of the form and make the disclosure required by subsection (f) as if the licensee were dealing directly with the buyer, seller, landlord or tenant.

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 20, 1993.

TRD-9326088

Mark A. Moseley
General Counsel
Texas Real Estate
Commission

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 485-3900

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter E. Notice of toll-free telephone numbers and procedures for obtaining information and filing complaints; information about complaints provided to the public through the department's toll-free telephone number.

• 28 TAC §1.602

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2040, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider

proposed new section 1.602, concerning information about complaints provided to the public through the department's toll-free telephone number. These rules are necessary to facilitate implementation of amendments to the Insurance Code, Article 1.35D(b), enacted in House Bill 1461 by the 73rd Legislature of Texas. In the proposed section, the terms "justified," "verified as accurate," "documented as valid," and "the number of insurance policies written by the insurer," are defined as they relate to the complaints information provided to the public through the department's toll-free telephone number.

Robert Schneider, associate commissioner for Consumer Services, has determined that for the first five-year period the rule is in effect there is no fiscal impact on state or local government as a result of enforcing or administering this rule.

Mr. Schneider also has determined that for each year of the first five years the rule is in effect, the public benefits anticipated as a result of the rule will be improved information provided to the public by the department relating to complaints received against the department's licensees. There is no anticipated cost of compliance for large or small business. There is no anticipated economic cost to persons as a result of the rule as proposed.

Comments on the proposal, to be considered by the State Board of Insurance, must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Mail Code, 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Robert Schneider, associate commissioner, Consumer Services, Mail Code 111-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The sections are proposed under the Insurance Code, Article 1.35D and 1.04(b) and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.35D, requires the department to provide certain information to the public through a toll-free telephone line. The Insurance Code, Article 1.04(b), authorizes the Board to determine rules in accordance with the laws of this state for uniform application. 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 requirement of available procedures, and prescribe the procedures for adoption of rules of a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Article 1.35D

§1.602. Information provided to the public through the department's toll-free telephone number.

(a) Purpose. The purpose of this section is to set forth the procedures by which complaints submitted to the Texas Department of Insurance are determined to be documented as valid, verified as accurate

rate, and justified, as well as to clarify what is considered to be an insurance policy, for purposes of determining the ratio of complaints in relation to insurance policies written by an insurance company.

(b) Documentation and verification procedures. The procedures set forth in paragraphs (1)-(3) of this subsection describe the procedures to be utilized by the department in determining whether any particular complaint received is valid, accurate, and justified, as provided in the Insurance Code, Article 1.35D(b).

(1) A complaint shall be considered to be documented as valid when it is in written form with the signature of the complainant or correspondent, except where an identified complainant is unable to provide a written complaint or an emergency situation exists which warrants immediate departmental action. In such a case, the department will construct a record of the communication to document the complaint as valid.

(2) A complaint shall be considered verified as accurate when it is determined that the name and last known address of the complainant or correspondent is on file with the department, that the essential details of the transaction precipitating the complaint have been described, and that the name of the insurance company or other person or entity subject to the jurisdiction of the department is correct upon closure of the file.

(3) A complaint shall be considered justified when it is brought by any insured, beneficiary, or other individual or entity against an insurer, or other entity or person subject to the jurisdiction of the department and alleging a violation of law or regulations, or unsatisfactory service, performance, response, operation, other action of lack of action on the part of the regulated entity or person, and requesting the intervention of the department in the matter.

(c) Number of insurance policies written. For purposes of this section, the number of insurance policies written by an insurer shall include the number of individual policies delivered, issued for delivery, or renewed by the insurer on individual Texas risks, plus the number of certificates issued to Texas certificate holders under any group master insurance policy delivered, issued for delivery, or renewed in this state.

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 21, 1993.

TRD-9326126

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

Earliest possible date of adoption: August 27, 1993

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

Subchapter K. Insurers' Underwriting Guidelines

• 28 TAC §1.1300

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §1.1300, concerning provision of updated underwriting guidelines by insurers. This section provides that a request for an insurer's underwriting guidelines made by the Office of Public Insurance Counsel or the Texas Department of Insurance, pursuant to newly enacted Article 1.24D of the Insurance Code, may include a request for future amendments to the underwriting guidelines. Enacted by the 73rd Texas Legislature, Article 1.24D authorizes the Texas Department of Insurance and the Office of Public Insurance Counsel to request and receive copies of an insurer's underwriting guidelines. Under the proposed rule, the guidelines in effect on the date the insurer receives the request must be provided within 14 days. Insurers would be required to provide any future changes to the guidelines to the requesting agency within 14 days after the effective date of the change if the agency requested updated guidelines. The proposed section is needed because the Texas Department of Insurance and the Office of Public Insurance Counsel will not know when a company's underwriting guidelines change and will have to periodically request the updated guidelines. These periodic requests could result in considerable expense to the two agencies, and the proposed rule would greatly diminish these expenses.

Lyndon Anderson, associate commissioner for the property and casualty program, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed rule.

Mr. Anderson also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the section is an increased effectiveness in the regulation of the insurance industry. The proposed section will enable the Texas Department of Insurance and the Office of Public Insurance Counsel to evaluate current information regarding insurers' underwriting practices, determine the impact on the market, and implement appropriate regulatory action to address any practices which are unfair under the insurance laws of this state or are in any other way violative of the insurance laws and regulations of this state.

There will be no effect on small businesses. Anticipated economic cost to any insurer or individual who is required to comply with the proposed section will be nominal copying and postage costs for providing the guidelines to the Texas Department of Insurance and the Office of Public Insurance Counsel.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 1.24D, 1.24, and 1.04(b); and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.24D authorizes the Texas Department of Insurance to request and receive copies of an insurer's underwriting guidelines. Article 1.24 authorizes the State Board of Insurance to address any inquiries to any insurance company or insurance agent in relation to the company's or agent's business condition or any matter connected with its transactions which the Board may deem necessary for the public good or for a proper discharge of its duties. Article 1.04(b) authorizes the State Board of Insurance 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Article 1.24D.

§1.1300. Provision of Updated Underwriting Guidelines. A request for underwriting guidelines by the Office of Public Insurance Counsel or the Texas Department of Insurance under the Insurance Code, Article 1.24D, may include a request for future amendments to the underwriting guidelines. The guidelines in effect on the date the company received the request must be provided within 14 days. Thereafter, any changes to the guidelines must be provided within 14 days after the effective date of the change if the Office of Public Insurance Counsel or the Texas Department of Insurance requested updated underwriting guidelines.

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

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Linda K. von Quintus-Dorn
Chief Clerk
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Chapter 7. Corporate and Financial Regulation

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.25, §7.26

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2044, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed amendments to §7.25 and §7.26 concerning the movement of books and records by a domestic insurance company to a location outside the State of Texas, under the Insurance Code, Article 1.28. The amendments are necessary to implement changes to the Insurance Code, Article 1.36 regarding service of process on insurers approved to operate under Article 1.28. The sections establish a procedure for domestic insurers to provide written notice to the Commissioner of the intent to move all or any portion of the books, records, accounts and offices outside the State of Texas. The amendments to §7.25 add definitions, instructions, new forms and eliminate some forms which are no longer necessary. Proposal of these amendments includes the adoption by reference of the new forms for use by all insurers subject to the Insurance Code, Article 1.28. The board has filed a copy of the forms with the Secretary of State's Office, *Texas Register* Section. Persons desiring copies of the forms can obtain copies from the Texas Department of Insurance, Holding Company Activity, Mail Code 305-4A, P.O. Box 149104, Austin, Texas 78714-9104. Copies are also available for pick-up from the William P. Hobby State Office Building, Holding Company Activity, 333 Guadalupe, Austin. The amendments to §7.26 provide the Commissioner with the ability to approve or disapprove the notice of a company's intent to move its books and records and directs that the notice is to be filed with the Holding Company Activity of the department.

Sandra A. Autry, associate commissioner for the financial program, has determined that, for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections, and there will be no effect on local employment or local economy. Enforcement and administration will be performed by existing staff of the Texas Department of Insurance.

Ms. Autry also has determined that, for each year of the first five years the proposed sections are in effect, the public benefit anticipated as a result of enforcing the section will be more effective regulation of insurers. On

the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no anticipated economic cost to persons or entities who are required to comply with the sections, as proposed, other than the minimal cost of completion of the appropriate forms and obtaining approval of the Commissioner.

Comments on the proposal, to be considered by the State Board of Insurance, must be submitted in writing within 30 days after publication of the proposal in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Sandra A. Autry, Associate Commissioner-Financial Program, Mail Code 305-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The amendments are proposed under the Insurance Code, Articles 1.28, 21.49-1, 1.36, 1.19, 1.15, 21.55 and 1.04, and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.28, authorizes certain domestic insurance companies to move all or any portion of their books, records, accounts and offices outside the State of Texas upon giving 30 days written notice of intent to the commissioner of insurance, if the commissioner does not disapprove. Article 21.49-1 authorizes the regulation of holding company transactions and domestic insurance company registration. Article 1.36 authorizes the domestic insurer and its controlling person of the affiliated insurance holding company system to appoint a person in Texas as attorney for service for all judicial and administrative processes. Articles 1.19 and 1.15 provide access to books and records. Article 21.55 assures proper policyholder/claimant service. Article 1.04(b) authorizes the Board to determine rules in accordance with the laws of this state for uniform application. 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 requirement of available procedures, and prescribe the procedures for adoption of rules of a state administrative agency. The proposed amendments affect regulation of the books, records, accounts and offices of a domestic insurer and the service of process on domestic insurers approved to operate under the Insurance Code, Articles 1.28 and 1.36.

CROSS REFERENCE TO STATUTE. The following are the articles of the Insurance Code that are affected by these rules: §§7.25-7.26 Texas Insurance Code, Articles 1.28, 21.49-1, 1.36, 1.19, 1.15 and 21.55.

§7.25. Records Under the Insurance Code, Article 1.28.

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

(1) **Domestic insurance company**—An insurance company or other en-

tity licensed under the Insurance Code and organized under the laws of the State of Texas.

(2) **Alien insurance company**—An insurance company organized under the laws of any foreign country that has obtained original entry into the United States through the State of Texas.

(3) **Affiliate**—A person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(4) **Control**—The term control, including the terms controlling, controlled by, and under common control with, means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, or with members of the person's immediate family, owns, controls, or holds with the power to vote, or if any person other than a corporate officer or director of a person holds proxies representing, 10% or more of the voting securities or authority of any other person, or if any person by contract or agreement is designated as an attorney-in-fact for a Lloyd's Plan insurer under the Insurance Code, Article 18.02, or for a reciprocal or inter-insurance exchange under the Insurance Code, Articles 19.02 and 19.10. This presumption may be rebutted by a showing made in the manner provided by Article 21.49-1, §3(j) that control does not exist in fact and that the person rebutting the presumption is in compliance with §§5(a)-(c) of that article.

(5) **Insurance holding company system**—A company structure which consists of two or more affiliated persons, one or more of which is an insurer.

(6) **Person**—An individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert. The term does not include any securities broker performing no more than the usual and customary broker's function.

(b) **Filing Requirements.** The domestic insurer must be a member of an insurance holding company system in order to avail itself of the provisions of the Insurance Code, Article 1.28. A health maintenance organization (HMO) may only avail itself of the provisions of the

Insurance Code, Article 1.28, if it is a member of an insurance holding company system which has an insurer within the system licensed in Texas. The application consists of Form TDI/BR-93 or TDI/BR-93-NP, as appropriate, and the contract(s), agreement(s) or arrangement(s) for the furnishing or receiving of services or facilities on a regular or systematic basis, pursuant to the Insurance Code, Article 21.49-1 §4(d)(2) and 28 TAC §7.204(b). A filing fee of \$150 shall accompany the application for relocation of the books and records in addition to any filing fee required by 28 TAC §7.201(a)(2) of this title (relating to Form Filings). Submit the complete application to: Holding Company Activity, Mail Code 305-4A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The application will not be considered complete until all necessary filings required under the Insurance Code, Article 21.49-1 and any outstanding Article 1.28 matters are resolved. A domestic or alien insurer that has already received approval under this section to move its books, records, accounts and/or offices and now desires to amend certain information, such as a change in mailing address or location of books and records must submit another complete application. If the company is only changing its chartered name or chartered home office, a new filing is not necessary.

(1) Item 1. Provide information regarding the domestic insurance company's name and chartered city and state of domicile, exactly as it appears on the company's Certificate of Authority.

(2) Item 2. Provide the office location address of the books and records. Do Not use a post office box only. If more than one location is to be maintained, attach a separate sheet to Form TDI/BR-93 describing the specific types of books, records, and accounts being maintained at each location and the complete street and mailing address of each location. In the case of principal offices, describe the type of activity to be conducted at each location.

(3) Item 3. Provide the mailing address for the domestic insurance company. This will be the only mailing address utilized by the Texas Department of Insurance.

(4) Item 4. Provide the name and complete address of the controlling person of the affiliated insurance holding company system of the domestic insurer. If there is more than one controlling person, attach a separate sheet setting forth the name, street and mailing address for each.

(5) Item 5. The certification must be completed by an officer of the domestic insurer that is an affiliate of an insurance holding company system.

(6) Item 6. This certification must be completed if the application is being made by a Texas Health Maintenance Organization that DOES NOT have a Texas domiciled affiliate within an insurance holding company system. The certification by affidavit must indicate that the principal insurer in the holding company system is in compliance with the holding company statutes of that state. An affidavit accompanying a copy of the original certification from the appropriate domiciliary state insurance department may be submitted in lieu of the certification required by Item 6. An organizational chart showing the state of domicile of each insurer within the holding company system is required with this certification.

(c) Form TDI/SOP. Form TDI/SOP must be completed by the domestic insurer to appoint a person located in the State of Texas to accept service of process on its behalf.

(d) Form TDI/SOP-CP. Form TDI/SOP-CP must be completed by the controlling person to appoint a person located in the State of Texas to accept service of process on its behalf. If the controlling person is a natural person, it will not be necessary for the service of process Form TDI/SOP-CP to be completed for that individual.

(e) Additional Requirements. In addition to the filing requirements under subsection (b) of this section, the application shall also include at least the following:

(1) current location of books and records;

(2) justification for moving the books, records, accounts and/or principal office(s);

(3) impact of the relocation of the books, records, accounts and/or principal office(s) on the policyholders;

(4) explanation and description of control mechanisms in place to assure the effectiveness, efficiency and reconciliation of the books, records and accounts to the corporate records;

(5) explanation of how the relocation of the books, records, accounts and/or office(s) outside the state of Texas maintains the domestic insurer's direct supervision, management and control of the books, records, accounts and/or office(s).

(f) The Texas Department [State Board] of Insurance adopts by reference

forms with instructions to be used by a domestic insurance company as the [exclusive] means of giving written notice to the commissioner of insurance of its intent to move all or any portion of its books, records, accounts, and office(s) outside the State of Texas under the provisions of the Insurance Code, Article 1.28. The forms are identified as Form TDI/BR-93 [SBI/BR-85], Notice of Intent of Domestic Insurance Company to Move its Books, Records, Accounts, and/or Principal Office(s) Outside the State of Texas; Form TDI/BR-93-NP, Notice of Intent of Domestic Insurance Company That is a Nonprofit Legal Services Corporation to Move its Books, Records, Accounts, and/or Principal Office(s) Outside the State of Texas; Form TDI/SOP, Service of Process Form for Domestic Insurers; Form TDI/SOP-CP, Service of Process Form for Corporate Controlling Person [Form SBI/BR-85/A-25, Appointment of Commissioner of Insurance as Attorney for Service for all Judicial and Administrative Processes (Domestic Insurer), Form SBI/BR-85/A-26, Appointment of Commissioner of Insurance as Attorney for Service for all Judicial and Administrative Processes by Controlling Person (Corporate) of Affiliated Insurance Holding Company System, and Form SBI/BR-85/A-27, Appointment of Commissioner of Insurance as Attorney for Service for all Judicial and Administrative Processes by Controlling Person (Natural) of Affiliated Insurance Holding Company System]. These forms [They] are published by the Texas Department [State Board] of Insurance and may be obtained from the Holding Company Activity, Mail Code 305-4A, Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104 [Corporate Custodian and Tax Division of the State Board of Insurance, 1110 San Jacinto], Austin, Texas 78714-9104 [78701-1998].

§7.26. Commencement of 30-Day Review Period under the Insurance Code, Article 1.28. The 30-day period during which the commissioner of insurance may approve or disapprove the domestic insurance company's application [intent] to move its books and records outside the state shall commence on the date the Holding Company Activity [Corporate Custodian and Tax Division] of the Texas Department [State Board] of Insurance receives [received] from the domestic insurance company properly completed Forms TDI/BR-93, TDI/BR-93-NP, TDI/SOP and TDI/SOP-CP and complies with the filing requirements contained in §7.25(b) of this title (relating to filing requirements). [SBI/BR-85, SBI/BR-85/A-25, SBI/BR-85/A-26 and SBI/BR-85/A-27]. The company must have received its Certificate of Authority from the Texas Department of

Insurance to do the business of insurance in the state before it may submit an application to move its books, records, accounts and/or principal office(s) outside the state.

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

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

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

Chapter 21. Trade Practice

Subchapter A. Unfair Competition and Unfair Practices of Insurers, and Misrepresentation of Policies

• 28 TAC §21.7

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2043, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.7 prohibiting insurers from engaging in unfair practices in the setting or use of rates or rating manuals for property and casualty insurance in Texas. The specific practices identified as unfair and prohibited include using any procedure, practice, method, underwriting guideline, or other activity which has the purpose or effect of discriminating on the basis of race, color, religion, or national origin; discriminating on the basis of geographic location, age, sex, or disability, unless justified by sound actuarial principles; and unfairly distinguishing or unfairly discriminating among insureds or potential insureds having a like hazard. This section defines the terms "the setting or use of rates or rating manuals" and "insurer" for purposes of this section. This regulatory action is necessary to address practices in the insurance industry which have the purpose or effect of unfairly discriminating among insureds or potential insureds. The Texas Department of Insurance has received information from individuals and organizations as well as statistical data which indicate a need for this regulatory action. This information includes: indications that insurers use underwriting guidelines and other factors unrelated to risk or hazard in the determination of rates; consumer complaints alleging unfair declinations and non-renewals as well as a lack of availability of insurance, statistical data reflecting patterns and trends in this state which suggest that rate discrimination based upon race or geographic location or factors correlated with race or geographic location may be taking place. In addition, this

regulatory action is necessary to ensure that insurance practices in this state are in accordance with the basic civil rights of Texas citizens.

Lyndon Anderson, associate commissioner for the property and casualty program, has determined that for each year of the first five-year period the proposed section will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed section.

Mr. Anderson also has determined that for each year of the first five-year period the proposed section will be in effect the public benefit anticipated as a result of enforcing the section is an increased effectiveness in regulating the insurance industry and greater fairness in the rates and availability of coverage for consumers in the property and casualty insurance markets. This new section may increase availability of property and casualty insurance in underserved areas of this state. There will be no effect on small businesses. Anticipated cost to any insurer or individual who is required to comply with the proposed section will be those costs associated with performing a thorough review of their procedures or underwriting guidelines to ensure that they are consistent with the requirements of the proposed section. In addition, such insurers and other individuals may incur costs of reprinting and distributing revised guidelines during the first year and subsequent years this rule is effective. There are no other anticipated economic costs because insurers are currently required to comply with the existing statutes.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 1.04(b), 5.09, 5.10, 5.81, 5.98, 21.07, §13, Article 21.07-3, §21, Articles 21.14 21.21, 21.21-3, 21.21-5, and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.09 prohibits any insurer coming within the terms of Subchapter A of Chapter 5 of the Insurance Code from any discrimination or distinctions in favor of or against an insured having a like hazard in the charge of premiums. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.81 authorizes the State Board of Insurance to make, approve and enforce rules and regulation necessary and desirable to carry out the purposes and objectives of regulating multi-

peril policies of insurance. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code, which regulates rates and policy forms for property and casualty insurance. Article 21.07 §13, provides the State Board of Insurance the authority to establish reasonable rules and regulations for the licensing of agents. Article 21.07-3, §21, provides the State Board of Insurance with the authority to establish reasonable rules and regulations for the licensing of managing general agents. Article 21.14 provides the State Board of Insurance with the authority to license local recording agents and solicitors. Article 21.21 authorizes the State Board of Insurance to promulgate reasonable rules and regulations to accomplish the purposes of Article 21.21, including the determination of practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and to prohibit such practices. Article 21.21-3 sets forth reasons for which an insured may not discriminate against an individual solely because of a handicap or partial handicap. Article 21.21-5 sets forth reasons upon which an insurer may not discriminate. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS-REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: 21.7-Insurance Code, Articles 5.09, 21.21, 21.21-3 and 21.21-5.

§21.7. Certain Practices in the Setting or Use of Rates or Rating Manuals for Property and Casualty Insurance Prohibited and Declared Unfair.

(a) Purpose. The purpose of this section is to prohibit certain practices or activities in the setting or use of rates or rating manuals, by insurers writing property or casualty insurance.

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

(1) Insurer—An insurance company or affiliated group of insurance companies or any person or entity doing the business of insurance as defined by Article 1.14-1, Insurance Code.

(2) The setting or use of rates or rating manuals—Includes, but is not limited to, any procedure, practice, method, underwriting guideline, or other activity used by an insurer to determine whether to insure or continue to insure an applicant and at what rate.

(c) Prohibited Insurer Activities. An insurer commits an unfair practice and a prohibited activity when its setting or use of rates or rating manuals for property or casualty insurance in this state:

(1) has the purpose or effect of discriminating on the basis of race, color, religion, or national origin;

(2) has the purpose or effect of discriminating on the basis of geographic location, age, sex, or disability, unless such discrimination is justified by sound actuarial principles; or

(3) has the purpose or effect of unfairly distinguishing or unfairly discriminating among insureds or potential insureds having a like hazard.

(d) Provisions Are Cumulative. This section is cumulative of other provisions of the Insurance Code, other statutory and common laws, and rules adopted by the Texas Department of Insurance.

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

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TRD-9326137 Linda K. von Quintus-Dorn
Chief Clerk
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Insurance

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

Subchapter I. Required Consumer Disclosures

• 28 TAC §21.900

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.900, concerning a required disclosure when an applicant is not written in the lowest rated company within an insurance group. This section requires an insurance company that is the company with the lowest rates in the company group to disclose each reason for declining to offer personal automobile or residential property insurance if the applicant is written in another company within the group or in writing disclose the right to request the reasons. The failure to comply with this section would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Lyndon Anderson, associate commissioner for the property and casualty program, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed section.

Mr. Anderson also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the section is greater fairness in the personal automobile insurance and residential property insurance marketplaces, increased competition, and better informed consumers. There will be no effect on small businesses. There is no anticipated economic cost for most insurers required to comply with the proposed section because the insurer's agents would make an oral disclosure to the applicant. For those insurers not following this procedure, the anticipated economic cost is estimated to range from approximately \$.03 per disclosure request letter to approximately \$1.03 per disclosure request letter with an average cost of \$.53 per disclosure request letter, depending on how many disclosure request letters are mailed, whether the letter is included with another mailing, and whether the insurer has a fully automated or fully manual system for processing the disclosure request letters.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to the Insurance Code, Articles 1.04(b), 5.06, 5.09, 5.10, 5.35, 5.98, 5.101, 21.21 (§13), and 21.49-2B; and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.06 provides the State Board of Insurance with the authority to adopt or approve all policy forms and endorsements for private passenger automobile insurance. Article 5.09 prohibits any insurer coming within the terms of Subchapter A of Chapter 5 of the Insurance Code from any discrimination or distinctions in favor of or against an insured having a like hazard in the charge of premiums. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.35 authorizes the State Board of Insurance to adopt or approve policy forms and endorsements for residential property insurance. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 5.101 empowers the State Board of Insurance to regulate personal automobile and residential property insurance rates. Article 21.21, §13, authorizes the State Board of Insurance to promulgate rules and regulations as necessary to carry out the provisions of Article 21.21. Article 21.49-2B authorizes the State Board of Insurance to adopt rules relating to the cancellation and nonrenewal of

personal automobile insurance and residential property insurance policies. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 5.09, 21.21, and 21.49-2B.

§21.900. Disclosure of Reasons for Declination of Coverage.

(a) Any insurer that is the member of a company group and that is the company with the lowest rates in the company group must disclose each reason for declining to offer personal automobile or residential property insurance through the insurer if the applicant is written in another company within the group or in writing disclose the right to request the reasons. "Company group" refers to any "affiliated" group of companies as defined by the Insurance Code, Article 21.49-1 §2(a). This disclosure may be made by the insurer's agent.

(b) The failure to comply with this rule shall constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and shall be subject to the provisions thereof.

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 20, 1993.

TRD-9326097 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: August 27, 1993

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

• 28 TAC §21.901

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.901, concerning disclosures required when the use of a consumer report by an insurer adversely affects a consumer of automobile or residential property insurance. This section requires the insurer to disclose the name, address, and telephone number of the consumer reporting agency and the reference number or other identifying characteristic of the report. The section defines the terms "consumer report" and "consumer reporting agency" for purposes of the section. Failure to comply with this section would constitute unfair competition and unfair practices

under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Lyndon Anderson, associate commissioner for the property and casualty program, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed rule.

Mr. Anderson also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the rule is greater fairness in the personal automobile insurance and residential property insurance marketplaces, increased competition, and better informed consumers. There will be no effect on small businesses. There is no anticipated economic cost to any insurer or individual who is required to comply with the proposed section that is in addition to the cost for the notices of declination, cancellation, nonrenewal, or reduction in coverage or increase in rates already required by law.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104. Any request for a public hearing on this proposal should be submitted separately to the Office of the Chief Clerk.

The new section is proposed pursuant to the Insurance Code, Articles 1.04(b), 5.06, 5.10, 5.35, 5.98, 5.101, 21.21 (§13), and 21.49-2B; and Texas Civil Statutes, Article 6252-13a, §4 and §5. The Insurance Code, Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.06 provides the State Board of Insurance with the authority to adopt and approve personal automobile insurance policy forms and endorsements. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.35 authorizes the State Board of Insurance to adopt or approve policy forms and endorsements for residential property insurance. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 5.101 empowers the State Board of Insurance to regulate automobile and residential property insurance rates. Article 21.21, §13 authorizes the State Board of Insurance to promulgate rules and regulations as necessary to carry out the provisions of Article 21.21. Article 21.49-2B authorizes the State Board of Insurance to adopt rules relat-

ing to the cancellation and nonrenewal of personal automobile insurance and residential property insurance policies. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 21.49-2B and 21.21.

§21.901. Consumer Report Disclosures.

(a) Any insurer writing personal automobile or residential property insurance that declines, cancels, nonrenews or reduces coverage or charges a higher rate to a consumer based in whole or in part on information obtained from a consumer report by a consumer reporting agency shall supply the following information to the consumer at the time of the declination, cancellation, nonrenewal, or reduction of coverage or increase in rates:

(1) the name and address of the consumer reporting agency making the report;

(2) the toll-free number, if any, of the reporting agency or, if no toll-free number is available, the telephone number of the reporting agency; and

(3) the reference number or other identifying characteristic to identify the report.

(b) "Consumer report", for purposes of this rule, refers to a report or record of a governmental entity and a "consumer report" as defined in 15 U.S.C. A., §1681a, and shall include, but not be limited to, a claims database report, an accident and loss data report, motor vehicle report, credit report, and a report on household drivers.

(c) "Consumer reporting agency", for purposes of this rule, refers to a governmental entity and any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information on consumers for the purpose of furnishing consumer reports to third parties.

(d) The failure to comply with this rule shall constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and shall be subject to the provisions thereof.

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 20, 1993.

TRD-9326096

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

Earliest possible date of adoption: August 27, 1993

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

Subchapter J. Prohibited Trade Practices

• 28 TAC §21.1000

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1000 concerning the use of underwriting decisions of other companies. This section prohibits an insurer or agent from considering the fact that an applicant for personal automobile, residential property, or life, accident, or health insurance was denied coverage, non-renewed, or canceled by another company. The proposed section also prohibits an insurer or agent writing or offering personal automobile or residential property insurance from refusing to insure or submit an application or binder because the applicant was previously insured by a county mutual or surplus lines insurer. Failure to comply with this section would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Lyndon Anderson, associate commissioner for the property and casualty program, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the section. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed section.

Mr. Anderson also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the section is greater fairness in the personal automobile insurance and residential property insurance marketplaces, increased competition, and better informed consumers. There will be no effect on small businesses. The anticipated economic cost to any insurer or individual required to comply with the rule is the nominal cost for updating the insurer's underwriting guidelines.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 1.04(b), 5.06, 5.09,

5.10, 5.35, 5.98, 5.101, 21.07 (§13), 21.07-3 §21, 21.14, and 21.21 §13; and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.06 provides the State Board of Insurance with the authority to adopt or approve personal automobile insurance policy forms and endorsements. Article 5.09 prohibits any insurer coming within the terms of Subchapter A of Chapter 5 of the Insurance Code from any discrimination or distinctions in favor of or against an insured having a like hazard in the charge of premiums. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.35 authorizes the State Board of Insurance to adopt or approve policy forms and endorsements for residential property insurance. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of Chapter 5 of the Insurance Code. Article 5.101 empowers the State Board of Insurance to regulate automobile and residential property insurance rates. Article 21.07, §13, provides the State Board of Insurance with the authority to establish reasonable rules and regulations for the licensing of agents. Article 21.07-3, §21, provides the State Board of Insurance with the authority to establish reasonable rules and regulations for the licensing of managing general agents. Article 21.14 provides the State Board of Insurance with the authority to license local recording agents and solicitors. Article 21.21, §13, authorizes the State Board of Insurance to promulgate rules and regulations as necessary to carry out the provisions of Article 21.21. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 5.09 and 21.21.

§21.1000. Prohibition Against Insurer's Refusal to Insure Based on the Underwriting Decision of Another Company.

(a) The fact that another insurer canceled, nonrenewed, or refused to insure an applicant shall not be a reason, in whole or in part, for an insurer or agent writing or offering personal automobile, residential property, life, accident, or health insurance to refuse to insure or submit an application or binder for that applicant. An insurer may base its decision whether to insure an applicant on the same factor on which another insurer made its adverse decision if that insurer would have based its decision on that factor without knowledge of the previous insurer's actions.

(b) The fact that an applicant was previously insured by a county mutual or surplus lines insurer shall not be a reason,

in whole or in part, for an insurer or agent writing or offering personal automobile or residential property insurance to refuse to insure or submit an application or binder for that applicant.

(c) The failure to comply with this rule shall constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and shall be subject to the provisions thereof.

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 20, 1993.

TRD-9326095

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

Earliest possible date of adoption: August 27, 1993

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

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• 28 TAC §21.1001

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1001, concerning prohibiting insurers from refusing to renew a personal auto policy or from requiring a named driver exclusion for any family member as a condition of renewal solely because a family member of the insured reaches driving age. The section is proposed pursuant to the Insurance Code, Article 21.49-2B, §6(a), which prohibits an insurer from declining to renew a personal auto policy solely because of the age of the person covered by the policy. The proposed rule provides that a violation of the rule would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Lyndon Anderson, associate commissioner for the property and Casualty program, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule. Mr. Anderson also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the proposed rule.

Mr. Anderson also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the rule is that families with children reaching driving age will be able to continue their auto insurance coverage with the same insurer and to have the young driver covered under the policy. There will be no effect on small businesses. There is no anticipated economic cost to any insurer or individual who is required to comply with

the proposed rule that will be in addition to the cost incurred as a result of compliance with the statute (Article 21.49-2B, §6(a)).

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dom, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comments should be submitted to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, Texas Department of Insurance, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 21.49-2B, 21.21, and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 21.49-2B, §6(a) prohibits an insurer from declining to renew a personal auto policy solely because of the age of the person covered by the policy. Article 21.49-2B, §12, authorizes the State Board of Insurance to adopt rules relating to the cancellation and nonrenewal of policies covered by that article. Article 21.21, §13, authorizes the State Board of Insurance to promulgate rules and regulations as is necessary to carry out the purposes of that article. Article 1.04(b) authorizes the State Board of Insurance 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 21.49-2B and 21.21.

§21.1001. Prohibition Against Insurer's Nonrenewing Personal Auto Policy Solely Because of Age of Young Driver.

(a) No insurer may refuse to renew a personal auto policy or require a named driver exclusion for any family member as a condition of renewal solely on the basis that a family member of the insured reaches driving age.

(b) A violation of this section constitutes unfair competition and unfair practices under the Insurance Code, Article 21.21, and shall be subject to the provisions thereof.

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 20, 1993.

TRD-9326098

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

Earliest possible date of adoption: August 27, 1993.

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

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• 28 TAC §21.1002

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2046, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1002, concerning prohibiting insurers writing personal automobile insurance from requesting or using information regarding automobile accidents, traffic violations, or claims of an applicant in connection with or in making an underwriting decision when such accidents, violations, or claims occur more than 39 months prior to the date of application for personal auto insurance except under certain conditions as provided in the proposed rule. Under the proposed rule, insurers would be permitted to use information regarding convictions for certain specified offenses for underwriting purposes for a period not to exceed 60 months prior to the date of the application. These offenses would include driving while under the influence of alcohol or drugs, involuntary manslaughter, criminally negligent operation of a motor vehicle, driving with suspended or no license, and insurance-related fraud.

David Durden, deputy commissioner for property and casualty lines, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule. Mr. Durden also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the rule.

Mr. Durden also has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the section is greater fairness in the personal automobile insurance marketplace and greater availability and affordability of personal automobile insurance for those drivers who have not had traffic violations, accidents, or claims or been convicted of certain offenses for substantial periods of time. There will be no effect on small businesses. Anticipated economic cost to any insurer or individual who is required to comply with the rule will be nominal costs for updating underwriting guidelines.

Comments on the proposal must be submitted within 30 days after publication of the proposed section in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to David Durden, Deputy Commissioner, Property and Casualty Lines, Texas Department of Insurance, P.O. Box 149104, MC #103-11, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 1.04, 5.06, 5.09, 5.10, 5.98, 5.101, and 21.21; and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article

1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.06 provides the State Board of Insurance with the authority to adopt or approve personal automobile insurance policy forms and endorsements. Article 5.09 prohibits any insurer coming within the terms of the Insurance Code, Chapter 5, Subchapter A from any discrimination or distinctions in favor of or against an insured having a like hazard in the charge of premiums. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of the Insurance Code, Chapter 5 which regulates rating and policy forms for automobile insurance. Article 5.101 empowers the State Board of Insurance to regulate automobile insurance rates. Article 21.21, §13, authorizes the State Board of Insurance to promulgate and enforce reasonable rules and regulations as necessary to accomplish the purposes of Article 21.21. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 5.09 and 21.21.

§21.1002. Prohibition Against Insurers Using Traffic Accidents, Violations, or Claims Or Convictions for Certain Offenses for Underwriting Purposes.

(a) Any insurer writing personal automobile insurance is prohibited from requesting or using information regarding automobile accidents, traffic violations, or claims of an applicant in connection with or in making an underwriting decision when such accidents, violations, or claims occur more than 39 months prior to the date of the applicant's application except as otherwise provided in this section.

(b) In lieu of the prohibitions specified in subsection (a) of this section, information regarding convictions for the reasons specified in paragraphs (1)-(5) of this subsection may be used for underwriting purposes for a period not to exceed 60 months prior to the date of application of a prospective insured.

(1) driving while under the influence of alcohol, controlled substance, drugs, or a combination of two or more of these substances;

(2) involuntary manslaughter;

(3) criminally negligent operation of a motor vehicle;

(4) driving while license is suspended or driving without a valid driver's or operator's license in force and effect; and

(5) insurance-related fraud.

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 21, 1993.

TRD-9326127

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

Earliest possible date of adoption: August 27, 1993

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

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• 28 TAC §21.1003

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2046, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.1003, concerning prohibiting insurers or agents from conditioning the issuance, renewal, price, continuation, or amount of coverage of personal automobile insurance on the number of vehicles to be insured on the policy or on the purchase of any other policy or policies from the policyholder's personal auto insurer or any affiliate of that insurer. The proposed rule, however, would not preclude the application of a type of discount as provided in a rate manual approved by the Texas Department of Insurance or the conditioning of the sale of any umbrella or excess coverage policy on the purchase of the underlying policy.

David Durden, deputy commissioner for property and casualty lines, has determined that for each year of the first five-year period the rule will be in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the rule. Mr. Durden also has determined that there will be no other implications for the local economy and no impact on local employment as a result of administering the rule.

Mr. Durden has determined that for each year of the first five-year period the rule will be in effect the public benefit anticipated as a result of enforcing the rule is greater fairness in the personal automobile insurance marketplace and greater availability of personal automobile insurance. There will be no effect on small businesses. Anticipated economic cost to any insurer or individual who is required to comply with the rule will be nominal costs for updating underwriting guidelines.

Comments on the proposal must be submitted within 30 days after publication of the proposed rule in the *Texas Register* to Linda K. von Quintus-Dorn, Chief Clerk, Texas Department of Insurance, P.O. Box 149104, MC #113-2A, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to David Durden, Deputy Commissioner, Property and Casualty Lines, Texas Department of Insurance, P.O. Box 149104, MC #103-11, Austin, Texas 78714-9104.

The new section is proposed pursuant to the Insurance Code, Articles 1.04, 5.06, 5.09, 5.10, 5.98, 5.101, 21.49-2B, 21.07 (§13), 21.07-3 §21, 21.14, and 21.21 §13; and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 1.04(b) authorizes the State Board of Insurance to determine rules in accordance with the laws of this state. Article 5.06 provides the State Board of Insurance with the authority to adopt or approve personal automobile insurance policy forms and endorsements. Article 5.09 prohibits any insurer coming within the terms of the Insurance Code, Chapter 5, Subchapter A from any discrimination or distinctions in favor of or against an insured having a like hazard in the charge of premiums. Article 5.10 authorizes the State Board of Insurance to make and enforce rules and regulations necessary to carry out the provisions of the automobile insurance statutes. Article 5.98 authorizes the State Board of Insurance to adopt reasonable rules that are appropriate to accomplish the purposes of the Insurance Code, Chapter 5, which regulates rating and policy forms for automobile insurance. Article 5.101 empowers the State Board of Insurance to regulate automobile insurance rates. Article 21.49-2B authorizes the State Board of Insurance to adopt rules relating to the cancellation and nonrenewal of personal automobile insurance policies. Article 21.07, §13, provides the State Board of Insurance with the authority to establish reasonable rules and regulations for the licensing of agents. Article 21.07-3, §21, provides the State Board of Insurance with the authority to establish reasonable rules and regulations for the licensing of managing general agents. Article 21.14 provides the State Board of Insurance with the authority to license local recording agents and solicitors. Article 21.21, §13, authorizes the State Board of Insurance to promulgate reasonable rules and regulations as necessary to accomplish the purposes of Article 21.21. 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 requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

CROSS REFERENCE TO STATUTE. The following articles of the Insurance Code are affected by this rule: Articles 5.09, 21.21, and 21.49-2B.

§21.1003. Prohibition Against Using Number of Vehicles Insured or Number of Policies Purchased in Issuing, Renewing, or Pricing Personal Auto Insurance. An insurer or agent shall not condition the issuance, renewal, price, continuation or amount of coverage of personal automobile insurance on the number of vehicles to be insured on the policy or on the purchase from the insurer or any affiliated insurer of any other policy or policies. This rule does not preclude the application of a type of discount as provided in a rate manual approved by the Texas Department of Insurance or the conditioning of the sale of any umbrella or excess coverage policy on the purchase of an underlying policy.

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 21, 1993.

TRD-9326128

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

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 114. Control of Air Pollution From Motor Vehicles

Motor Vehicles

• 31 TAC §114.3

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

The Texas Air Control Board (TACB) proposes the repeal of §114.3, concerning Inspection Requirements for Control of Air Pollution From Motor Vehicles. The Inspection Requirements have become obsolete under the 1990 Federal Clean Air Act Amendments (FCAA) and the subsequent November 5, 1992 Inspection/Maintenance program rulemaking by the U.S. Environmental Protection Agency. Furthermore, the rule pertains to the vehicle emissions program administered by the Texas Department of Public Safety, which will be superseded as a result of the FCAA and subsequent rulemaking with the implementation of the vehicle emissions inspection and maintenance program administered by the TACB.

Lane Hartsock, deputy director of air quality planning, 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.

Mr. Hartsock also 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 removal of the rule which would impede the approval of the proposed new §114.3, concerning Vehicle Emissions Inspection/Maintenance. 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.

Public hearings on this proposal are scheduled for the following times and places: August 23, 1993, 7:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 24, 1993, 12:30 p.m., John Gray Institute, 855 Florida Avenue, Beaumont; August 25, 1993, 7:30 p.m., City of El Paso Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; and August 26, 1993, 3:00 p.m., Irving Central Library, 801 West Irving Boulevard, Irving.

The hearings are structured for the receipt of oral and written comments by interested persons on the proposed changes. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to discuss the proposal one hour prior to each hearing.

Written comments not presented at the hearings must be submitted to the TACB, located at 12124 Park 35 Circle, Austin, Texas 78753 through August 27, 1993. On September 1, 1993, authority for the adoption and administration of all TACB rules will be transferred to the new Texas Natural Resources Conservation Commission. Material received by the TACB Mobile Source Division by 4:00 p.m. on August 27, 1993, will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information, contact Stephanie Morris at (512) 908-1519.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

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

§114.3. Inspection Requirements.

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 21, 1993.

TRD-9326103

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

Proposed date of adoption: November 1, 1993

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

The Texas Air Control Board (TACB) proposes a new §114.3, concerning Vehicle Emissions Inspection/Maintenance (I/M). A control strategy which fully describes the

technical, administrative, and enforcement provisions of the I/M program is being concurrently proposed. The new section and control strategy are proposed as a revision to the State Implementation Plan (SIP) for the control of ozone in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso nonattainment areas. This revision is necessary under the 1990 Federal Clean Air Act Amendments and the subsequent November 5, 1992 I/M program rulemaking by the U.S. Environmental Protection Agency which requires the establishment of I/M programs in moderate, serious, and severe ozone nonattainment areas and carbon monoxide nonattainment areas.

The proposal requires substantial changes to the existing I/M programs in Harris, El Paso, Dallas, and Tarrant Counties. A basic program is required in moderate areas or serious areas with an urbanized population of 200,000 or less (Dallas/Fort Worth and Beaumont/Port Arthur). An enhanced I/M program is required in areas which are classified as serious or severe and have an urbanized population of 200,000 or more (El Paso and Houston/Galveston area). The purpose of this program is to reduce automobile evaporative and exhaust emissions.

The proposed new §114.3 contains I/M program-specific definitions; prohibitions on the operation of a motor vehicle without satisfying required inspection requirements; prohibitions on the improper issuance of a vehicle emissions certificate; a prohibition on the use or distribution of falsified inspection documents; requirements that I/M program contractors satisfy all applicable provisions of the Texas SIP; requirements that state-exempt vehicles and certain fleet vehicles not registered, but primarily operated in an I/M program area, comply with the emissions inspection requirements; requirements that federal government agencies ensure that vehicles operated by Federal employees on property under the agency's jurisdiction comply with the I/M program requirements, requirements that motorists comply with all emission-related recalls; requirements that motorists with vehicles identified by on-road testing submit the vehicle for out-of-cycle inspections and corrective action; provisions for receipt of minimum expenditure, hardship, and time extension waivers, and other general exemptions; and specification of the model years subject to the inspection program and the applicable counties and compliance schedules.

Lane Hartsock, deputy director of air quality planning, has determined that for the first five-year period the proposed changes are in effect, the cost to state and local governments of implementing the rule will involve I/M program compliance testing, public awareness activities, enforcement, and oversight, and is expected to be approximately \$2 million annually. There is an anticipated income of \$2.7 million for local governments in the form of a charge to motorists to be paid upon vehicle registration and registration renewal.

Mr. Hartsock also has determined that for the first five-year period the proposed changes are in effect, the public benefit anticipated as

a result of enforcing the proposed changes will be reduced aggregate emissions from automobiles in the Houston/Galveston, Dallas/Fort Worth, Beaumont/Port Arthur and El Paso areas. There are anticipated costs for small businesses and individuals as a result of the biennial inspection of less than \$25 per vehicle registered in each of the I/M program areas.

Public hearings on this proposal are scheduled for the following times and places: August 23, 1993, 7:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 24, 1993, 12:30 p. m., John Gray Institute, 855 Florida Avenue, Beaumont; August 25, 1993, 7:30 p. m., City of El Paso Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; and August 26, 1993, 3:00 p.m., Irving Central Library, 801 West Irving Boulevard, Irving.

The hearings are structured for the receipt of oral and written comments by interested persons on the proposed changes. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to discuss the proposal one hour prior to each hearing.

Written comments not presented at the hearings must be submitted to the TACB, located at 12124 Park 35 Circle, Austin, Texas 78753 through August 27, 1993. Material received by the Mobile Source Division by 4:00 p.m. on that date will be considered by the Board prior to any final action on the proposed revisions. Copies of the proposed revisions are available at the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information, contact Stephanie Morris at (512) 908-1519.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

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

§114.3. Vehicle Emissions Inspection and Maintenance Program.

(a) Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Air Control Board (TACB), the terms used by the TACB have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

Adjusted annually-Percentage, if any, by which the Consumer Price Index (CPI) for the preceding calendar year differs

from the CPI for 1989; adjustments shall be effective on January 1 of each year.

Emissions tune-up-A basic tune-up along with functional checks and any necessary replacement or repair of emission control components.

Fleet vehicle-Any motor vehicle operated as a member of a group of more than ten motor vehicles belonging to a single non-household entity; any state or local government motor vehicle, including a motor vehicle exempted from the payment of a registration fee and issued a specially designated license plate; or any federal government motor vehicle, except for a tactical military vehicle.

Managing Contractor-Firm contracted by the Texas Air Control Board to design, build, equip, maintain, and oversee operation of vehicle emission inspection facilities, operate referee inspection facilities, and provide other administrative functions for the vehicle emissions inspection and maintenance program contained in the revised Texas Inspection/Maintenance State Implementation Plan.

Motorist-Entity responsible for the repair and maintenance of a motor vehicle, which may include, but is not limited to, owners and lessees.

Primarily operated-Use of a motor vehicle greater than 50% of total use as measured in vehicle miles traveled.

Program area-County or counties in which the Texas Air Control Board, in coordination with the Texas Department of Transportation, administers the vehicle emissions inspection and maintenance program contained in the revised Texas Inspection/Maintenance State Implementation Plan. The program shall be implemented in two models, basic and enhanced.

Referee inspection facility-Station administered by a Managing Contractor for challenge and waiver testing purposes and determination of reciprocal compliance.

Retest-Successive vehicle emissions inspections following the failing of an initial test by a vehicle during a single testing cycle.

Revised Texas Inspection/Maintenance State Implementation Plan-The Texas State Implementation Plan as revised in accordance with the U. S. Environmental Protection Agency 40 CFR Part 51, Subpart S, issued November 5, 1992, including the procedures and requirements of the vehicle emissions inspection and maintenance program.

Testing cycle-Biennial cycle commencing with the first registration expiration date for which a motor vehicle is subject to a vehicle emissions inspection, required for a motor vehicle of an even-numbered model year during an even-numbered year and for a motor vehicle of an odd-numbered model year during an odd-numbered year.

(b) No person may operate any motor vehicle which does not comply with:

(1) air pollution emission control related requirements included in the annual vehicle safety inspection requirements administered by the Texas Department of Public Safety (DPS), as evidenced by a currently valid inspection certificate affixed to the vehicle windshield until such requirements are superseded by the vehicle emissions inspection and maintenance requirements contained in the revised Texas Inspection/Maintenance Texas State Implementation Plan (revised Texas I/M SIP); or

(2) the vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP.

(c) No person may issue or allow the issuance of:

(1) a vehicle inspection certification, as authorized by DPS, unless all air pollution emission control related requirements of the annual vehicle safety inspection are completely and properly performed in accordance with the rules and regulations adopted by DPS. Prior to taking any enforcement action regarding this provision, the TACB shall consult with DPS. Requirements in this subpart shall apply until superseded by the vehicle emissions inspection and maintenance requirements and procedures contained in the revised Texas I/M SIP; or

(2) a Vehicle Emissions Certificate (VEC), as authorized by the TACB, unless:

(A) all vehicle emissions inspection and maintenance requirements and procedures required by the revised Texas I/M SIP are completely and properly performed; or,

(B) reciprocal compliance is established in accordance with all vehicle emissions inspection and maintenance requirements and procedures contained in the revised Texas I/M SIP. A motorist shall submit an original vehicle emissions inspection document to a referee inspection facility. If the inspector determines that the document fulfills the requirements of the program area in which the motorist intends to register a motor vehicle, the motorist shall receive a VEC upon remittance of any applicable fees.

(d) No person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen VECs, vehicle emissions repair documentation, or other documents which may be used to circumvent the vehicle emissions inspection and maintenance requirements and procedures contained in the revised Texas I/M SIP.

(e) No person may own, operate, or allow the operation of a fleet vehicle primarily operated in a program area unless the fleet vehicle has complied with all vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP. An owner or operator of a fleet vehicle exempted from the payment of a registration fee and issued a specially designated license plate or otherwise not required to be registered by the Texas Department of Transportation (TxDOT) shall comply with the following requirements specific to such fleets:

(1) present the fleet vehicle for inspection in accordance with the fleet vehicle inspection schedule developed by the TACB;

(2) register with the TACB by March 1, 1994, and shall provide by that date information on each vehicle including, but not limited to, all data required for the registration of the fleet vehicle by the TxDOT and other information specified on forms provided by the TACB; and

(3) maintain the following vehicle information and shall provide that information to the TACB, U.S. Environmental Protection Agency (EPA), or local air pollution control agency on request:

(A) the number and types of vehicles operated and maintained by the fleet;

(B) vehicle identification number of any vehicle currently operated and notating changes such as purchased, leased, sold, or retired;

(C) changes to the fuel type that would affect the applicability of program requirements;

(D) number of miles traveled and percentage of miles traveled by each vehicle in a program area; and

(E) other data as required by the TACB.

(f) All federal government agencies shall require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the agency and located in a program area to comply with all vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP.

(g) A Managing Contractor shall design, build, and oversee operation of inspection facilities in accordance with the performance and operating reliability standards and other requirements and proce-

dures contained in the revised Texas I/M SIP.

(h) No organization, business, or individual may represent itself as an inspector certified by a Managing Contractor, as a repair technician certified by the TACB, or as a repair facility certified by the TACB unless such certification has been issued pursuant to the certification requirements and procedures contained in the revised Texas I/M SIP.

(i) Any motorist in an enhanced program area whose motor vehicle has been issued an emissions-related recall notice earlier than six months before the motor vehicle is presented for a vehicle emissions inspection shall furnish proof of compliance with the recall notice in order for the inspection to commence, provided that compliance with the recall has not been proven during a previous vehicle emissions inspection. The motorist may present a written statement from the dealership or leasing agency indicating that emissions repairs have been completed as proof of compliance.

(j) A motorist whose motor vehicle has failed an on-road test administered by the TACB shall:

(1) submit the motor vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the TACB; and

(2) satisfy all inspection or waiver requirements of the vehicle emissions inspection and maintenance program contained in the revised Texas I/M SIP within 60 days of written notice by the TACB.

(k) A motorist may apply to the Managing Contractor for waivers which defer the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection. The motorist may apply only once for each type of waiver for each testing cycle and shall pay any applicable processing fee.

(1) A Minimum Expenditure Waiver may be granted in accordance with the following conditions:

(A) The motor vehicle must have failed a retest after repairs satisfying the following conditions have been performed:

(i) in enhanced program areas, repairs shall require a minimum expenditure of at least \$450, adjusted annually;

(ii) in basic program areas, repairs shall require a minimum expenditure of at least \$75 for pre-1981 model year vehicles and of at least \$200 for 1981 and later model year vehicles;

(iii) repairs shall be performed by a TACB voluntarily certified repair technician;

(iv) repairs shall be directly applicable to the cause for the test failure; and

(v) repairs shall have directly reduced emissions by 25% of the difference between emissions during the initial test and the emissions standards contained in the revised Texas I/M SIP.

(B) A Minimum Expenditure Waiver shall be valid for the remaining portion of the testing cycle.

(2) A Hardship Waiver may be granted in accordance with the following conditions:

(A) A motorist cannot meet the conditions specified in §114.3(k)(1)(A) for a Minimum Expenditure Waiver due to financial hardship. The motorist shall provide proof in writing of at least one of the following criteria to establish financial hardship:

(i) the motorist's family income is below the poverty level as defined by the Office of Management and Budget Poverty Index;

(ii) the motorist's family receives financial assistance pursuant to Chapter 31, Financial Assistance Programs, Texas Human Resources Code;

(iii) the motorist's family receives food stamp assistance as determined by the Texas Department of Human Services in accordance with the Food Stamp Act Amendments of 1977; or

(iv) the motorist's family earns not more than 40% of the area median income as defined in the Comprehensive Housing Affordability Strategy of the Texas Department of Housing and Community Development.

(B) A motor vehicle must have failed a retest after repairs satisfying the following conditions have been performed:

(i) repairs shall be performed by a TACB voluntarily certified repair technician;

(ii) repairs shall be directly applicable to the cause for the test failure;

(iii) repairs shall require a minimum expenditure of at least \$150, adjusted annually, including an emissions tune-up; and

(iv) repairs shall have directly reduced emissions by 25% of the

difference between emissions during the initial test and the emissions standards contained in the revised Texas I/M SIP.

(C) A Hardship Waiver shall be valid for the remaining portion of the testing cycle.

(3) A Time Extension Waiver may be granted in accordance with the following conditions:

(A) The motorist can document that emissions-related repairs cannot be completed before the expiration of current registration or before the 30-day period following an out-of-cycle inspection because the repairs require an uncommon part. An uncommon part is defined as one that takes more than 30 days for expected delivery and installation.

(B) The motorist shall provide an original VEC and an original itemized receipt indicating purchase, payment, and expected delivery and installation dates of uncommon parts before a Time Extension Waiver can be issued.

(C) The motorist shall return the motor vehicle to the referee inspection facility for a retest and verification of repairs upon completion of the repairs.

(D) The motorist shall provide to the TACB, prior to expiration of a Time Extension Waiver, adequate documentation that one of the following conditions exists:

(i) the motor vehicle passed a retest;

(ii) the motorist qualifies for a Minimum Expenditure Waiver or Hardship Waiver; or

(iii) the motor vehicle shall no longer be operated in the program area.

(E) The length of a Time Extension Waiver shall depend upon expected delivery and installation dates of uncommon parts as determined by the Managing Contractor, but shall not exceed three months.

(4) If a motorist leases or offers for lease, sells or offers for sale, trades or offers for trade, or otherwise transfers the title of a motor vehicle during the time any waiver is in effect, the motorist shall notify the prospective owner or operator in writing of the waiver.

(5) A motorist shall use any available warranty coverage to obtain needed repairs before expenditures shall be used in calculating the minimum repair ex-

penditures to qualify for a Minimum Expenditure or a Hardship Waiver unless the warranty remedy has been denied in writing from the manufacturer or authorized dealer.

(6) A motorist may not use or attempt to use expenditures for tampering-related repairs in calculating the minimum repair expenditures to qualify for a Minimum Expenditure or a Hardship Waiver. Tampering includes, but is not limited to, engine modifications, emission system modifications, or fuel-type modifications not approved by the TACB or EPA.

(7) A motorist shall provide to the Managing Contractor at the referee inspection facility an original retest VEC and an original itemized receipt indicating the emissions-related repairs performed for the issuance of a Minimum Expenditure or a Hardship Waiver. A motorist shall provide to the Managing Contractor at the referee inspection facility an original retest VEC and an original itemized receipt indicating the purchase, payment, and expected delivery and installation dates of uncommon parts for the issuance of a Time Extension Waiver.

(I) A motorist may petition the Executive Director of the TACB for the exemption of a motor vehicle from the requirements of the vehicle emissions inspection and maintenance program contained in the revised Texas I/M SIP upon demonstration that the motorist has taken reasonable measures to comply with such requirements and that such exemption shall have minimal impact on air quality. If the Executive Director approves the petition, the motorist may receive an exemption upon remittance of any applicable fees.

(m) The requirements of the vehicle emissions inspection and maintenance program contained in the revised Texas I/M SIP shall be applied to all 1968 and newer model year gasoline-powered motor vehicles, excluding motorcycles.

(n) The requirements of the vehicle emissions inspection and maintenance program contained in the revised Texas I/M SIP shall be applied in the program areas in accordance with the following schedule:

(1) the basic program in Collin, Dallas, Denton, Jefferson, Orange, and Tarrant counties beginning on July 1, 1994;

(2) the enhanced program in Brazoria, El Paso, Fort Bend, Galveston, Harris, and Montgomery counties beginning on January 1, 1995; and

(3) the enhanced program in Chambers, Liberty, and Waller counties beginning on January 1, 1997.

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 21, 1993.

TRD-9326104

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

Proposed date of adoption: November 1, 1993

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

TITLE 34. PUBLIC FINANCE

Part IV. Employees Retirement System of Texas

Chapter 83. Texas Public School District Insurance Plan

- 34 TAC §§83.1, 83.3, 83.5, 83.7, 83.9, 83.11

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

The Employees Retirement System of Texas (ERS) proposes the repeal of §§83.1, 83.3, 83.5, 83.7, 83.9, and 83.11, concerning the Texas Public School District Insurance Plan. The chapter is being repealed pursuant to Acts of the 73rd Texas Legislature, Regular Session, Senate Bill 1181, which removed the responsibility for the ERS to administer an insurance program for public school employees. The responsibility for future implementation of an insurance program for public school employees has been transferred to the Teacher Retirement System of Texas.

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

Mr. Nail also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be removed for administration by the ERS in order to be in compliance with Acts of the 73rd Texas Legislature. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to William S. Nail, General Counsel, P.O. Box 13207, Austin, Texas 78711-3207.

The repeals are proposed under the Insurance Code, Article 3.50-2, §4, which provides the Board of Trustees of the Employees Retirement System of Texas with the authority to promulgate all rules, regulations, plans, procedures, and orders reasonably necessary to implement and carry out the purposes and

provisions of the Texas Employees Uniform Group Insurance Benefits Act.

§83.1. Definitions.

§83.3. Administration.

§83.5. Eligibility.

§83.7. Enrollment and Participation.

§83.9. Grievance Procedure.

§83.11. Termination of Coverage.

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 16, 1993.

TRD-9326060

Charles D. Travis
Executive Director
Employees Retirement
System of Texas

Earliest possible date of adoption: August 27, 1993

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

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 28. Third-Party Resources

Program Requirements

- 40 TAC §§28.101, 28.111, 28.121, 28.131

The Texas Department of Human Services (DHS) proposes new §§28.101, 28.111, 28.121, and 28.131, concerning the basis and scope, provider right of recovery, recipient right of recovery, and notice of assignment in a new chapter, Third-Party Resources. The rules for the operation of the Third Party Resource Program were inadvertently repealed in 1990 with the adoption of the Omnibus Budget Reconciliation Act of 1990 nursing home standards. The purpose of the new sections is to describe Medicaid's right of assignment of funds paid by third-party resources and the provider's and recipient's rights for recovery of payments for medical expenses from the third-party resources. Third-party resources include payments from both private and public health insurance and from other liable third parties that can be applied toward a Medicaid recipient's medical and health benefit expenses.

Burton F. Raiford, commissioner, has determined that for the first five-year period the

proposed sections will be in effect there will be no fiscal implications for local government as a result of enforcing or administering the sections. The fiscal impact on state government for the first five years the proposed sections are in effect will be \$68,000 in Fiscal Year (FY) 1994; \$74,800 in FY: 1995; \$82,280 in FY: 1996; \$90,508 in FY: 1997; and \$99,559 in FY: 1998.

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 the department will collect funds from third-party resources to reduce Medicaid costs. There will be no effect on small businesses as a result of enforcing or administering the sections. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of this proposal may be directed to Terry Cottrell at (512) 338-6518 in DHS's Management Support Services Section. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-139, 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 new sections are proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs and under Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

§28.101. Basis and Scope.

(a) Reimbursement from third-party resources for medical care services paid on behalf of a Texas Medical Assistance (Medicaid) Program recipient is assigned to the Texas Department of Human Services (DHS) or its health insuring agent under Human Resources Code §32.033. Third-party resources include, but are not limited to, the following:

- (1) health and accident insurance;
- (2) workers' compensation;
- (3) casualty insurance including uninsured/underinsured motorist coverage;
- (4) assignable indemnity contracts;
- (5) health maintenance organizations;
- (6) Employee Retirement Income Security Act (ERISA) health plans;
- (7) no-fault automobile insurance including Personal Injury Protection (PIP) and automobile medical insurance;
- (8) another person for personal injury caused by that person's negligence or wrong; and

(9) any claim filed on behalf of or payment made to a Medicaid recipient for injuries requiring Medicaid services including payments for mental anguish, pain and suffering, and future medical expenses when the injury causing the need for Medicaid services was the basis for those claims or payments.

(b) The right of recovery by DHS is limited to the amount of the cost of medical services paid by DHS or its health insuring agent on behalf of the recipient. Amounts available from third-party resources in excess of payments made by DHS or its health insuring agent are available to the recipient.

(c) The right of recovery by DHS includes any amounts paid to a recipient's parent or legal guardian for Medicaid-covered services.

§28.111. Provider Right of Recovery.

(a) The Texas Medical Assistance (Medicaid) Program pays medical claims only after all other available resources have been exhausted.

(b) Medicaid providers must collect and/or recover funds from any source to which the Texas Department of Human Services (DHS) has a right of recovery under §28.101 of this title (relating to Basis and Scope), before submitting Medicaid claims for reimbursement.

(c) DHS authorizes Medicaid providers to collect and/or recover funds for recipients' medical expenses claimed from any other source.

(d) When the payment by a third-party resource is equal to or greater than the amount allowable by DHS or its health insuring agent for covered services, Medicaid recipients are not liable for charges billed in excess of the amount paid by the third-party for the medical care and services within the amount, duration, and scope of benefits provided by Medicaid.

§28.121. Recipient Right of Recovery.

(a) The Texas Department of Human Services (DHS) is not responsible for pursuing claims against third-party resources outside the limits of the recovery that DHS is authorized to seek. The recipient is responsible for pursuing these claims.

(b) DHS's right of recovery does not include recovery from the following:

- (1) Texas Rehabilitation Commission;
- (2) Texas Commission for the Blind;
- (3) Texas Kidney Health Care Program;
- (4) Muscular Dystrophy Association;

(5) Chronically Ill and Disabled Children's Services;

(6) Texas Band of Kickapoo Equity Health Program;

(7) Maternal and Child Health (Title V);

(8) State Legislative Impact Assistance Grant (SLIAG);

(9) Crime Victim's Compensation Program; and

(10) adoption agencies or adopting parents with medical contractual obligations to the Medicaid client.

§28.131. Notice of Assignment.

(a) The Texas Department of Human Services (DHS) will provide information about third-party resources for individual recipients on the monthly medical care identification card. This information includes a code indicating whether the recipient has a third-party resource. Recipients must sign a statement on the back of the card acknowledging that they are aware that assignment of third-party resources has been made to DHS, and they must show the card to Texas Medical Assistance (Medicaid) Program providers before receiving medical services.

(b) Medicaid providers must indicate on the third-party resources claim form that the recipient has Medicaid coverage and must indicate the recipient's individual identification number.

(c) Medicaid payments and reasonable attorney fees, not to exceed 10% of the recouped amount, may be recouped from a provider who was aware of third-party resources when the services were provided.

(d) Neither DHS, nor its health insuring agent will seek to recover from third-party resources any payments made to the recipient in good-faith prior to DHS's notification of claim.

(e) Notification by DHS of its right of assignment, as authorized under Article 3.76 of the Insurance Code, is made when DHS's claim is submitted to the third-party.

(f) If a recipient, an insurer, agent, or attorney receives a notice of assignment and then releases funds without paying Medicaid's claim, they are liable to DHS for the full amount of the Medicaid claim plus reasonable attorney fees necessary for recovering the money.

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 21, 1993.

TRD-9326132

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

Proposed date of adoption: August 31, 1993

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

Part X. Texas Employment Commission Chapter 303. Child Labor

• 40 TAC §§303.4-303.6

The Texas Employment Commission proposes amendments to §§303.4-303.6, concerning regulation of the employment of children. The amendments clarify existing policy in anticipation of enforcement activity pursuant to amendments to Texas Civil Statutes, Article 5181.1, in that they make clear that federal regulations adopted by reference apply to all minors who are subject to the Commission's jurisdiction under the state statute.

C. Ed Davis, deputy administrator for legal affairs, has determined that there will be fiscal implications as a result of enforcing or administering this and other rules, and the child labor statute. The effect on state government for the first five-year period the rules will be in effect will be an estimated additional cost of \$0 in 1993; \$1.2 million in 1994; \$1.0 million in 1995; \$1.5 million in 1996; and \$1.5 million in 1997. There will be no effect on local government for the first five-year period the rules will be in effect.

Mr. Davis 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 a reduction in the number of child labor violations; better public understanding of the child labor laws; and better legislative understanding of the nature and extent of child labor violations. The cost of compliance with the rules for small businesses is unknown. The anticipated economic cost to persons who are required to comply with the rules as proposed is unknown.

Comments on the proposal may be submitted to Carolyn Calhoun, Office of the Deputy Administrator for Legal Affairs, Texas Employment Commission Building, 101 East 15th Street, Room 660, Austin, Texas 78778, (512) 463-2291.

The amendments are proposed under Texas Civil Statutes, Article 5181.1, which provide the Texas Employment Commission with the authority to adopt rules necessary to promote the purpose of the Act.

§303.4. Employment Deemed Hazardous or Under Conditions Deemed Detrimental to the Safety, Health, or Well-being of 14 and 15 Year Old Children; Employment Expressly Permitted. The commission adopts by reference federal child labor regulation 29 Code of Federal Regulations, §§570.31-570.35 [4] as state rules governing the employment in Texas of children ages 14 and 15, additionally to be applicable where that employment is not subject to the provisions

of the federal child labor law found in the Fair Labor Standards Act, 29 United States Code, §201, *et seq.*, but is subject to Texas Civil Statutes, Article 5181.1, *et seq.*

§303.5. Occupations Declared Particularly Hazardous or Detrimental to the Health or Well-being of 16 and 17 Year Old Children. The commission adopts by reference federal child labor regulation 29 Code of Federal Regulations, §§570.50-570.72 as state rules governing the employment in Texas of children ages 16 and 17, additionally to be applicable where that employment is not subject to the provisions of the federal child labor law found in the Fair Labor Standards Act, 29 United States Code, §201, *et seq.*, but is subject to Texas Civil Statutes, Article 5181.1, *et seq.*

§303.6. Statement of Purpose for Adoption by Reference. By the adoptions by reference in §303.4 and §303.5 of this title (relating to Employment Deemed Hazardous or Under Conditions Deemed Detrimental to the Safety, Health, or Well-being of 14 and 15 Year Old Children; Employment Expressly Permitted; and Occupations Declared Particularly Hazardous or Detrimental to the Health or Well-being of 16 and 17 Year Old Children), the commission intends to provide essentially the same body of substantive rules for the employment of all covered [both age groups of] children (14 and 15 year olds and 16 and 17 year olds) under state law that pertain to [these age groupings of] children under federal law. [This continues the basic longstanding practice of the Texas Department of Labor and

Standards, while making a more apt reference to the federal source rules.]

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

Issued in Austin, Texas, on July 20, 1993.

TRD-9326085

C. Ed Davis
Deputy Administrator for
Legal Affairs
Texas Employment
Commission

Earliest possible date of adoption: August 27, 1993

For further information, please call: (512) 463-2291



Department of Insurance Exempt Filing

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

(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, does not apply to board action under Articles 5.96 and 5.97.)

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

Texas Department of Insurance Exempt Filing Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L, Article 5.96.

The State Board of Insurance of the Texas Department of Insurance will consider a proposal filed by the Office of Public Insurance Counsel requesting the adoption of Consumer Bills of Rights for Personal Automobile Insurance and for Homeowners and Renters Insurance at a public hearing under Docket Numbers 2037 and 2038, set for 2:00 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Office of Public Insurance Counsel (OPIC) is proposing that the Board adopt separate rules for auto insurance and for homeowners and renters insurance to be included in the Texas Automobile Rule and Rating Manual and the Homeowners Manual of the Texas Personal Lines Manual respectively. The Office of Public Insurance Counsel is also requesting that the Board adopt a proposed "Consumer Bill of Rights for Personal Automobile Insurance" and a proposed "Consumer Bill of Rights for

Homeowners and Renters Insurance" as drafted by OPIC. The rules proposed by OPIC would require insurers writing personal auto insurance policies or homeowners or tenants policies to provide with each new policy of such insurance the proposed "Consumer Bill of Rights" for that line of insurance and to provide such bill of rights with each renewal notice for such insurance unless previously delivered. The rules would require each bill of rights be printed in no less than 10-point type and be on separate pages. The rules would also require insurers to provide a Board-promulgated Spanish-language version of the bill of rights to any consumer who requests it. The proposed bills of rights set forth OPIC's summation of what it considers consumers' most important rights with regard to each line of insurance including consumers' rights to receive information from the Department of Insurance and their insurer, rights relating to buying insurance, rights regarding cancellation and refusal to renew policies, rights regarding claims made under such policies, rights regarding non-discrimination, and enforcement rights. The text of the proposed rules and proposed consumer bills of rights are set forth in OPIC's First Amended Petition (Reference Number O-0693-16) filed by OPIC on July 12, 1993, with the Chief Clerk of the Board. OPIC previously filed its Original Petition for adoption of the proposed rules and bills of rights on June 15, 1993, with the Chief Clerk of the Board. The Board may also consider any amendments to the proposal.

A copy of the amended petition containing the full text of the proposed rules and consumer bills of rights is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. The Board invites the general public and any interested persons to provide written comments, including suggested amendments to the proposed rules and bills of rights, to the Board by filing them with the Chief Clerk's Office no later than August 26, 1993, with a copy to Lyndon An-

derson, Associate Commissioner, Property and Casualty Division, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104

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

For further information or to request copies of the petition, please contact Angie Arizpe (512) 322-4147, and (refer to Reference Number O-0693-16).

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

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

Issued in Austin, Texas, on July 21, 1993.

TRD-9326114

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

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



(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, does not apply to board action under Articles 5.96 and 5.97.)

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

The State Board of Insurance of the Texas Department of Insurance, at a public hearing scheduled for 9:00 a.m. August 30, 1993 under Docket Number 2041, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed by The Texas Automobile Insurance Service Office, (TAISO). TAISO is proposing an amendment to Rule 74H of the Texas Automobile Rules and Rating Manual to establish a discount category for a student driver that is a member of a drug or alcohol program which is recognized or sponsored by school authorities. By Texas Automobile Insurance Services Office. The amendment was considered at the June 29, 1993 auto property rule hearing.

The Board will also consider a petition filed by Office of Public Insurance Counsel, (OPIC) proposing a mandatory discount for personal auto insurance for persons completing alcohol and drug education courses. The discount would be mandatory for all insurers. According to OPIC's petition the discount would encourage consumers to become educated about the perils of drinking or using drugs and driving, reduce alcohol and drug related accidents, and ultimately reduce the cost of auto insurance. OPIC's petition was filed in the Chief Clerk's Office on July 8, 1993.

The Board has jurisdiction to implement these changes pursuant to Texas Insurance Code, Articles 1.04(b), 5.06, 5.09, 5.10, and 5.96

A copy of both proposals containing the full text of the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the proposals, please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number A-0793-17).

The Board invites the general public and any interested persons to provide written comments to the Board by filing them with the

Chief Clerk's Office no later than August 26, 1993, with a copy to David Durden, Deputy Commissioner Property and Casualty Insurance Lines, P.O.Box 149104, MC #103-11, Austin, Texas 78714-9104.

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

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

Issued in Austin, Texas, on July 21, 1993.

TRD-9326129 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

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

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(Editor's Note: As required by the Insurance Code, Article 5.96 and 5.97, the Texas Register publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the Texas Register not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the Texas Register not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, does not apply to board action under Articles 5.96 and 5.97.

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

The State Board of Insurance, at a public hearing under Docket Number 2042 scheduled for 9:00 a.m. on August 30, 1993 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed

by Texas Department of Insurance Staff proposing amendments to the Texas Automobile Insurance Rules and Rating Manual, Rules 74, 78, and 123, and amendments to endorsements 586 and TE 20 32A. The proposed amendments to Rule 74 provide a credit on certain vehicles for households in which there are more vehicles than operators. The amendments to rules 78 and 123 and endorsements 586 and TE 21 32A broaden the rules concerning antique autos, by expanding the applicable discounts to collectible autos and special interest autos.

The Board invites the general public and any interested persons to provide written comments, including suggested amendments to the proposed rules, to the Board by filing them with the Chief Clerk's Office no later than August 26, 1993, with a copy to David Durden Deputy Commissioner, Property and Casualty Insurance Lines, P.O. Box 149104, MC #103-11, Austin, Texas 78714-9104

Copies of the full text of the proposed amendments to the rules and forms are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies, please contact Angie Arizpe at (512) 322-4147, refer to (Reference Number A-0593-18).

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

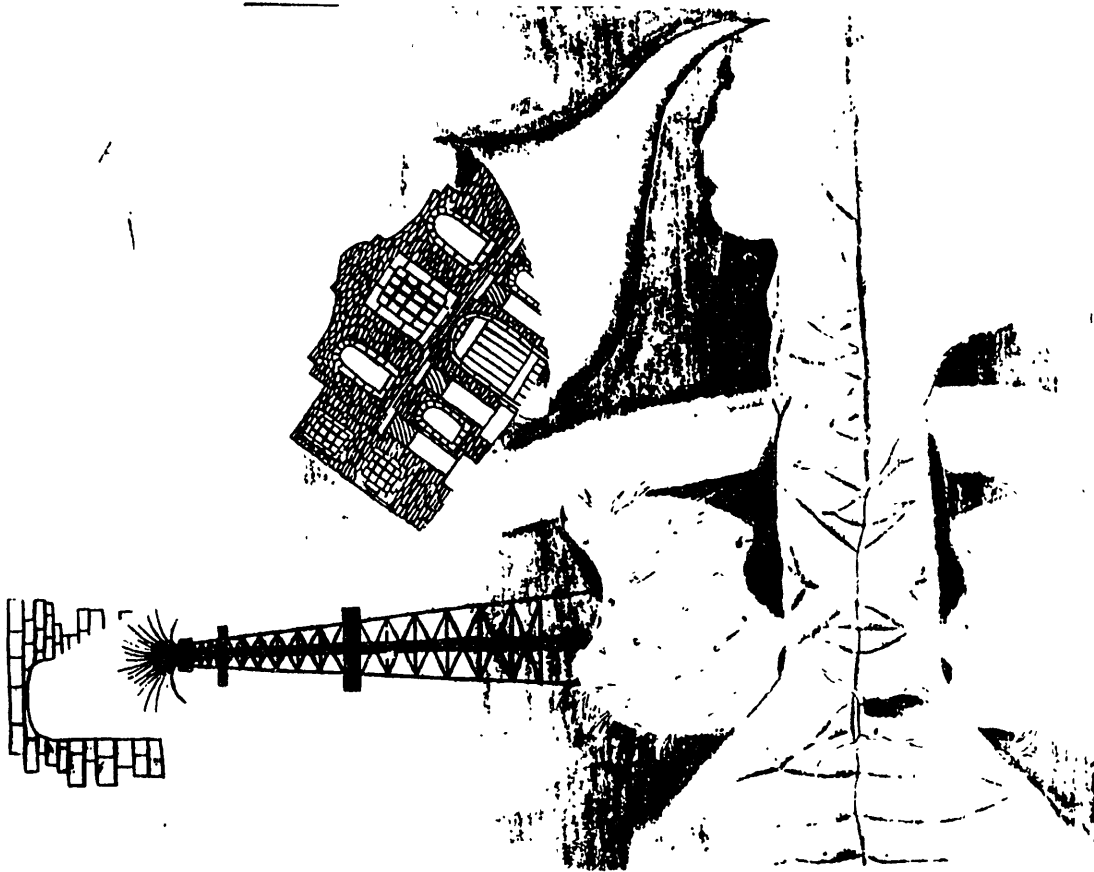
This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326115 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of
Insurance

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

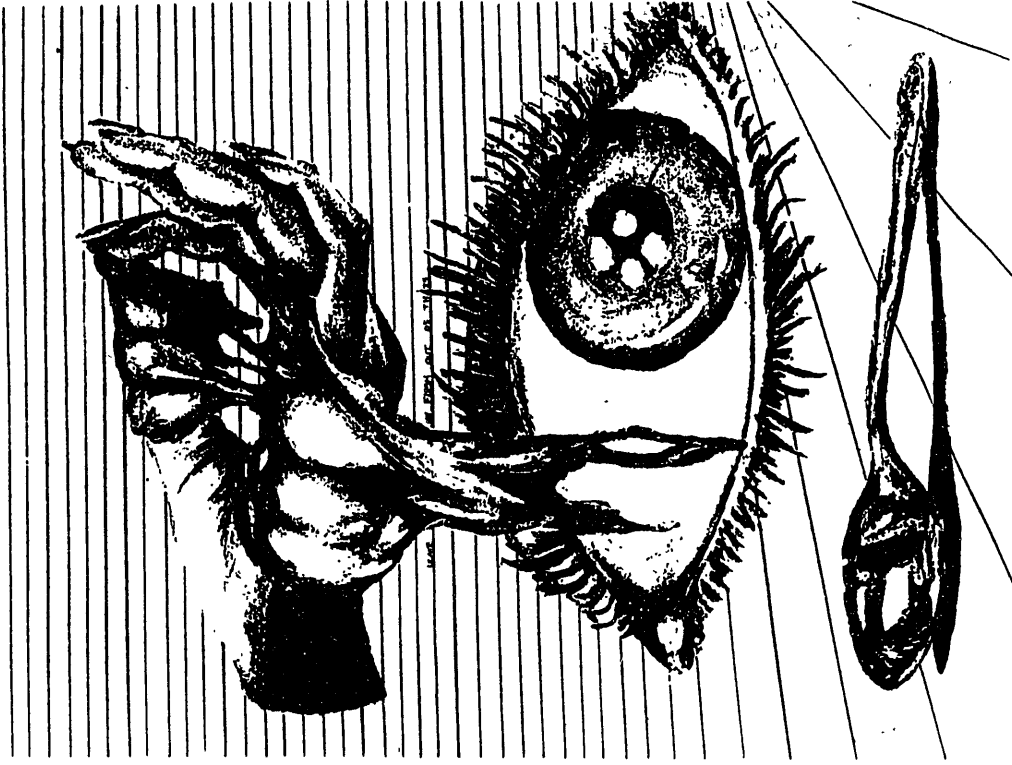
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Name: Bryan Cannon

Grade: 11

School: Plano East Senior High, Plano ISD



Name: Gene Coffey

Grade: 11

School: Plano East Senior High, Plano ISD

Withdrawn Sections

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part III. Texas Air Control Board

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

Subchapter B. General Volatile Organic Compound Sources

Industrial and Municipal Wastewater

- 31 TAC §§115.142-115.147, 115.149

The Texas Air Control Board has withdrawn from consideration for permanent adoption a proposed new §§115.142-115.147, and 115.149 which appeared in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4458). The effective date of this withdrawal is July 19, 1993.

Issued in Austin, Texas, on July 19, 1993.

TRD-9326042 Lane Hartsock
Deputy Director, Air Quality
Planning
Texas Air Control Board

Effective date: July 19, 1993

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





SCOTT HIGGINBOTHAM
GRADE 6 WOODCARVING
RICHARDSON HEIGHTS ELEM.
RICHARDSON, TEXAS

ERICA JOHNSON
GRADE 6 WOODCARVING
RICHARDSON HEIGHTS ELEM.
RICHARDSON, TEXAS



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 3. Boll Weevil Eradication Program

Subchapter A. Election Proce- dures

• 4 TAC §§3.1-3.6

The Texas Department of Agriculture (the department) adopts new §§3.1-3.6, concerning election procedures, without changes to the proposed text as published in the June 11, 1993, issue of the *Texas Register* (18 TexReg 3647). The new sections are adopted in accordance with the provisions of the Texas Agriculture Code, §74.114, as enacted by Senate Bill 30, 73rd Legislature, Regular Session (1993), to aid in the implementation of the boll weevil eradication program in Texas.

The new sections provide procedures for use by the Boll Weevil Eradication Foundation to conduct referenda to establish boll weevil eradication zones and assessment rates and to elect board members to serve on the foundation's board of directors.

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

Representatives of following organizations commented generally in favor of the new sections at a public hearing conducted by the department on the new sections on June 28, 1993: Texas Cotton Producers, Inc., Southern Rolling Plains Cotton Growers, South Texas Cotton and Grain Association, Plains Cotton Growers, Rolling Plains Cotton Growers, St. Lawrence Cotton Growers and the Texas Agricultural Cooperative Council.

The new sections are adopted under the Texas Agriculture Code, §74.114, which requires the department to adopt procedures for conducting of elections by the Boll Weevil Eradication Foundation.

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 19, 1993.

TRD-9326033

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: August 9, 1993

Proposal publication date: June 11, 1993

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

Chapter 5. Quarantines

Imported Fire Ant Quarantine

• 4 TAC §5.1

The Texas Department of Agriculture (the department) adopts an amendment to §5.1, concerning quarantined areas, without changes to the proposed text as published in the June 11, 1993, issue of the *Texas Register* (18 TexReg 3649).

The amendment is made to stop the movement of imported fire ants out of currently infested areas of the state. The amendment adds Brown, Maverick, Midland, Jones, Kimble, La Salle, Palo Pinto, Stephens, Val Verde, and parts of Ector and Montague counties to the list of quarantined areas.

No comments were received regarding adoption of the amendment.

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

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 19, 1993.

TRD-9326032

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: August 9, 1993

Proposal publication date: June 11, 1993

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

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

• 16 TAC §3.70

The Railroad Commission of Texas adopts new §3.70, with changes to the proposed text as published in the May 11, 1993, issue of the *Texas Register* (18 TexReg 3013). The rule shall take effect on September 1, 1993. Adoption of the rule will make the requirement of filing forms required to be filed by various statewide rules have the force of a statewide rule and put the public on notice where a complete set of all commission forms may be found and how notices of new or amended forms will be distributed to the public. Adoption of the rule will allow more efficient communication of commission procedural changes to the public.

One comment recommended that the commission continue its practice of giving notice when adopting new or revised forms. The commission agrees and will continue to issue notice of new forms.

Two comments suggested an addition to the proposed rule to state that the new rule could not be used to make substantive changes to commission requirements without a rulemaking proceeding. The commission disagrees. Such substantive changes are in fact effectuated through rulemaking. The primary purpose behind the new rule is to eliminate the rulemaking process when a form is merely added or changed.

One comment suggested the use of the words "created, amended, or eliminated" in place of the words "amended, deleted or added to" in the second sentence and the words "new or amended" in the fourth sentence. The commission agrees in part and minor word changes have been made for clarity.

Comments by the following entities supported adoption of the rule with no, or minor, changes: Permian Basin Petroleum Association, North Texas Oil and Gas Association, Texas Mid-Continent Oil and Gas Association, Phillips Petroleum Company, and Lone Star Gas Company.

No comments were received opposing adoption of the rule.

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

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

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

Issued in Austin, Texas, on July 19, 1993.

TRD-9326093

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

Effective date: September 1, 1993

Proposal publication date: May 11, 1993

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

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 10. Family Self-Support Services

Child Care Management Services Statewide Implementation

• 40 TAC §10.3433

The Texas Department of Human Services (DHS) adopts an amendment to §10.3433, without changes to the proposed text as published in the June 11, 1993, issue of the *Texas Register* (18 TexReg 3687).

The amendment is justified to allow a negotiated fee to be used in the child care management services (CCMS) cost reimbursement budget.

The amendment will function by ensuring that CCMS will have the flexibility to use the most cost effective method of providing employee benefits.

The department received no comments regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 44, which provides the department with the authority to administer public assistance and day care 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 20, 1993.

TRD-9326071

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

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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

Monday, August 2, 1993, 10:00 a.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A, Austin. According to the complete agenda, the department will hold a public hearing to take public comment on the department's proposed rule amendments to §§6.1-6.4 and new §6.5 concerning boll weevil control, as published in the June 29, 1993, issue of the *Texas Register* (18 TexReg 4229).

Contact: David Davis, P.O. Box 12847, Austin, Texas 78711, (512) 463-0709.

Filed: July 21, 1993, 9:49 a.m.

TRD-9326111

Monday, August 2, 1993, 1:30 p.m. The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A, Austin. According to the complete agenda, the department will hold a public hearing to take public comment on the department's proposed rule amendments to §§5.172, 5.175-5.179 concerning Pink Bollworm Quarantine as published in the July 6, 1993, issue of the *Texas Register* (18 TexReg 4371).

Contact: David Davis, P.O. Box 12847, Austin, Texas 78711, (512) 463-0709.

Filed: July 21, 1993, 9:50 a.m.

TRD-9326112

State Aircraft Pooling Board

Wednesday, July 28, 1993, 3:30 p.m. The State Aircraft Pooling Board will meet at 4900 Old Manor Road, Austin. According

to the complete agenda, the board will call the meeting to order; make introductions; discuss approval of the minutes of board meeting, May 19, 1993; TSTC-Sweetwater: aircraft for maintenance instruction; contract with Comptroller of Public Accounts authorizing post-payment vouchers and other transactions; hear executive director's report; set time and place for next meeting; and adjourn.

Contact: Gladys Alexander, 4900 Old Manor Road, Austin, Texas 78723, (512) 477-8900.

Filed: July 22, 1993, 9:45 a.m.

TRD-9326195

Texas State Board of Examiners of Professional Counselors

Friday-Saturday, July 30-31, 1993, 8:30 a.m. The Rules Committee of the Texas State Board of Examiners of Professional Counselors will meet at the Exchange Building, Room S-402, 8407 Wall Street, Austin. According to the complete agenda, the committee will discuss and possibly act on amendments to Title 22, Texas Administrative Code, Chapter 681.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. 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 21, 1993, 4:09 p.m.

TRD-9326159

Advisory Commission on State Emergency Communications

Wednesday, July 28, 1993, 10:30 a.m. The Coordinating Committee on Poison Control of the Advisory Commission on State Emergency Communications will meet at the ACSEC Offices, 1101 Capital of Texas Highway South, B-100, Austin. According to the complete agenda, the committee will call the meeting to order; make introductions; hear report and discuss Poison Control Centers' proposed operating budgets; report on findings of telephone network design and cost estimates; discuss proposed assessment and recommendation to ACSEC Commission of surcharge fee rate for Poison Control Program; and adjourn.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911. Persons requesting interpreter services for the hearing and speech impaired should contact Velia Williams at (512) 327-1911 at least two working days prior to the meeting.

Filed: July 20, 1993, 5:10 p.m.

TRD-9326100

Office of the Governor

Thursday, July 29, 1993, 9:30 a.m. The Automobile Theft Prevention Authority of the Office of the Governor will meet at the John H. Reagan Building, Room 106, 105 West 15th Street, Austin. According to the complete agenda, the authority will call the meeting to order; make introductions; discussions/decisions for grant awards for September 1 funding cycle; discuss approval of

memorandum of understanding as presented by the Governor's Office Staff; and adjourn.

Contact: Linda Young, 221 East 11th Street, Austin, Texas 78701, (512) 463-1940.

Filed: July 20, 1993, 3:20 p.m.

TRD-9326081

Texas Department of Insurance

Thursday, July 29, 1993, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 13501, Tower I, Austin. According to the complete agenda, the board will consider pending and contemplated litigation, including, but not limited to, Margot Spiller, et al versus the Texas Department of Insurance, et al, Cause Number 92-13036, in the 126th Judicial Court, Travis County.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: July 21, 1993, 4:08 p.m.

TRD-9326157

Friday, July 30, 1993, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 13501, Tower I, Austin. According to the complete agenda, the board will consider pending and contemplated litigation, including, but not limited to, Margot Spiller, et al versus the Texas Department of Insurance, et al, Cause Number 92-13036, in the 126th Judicial Court, Travis County.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: July 21, 1993, 4:08 p.m.

TRD-9326158

Thursday, August 19, 1993, 1:30 p.m. The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will consider the adoption of amendments to the Texas General Basis Schedules and the Texas Personal Lines Manual which are made necessary because of withdrawal of the Texas Fire Record System as an acceptable and recognized rating system for applying debits and credits to the fire premiums charged for risks located within cities and towns in Texas.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: July 20, 1993, 10:59 a.m.

TRD-9326069

Texas Department of Licensing and Regulation

Wednesday, August 18, 1993, 9:00 a.m. The Inspections and Investigations: Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Junior Gage for violation of Texas Civil Statutes, Article 5221f, §§4(b) and 7(d), 16 TAC, Chapter 69, Article 6252-13a, and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: July 21, 1993, 4:13 p.m.

TRD-9326163

Thursday, August 19, 1993, 9:00 a.m. The Inspections and Investigations: Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Seferino Villarreal for violation of Texas Civil Statutes, Article 5221f, §7(d), 16 TAC, Chapter 69, Article 6252-13a, and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: July 21, 1993, 4:12 p.m.

TRD-9326160

Tuesday, August 24, 1993, 9:00 a.m. The Inspections and Investigations: Boxing of the Texas Department of Licensing and Regulation will meet at 920 Colorado, E.O. Thompson Building, Room 1012, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the application of Hector Guevara for a Texas Boxing License in accordance with the Texas Civil Statutes, Articles 8501-1 and 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: July 21, 1993, 4:13 p.m.

TRD-9326161

Thursday, August 26, 1993, 9:00 a.m. The Inspections and Investigations: Manufactured Housing of the Texas Department of Licensing and Regulation will meet at 920

Colorado, E.O. Thompson Building, Fourth Floor, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension, or revocation of the license for Lucille Roark doing business as Do Right Mobile Home Movers for violation of Texas Civil Statutes, Article 5221f, §7(d), 16 TAC, Chapter 69, Article 6252-13a, and Article 9100.

Contact: Paula Hamje, 920 Colorado, Austin, Texas 78701, (512) 463-3192.

Filed: July 21, 1993, 4:13 p.m.

TRD-9326162

Texas State Board of Licensure for Professional Medical Physicists

Wednesday, July 28, 1993, 10:15 a.m. The Texas State Board of Licensure for Professional Medical Physicists will meet in Room S-402, the Exchange Building, 8407 Wall Street, Austin. According to the complete agenda, the board will discuss approval of the minutes of May 19, 1993 meeting; hear reports of chairman and executive secretary; discuss and possibly act on: status of contract for testing medical physicists; proposed amendments to rules pertaining to the licensure of professional medical physicists, 22 Texas Administrative Code, Chapter 601; committee report on definition of what is and is not "engaging in the practice of medical physics" and matters relating to the *Texas Regulations for the Control of Radiation* pertaining to the practice of medical physics; ratification of applications approved by the executive secretary; and ratification of applications approved by the credentials committee. The board may discuss other matters relating to the regulation of professional medical physicists not requiring board action; and set the next meeting date.

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. For ADA assistance, call Richard Butler at (512) 458-7488 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: July 20, 1993, 4:22 p.m.

TRD-9326090

Texas Department of Public Safety

Tuesday, August 3, 1993, 10:30 a.m. The Public Safety Commission of the Texas Department of Public Safety will meet at DPS Headquarters (Commission Room), 5805

North Lamar Boulevard. Austin. According to the complete agenda, the commission will discuss approval of the minutes; budget matters; internal audit report; approval of manual for commercial vehicle inspection stations; personnel matters; pending and contemplated litigation; real estate matters; miscellaneous; and other unfinished business.

Contact: James R. Wilson, 5805 North Lamar Boulevard, Austin, Texas 78752, (512) 465-2000, Ext. 3700.

Filed: July 21, 1993, 11:07 a.m.

TRD-9326139

Texas Department of Transportation

Thursday, July 29, 1993, 10:00 a.m. The Texas Transportation Commission of the Texas Department of Transportation will meet at the Dewitt C. Greer Building, 125 East 11th Street, First Floor, Austin. According to the agenda summary, the commission will have delegation appearances from Dallas and Tarrant Counties; discuss approval of minutes; execute contract awards/ rejections/defaults/assignments including those involving private consultants and professional services; routine minute orders; authorize: project development plan mobility projects/allocation programs/feasibility studies; environmental projects in Denton, Ellis and Orange Counties; IH, U.S. Highway, State Highway, and FM Road projects; proposed State Transportation Improvement plan; participation in the HELP, Inc. Program; allocation of public transportation funds/congestion mitigation air quality funds; consider boundaries for the new Laredo District; aviation project; operating budget for 1994 fiscal year; rulemaking: 43 TAC, Part 1, Chapter 17; staff reports, awards, and recognitions; meet in executive session; open comment period; and discuss project overrun in Johnson County.

Contact: Myrna Klipple, 125 East 11th Street, Austin, Texas 78701, (512) 463-8576.

Filed: July 21, 1993, 8:58 a.m.

TRD-9326105

Texas Board of Veterinary Medical Examiners

Friday-Saturday, July 30-31, 1993, 8:30 a.m. The Texas Board of Veterinary Medical Examiners will meet at 1946 South IH-35, Fourth Floor Conference Room, Austin. According to the agenda summary, the board will convene in open session to hear public comments; discuss approval of the

agenda and the June 11, 1993 minutes; meet in executive session to interview candidates for the position of executive director (Held in accordance with Article 6252-17) and reconvene in open session and announce the new executive director. In addition, the board will consider information presented on mobile clinics, advertising, emergency clinics, registered veterinary technicians, and other business. On Saturday, the board will discuss rules and policies to implement mandates contained in the revised Veterinary Licensing Act. Items may be taken out of order and where appropriate and permitted by law, executive sessions may be held on subjects listed. Persons requiring reasonable accommodations are requested to contact Judy Smith, 1946 South IH-35, #306, Austin 78704, (512) 447-1183 within 72 hours of the meeting in order that appropriate arrangements can be made.

Contact: Judy C. Smith, 1946 South IH-35, #306, Austin, Texas 78704, (512) 447-1183.

Filed: July 20, 1993, 1:58 p.m.

TRD-9326073

Texas Water Commission

Wednesday, September 15, 1993, 1:00 p.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Grayson County Courthouse, East Courtroom, Second Floor, 100 West Houston, Sherman. According to the agenda summary, the commission will hold a public hearing to consider an application by the City of Aubrey for new Permit Number 13647-01 for authorization to discharge treated domestic wastewater effluent.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: July 22, 1993, 9:26 a.m.

TRD-9326194

Texas Workers' Compensation Research Center

Wednesday, July 28, 1993, 2:00 p.m. The Board of Directors of the Texas Workers' Compensation Research Center will meet at One Capitol Square, 300 West 15th Street, Committee Room One, Austin. According to the agenda summary, the board will discuss and act on the following: call meeting to order; administer oath of office-swearing in of new board member Ramon Class; discuss approval of minutes of meetings of May 21, 1993, June 30, 1993, and July 9, 1993; make announcements; hear committee report regarding policy on board travel; research progress report-consider approval of the A&M report on nonsubscription to

the Workers' Compensation System and the UT report on vocational rehabilitation; consider and possibly approve revised mission statement; Fiscal Year 1994 research agenda; Fiscal Year 1994 budget; confirm scheduled meeting of September *10; and adjourn.

Contact: Lavon Guerrero, 3636 Executive Center Drive, Suite G-22, Austin, Texas 78731, (512) 346-6197.

Filed: July 20, 1993, 3:45 p.m.

TRD-9326084

Regional Meetings

Meetings Filed July 20, 1993

The Comal Appraisal District Board of Directors met at 430 West Mill Street, New Braunfels, July 26, 1993, at 6:00 p.m. Information may be obtained from the Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 787130, (210) 625-8597. TRD-9326076.

The Golden Crescent Regional Planning Commission Board of Directors will meet at the Regional Airport, Building 102, Victoria, July 28, 1993, at 5:00 p.m. Information may be obtained from Wanda Mercer, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9326078.

The Golden Crescent Regional Review Committee will meet at 115 North Bridge, Victoria, August 11, 1993, at 2:00 p.m. Information may be obtained from Rhonda Stastny, P.O. Box 2028, Victoria, Texas 77902-2028, (512) 578-1587. TRD-9326077.

The Gonzales County Appraisal District Board of Directors met at 928 Saint Paul Street, Gonzales, July 26, 1993, at 6:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9326072.

The Leon County Central Appraisal District Appraisal Review Board held an emergency meeting at the Leon County Central Appraisal District Office, Gresham Building, Centerville, July 23, 1993, at 9:00 a.m. The emergency status was necessary because it was not possible to reschedule. Information may be obtained from Donald G. Gillum, P.O. Box 86, Centerville, Texas 75883, (903) 536-2252. TRD-9326081.

The Lubbock Regional MHMR Center Board of Trustees met at 3801 Avenue J, Board Room, Lubbock, July 26, 1993, at Noon. Information may be obtained from Gene Menefee, 1210 Texas Avenue, Lubbock, Texas 79401, (806) 766-0202. TRD-9326091.

The Sabine Valley Center Board of Trustees met at the Administrative Building, Bramlette Lane, 107 Woodbine Place, Longview, July 26, 1993, at 7:00 p.m. (Revised agenda). Information may be obtained from Mack O. Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9326070.

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Meetings Filed July 21, 1993

The Ark-Tex Council of Governments Executive Committee will meet at Two Senoritas, Mt. Pleasant, July 29, 1993, at 5:30 p.m. Information may be obtained from Pam Koelling, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636. TRD-9326145.

The Brazos Valley Quality Work Force Planning Committee will meet at 715 University Drive, College Station, July 27, 1993, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 823-4988. TRD-9326156.

The Cass County Appraisal District Appraisal Review Board held an emergency meeting at the Cass County Appraisal District Office, 502 North Main Street, Linden, July 23, 1993, at 9:00 a.m. The emergency status was necessary to certify to tax values. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9326133.

The Erath County Appraisal District Appraisal Review Board held an emergency meeting at 1390 Harbin Drive, Stephenville, July 22, 1993, at 9:00 a.m. The emergency status was necessary as protestor required 15 days notice and the board needed to make a decision on tabled account. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9326154.

The Erath County Appraisal District Appraisal Review Board held an emergency meeting at 1390 Harbin Drive, Stephenville, July 23, 1993, at 3:00 p.m. The emergency status was necessary as the board needed to approve the certified roll. Information may be obtained from Mitzi Meekins, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9326153.

The Gray County Appraisal District Appraisal Review Board will meet at 815 North Sumner, Pampa, July 27, 1993, at 3:00 p.m. Information may be obtained from Sherri Schaible, P.O. Box 836, Pampa, Texas 79066-0836, (806) 665-0791. TRD-9326155.

The Guadalupe-Blanco River Authority Ethics Committee of the Board of Directors met at 933 East Court Street, Seguin, July 26, 1993, at 10:00 a.m. Information may be obtained from James E. Arnst, P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9326135.

The Hamilton County Appraisal District will meet at the Hamilton County Appraisal District Boardroom, 119 East Henry, Hamilton, July 27, 1993, at 7:00 a.m. Information may be obtained from Doyle Roberts, 119 East Henry, Hamilton, Texas 76531, (817) 386-8945, Fax (817) 386-8947. TRD-9326146.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, July 28, 1993, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9326144.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the San Antonio Convention Center (Alamo and Market), Second Floor Conference Room, Administration Office, San Antonio, July 26, 1993, at 1:30 p.m. Information may be obtained from Charlotte Roszelle, 434 South Main Street, Suite 205, San Antonio, Texas 78204, (210) 227-8651. TRD-9326164.

The Tarrant Appraisal District Appraisal Review Board will meet at 2329 Gravel Road, Fort Worth, August 2-5, 1993, at 8:00 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9326148.

The Tarrant Appraisal District Appraisal Review District will meet at 2329 Gravel Road, Fort Worth, August 9-12, 1993, at 8:00 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9326149.

The Tarrant Appraisal District Appraisal Review District will meet at 2329 Gravel Road, Fort Worth, August 18, 1993, at 8:00 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9326150.

The Tarrant Appraisal District Appraisal Review District will meet at 2329 Gravel Road, Fort Worth, August 19, 1993, at 8:00 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9326147.

The Trinity River Authority of Texas Lake Livingston Highway Relocation Right-of-Way Committee will meet at 5300 South Collins Street, Arlington, July 28, 1993, at 9:30 a.m. Information may be obtained from James L. Murphy, 5300 South Collins Street, Arlington, Texas 76018, (817) 467-4343. TRD-9326134.

The West Central Texas Council of Governments Executive Committee will meet at 1025 EN Tenth Street, Abilene, July 28, 1993, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9326152.

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Meetings Filed July 22, 1993

The Alamo Area Council of Governments Board of Directors will meet at 118 Broadway, Suite 420, San Antonio, July 27, 1993, at 1:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201.

The East Texas Council of Governments Regional Review Committee will meet at the ETCOG Office, Kilgore, August 3, 1993, at 10:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9326168.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron, Rockdale, July 26, 1993, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9326167.

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Air Control Board

Notice of Opportunity to Comment on Administrative Actions

The Texas Air Control Board (TACB) Staff is providing an opportunity for written public comment on the listed Agreed Board Orders (ABO's) pursuant to §382.096 of the Texas Clean Air Act, the Health and Safety Code, Chapter 382. Section 382.096 of the Act requires that the TACB may not approve these ABO's unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 13th day before the date on which the public comment period closes, which in this case is August 27, 1993. Section 382.096 also requires that the TACB promptly consider any written comments received and that the TACB may withhold approval of an ABO if a comment indicates the proposed ABO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an ABO are made in response to written comments.

A copy of each of the proposed ABO's is available for public inspection at the TACB's Central Office, located at 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1000, and at the applicable Regional Office listed below. Written comments about these ABO's should be sent to the Staff Attorney designated for each ABO at the TACB's Central Office in Austin, and must be received by 5:00 p.m. on August 27, 1993. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 908-1850. The TACB Staff Attorneys are available to discuss the ABO's and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the ABO's should be submitted to the TACB in writing.

Company: American Rockwool, Inc., Location: Nolanville, Bell County, Type of Facility: rockwool manufacturing plant, Rule Violated: TACB Rule 116.4, failure to perform sampling of Number 1 Cupola, Number 2 Cupola, and the Blow Chamber Scrubber Stacks as required by Special Provision Number 9 of TACB Permit Number C-9397. Penalty: \$10,000, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240 or (817) 772-9241.

Company: Big Tex Grain Company, Inc., Location: San Antonio, Bexar County, Type of Facility: pellet mill and grain storage plant, Rule Violated: TACB Rule 116.1, unauthorized operation of a pellet mill and grain storage plant. Penalty: \$0.00, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 4335 Piedras West, Suite 101, San Antonio, Texas 78228, (210) 734-7981 or (210) 734-7982.

Company: Boorhem-Fields, Inc., Location: near the Cobbs Community, Kaufman County, Type of Facility: rock crushing plant, Rule Violated: TACB Rule 116.1, unauthorized operation of a rock crushing plant. Penalty: \$1,550.00, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531 or (817) 732-5532.

Company: City of Houston, Location: Houston, Harris County, Type of Facility: owned a building where a demolition project was conducted, Rule Violated: TACB Rule 101.20(2), and 40 Code of Federal Regulation Part 61.145(a) and (b), failure to conduct required survey and failure to provide notification prior to asbestos removal. Penalty: \$0.00, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: Doane Products Company, Location: Temple, Bell County, Type of Facility: pet food manufacturing plant, Rule Violated: TACB Rule 116.1, unauthorized construction and operation of a pet food manufacturing plant. Penalty: \$18,282.77, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240 or (817) 772-9241.

Company: GATX Terminals Corporation, Location: Pasadena, Harris County, Type of Facility: loading/unloading terminal, Rule Violated: TACB Rule 101.20(1), which requires compliance with federal new source performance standards (NSPS); TACB Rule 115.112(a)(2)(E) which prohibits holes, tears, or other openings in any seal of fabric on storage tanks; TACB Rule 115.212(a)(1) failure to equip unloading racks with vapor recovery system. Penalty: \$22,000, Staff Attorney: Walt Ehresman, (512) 908-1843, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: GATX Terminals Corporation, Location: Galena Park, Harris County, Type of Facility: loading/unloading terminal, Rule Violated: TACB Rule 101.20(2), which requires compliance with federal national emissions standards for hazardous air pollutants (NESHAPS). TACB Rule 115.212(a)(1) failure to equip unloading racks with vapor recovery system. Penalty: \$17,000, Staff Attorney: Walt Ehresman, (512) 908-1843, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: Gulfcoast Wrecking & Salvage, Location: Houston, Harris County, Type of Facility: conducted a demolition project, Rule Violated: TACB Rule 101.20(2), and 40 Code of Federal Regulation Part 61.145(a) and (b), failure to conduct required asbestos survey and, failure to provide notification prior to demolition. Penalty: \$0.00, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: Har-Conn Chrome Company of Texas, Inc. (a wholly owned subsidiary of Har-Con Chrome Company), Location: Fort Worth, Tarrant County, Type of Facility: an aircraft parts refurbishing plant, Rule Violated: TACB Rule 115.421(a)(9)(A)(ii), operating a surface coating process that exceeded the standards for volatile organic compound emissions and whose operation did not meet the exemption listed in TACB Rule 115.427(a)(5)(A). Penalty: \$0.00, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531 or (817) 732-5532.

Company: S. Hari, Inc., Location: a project in Austin, Travis County, Type of Facility: owned building where demolition project took place, Type of Facility: TACB Rule 101.20(2), and 40 Code of Federal Regulation Part 61.145(a), (b) and (c), and 61.150(a), failure to give proper notification of intention to renovate/demolish, failure to adequately inspect building, failure to adequately wet Regulated Asbestos Containing Materials (RACM) prior to removal, failure to keep RACM adequately wet until proper disposal, failure to control emissions during transport of RACM, failure to properly seal all RACM in leak-tight containers, and failure to properly label RACM containers. Penalty: \$3,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240 or (817) 772-9240.

Company: Holnam Texas, L.P, Location: Midlothian, Ellis County, Type of Facility: cement manufacturing plant, Rule Violated: TACB Rules 116.4 and 101.20(3), operating in violation of allowable emission rates for sulfur dioxide contained in TACB Permit Number 8996 and PSD Permit Number TX-454-MI. Penalty: \$135,000, Staff Attorney: David Duncan, (512) 908-1855, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531 or (817) 732-5532.

Company: Ingersoll-Rand Company, Location: Garland, Dallas County, Type of Facility: rotary drill rig manufacturing plant, Rule Violated: TACB Rule 116.1, unauthorized modification of a paint spray booth. Penalty: \$3,600, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531 or (817) 732-5532.

Company: Kirby Forest Industries, Inc. (a wholly owned subsidiary of Louisiana-Pacific Corporation), Location: Silsbee, Hardin County, Type of Facility: waferboard mill, Rule Violated: TACB Rule 116.4 failing to comply with permit provisions concerning: feedrate to dryers; maximum inlet dryer temperatures; reducing dryer temperatures to one hour average; keeping rolling six-minute average for opacity data; TACB Rule 111.111(a)(1)(B) exceeding opacity limitations. Penalty: \$234,000, Staff Attorney: Walt Ehresman, (512) 908-1843, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: La Gloria Oil and Gas Company, Location: Tyler, Smith County, crude oil refinery, Rule Violated: TACB Rule 101.4, and Agreed Board Order Number 90-04(g), discharging one or more air contaminants (smoke, odiferous gasses, and catalyst dust) in contravention of the nuisance rule. Penalty: \$14,000, Staff Attorney: Walter Ehresman, (512) 908-1843 Regional Office: 1304 South Vine Avenue Tyler, Texas 75701, (903) 595-2639.

Company: Louisiana-Pacific Corporation, Location: Corrigan, Polk County Type of Facility: waferboard mill, Rule Violated: TACB Rule 116.4, failing to comply with permit provisions concerning: permitted temperature levels; installation of required transmissometer. TACB Rule 111.111(a)(1)(B) exceeding opacity limitation. Penalty: \$112,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: Louisiana-Pacific Corporation, Location: New Waverly, Walker County, Type of Facility: waferboard mill, Rule Violated: TACB Rule 116.4, failing to comply with permit provisions concerning: permitted temperature levels; reducing dryer temperatures to one-hour averages; reduction of opacity readings for dryers to six-minute rolling averages; TACB Rule 111.111(a)(1)(E) exceeding opacity limitation. Penalty: \$55,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: Metropolitan Transit Authority, Location: Houston, Harris County, Type of Facility: managed a building where a demolition project took place, Rule Violated: TACB Rule 101.20(2), and 40 Code of Federal Regulation Part 61.145(a) and (b), failure to conduct required survey and, failure to provide notification prior to asbestos removal. Penalty: \$0.00, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: Mobil Oil Corporation, Location: Beaumont, Jefferson County, Type of Facility: petroleum refinery, Rule Violated: TACB Rule 101.4, nuisance level odor emissions; TACB Rule 101.6, failure to notify the Executive Director of a major upset in a timely manner. Penalty: \$7,000, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: Otwell Enterprises, Inc., Location: Pasadena, Harris County, Type of Facility: motor vehicle sales operation, Rule Violated: TACB Rule 114.1(c), offering for sale in the State of Texas motor vehicles with missing or inoperable emission control systems or devices with which the motor vehicle was originally equipped. Penalty: \$1,000, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401 (713) 666-4964.

Company: Quantum Chemical Corporation, Location: Deer Park, Harris County, Type of Facility: organic chemicals manufacturing plant, Rule Violated: TACB Rule 116.4, failing to comply with Special Provisions of TACB Permit Number C-18978. Penalty: \$63,200, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Company: Quantum Chemical Corporation, Location: Port Arthur, Jefferson County, Type of Facility: polyethylene manufacturing plant, Rule Violated: TACB Rule 116.4, failure to abide by General Provision H of TACB Permit Number 4614B, which requires repair of leaking components in the High Density Polyethylene String 3 Unit by no later than the next scheduled shutdown, and by failing to tag valves as required. Penalty: \$15,000, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 3870 Eastex Freeway, Suite 100, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: Quantum Chemical Corporation, Location: Deer Park, Harris County, Type of Facility: organic chemicals manufacturing plant, Rule Violated: TACB Rule 116.4, failure to comply with Special Provisions of TACB Permit Number C-18978. Penalty: \$63,200, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964(18).

Company: Rust Oil Corporation, Location: eight miles west of Odessa, Ector County, Type of Facility: sour crude oil production tank battery, Rule Violated: TACB Rule 116.1, unauthorized construction and operation of a sour crude oil production tank battery; TACB Rule 101.4, nuisance level odor emissions. Penalty: \$14,750, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 1901 East 37th Street, Suite 101, Odessa, Texas 79762, (915) 367-3871 or (915) 367-3872.

Company: St. Mary's Trust Fund, Location: Big Spring, Howard County, Type of Facility: owned property on which a building was demolished, Rule Violated: TACB Rule 101.20(2) and 40 Code of Federal Regulation 61.145, failure to give proper notification to the TACB of the start-date of the demolition. Penalty: \$0.00, Staff Attorney: Janis Boyd Hudson, (512) 908-1774 Regional Office: 1901 East 37th Street, Suite 101, Odessa, Texas 79762, (915) 367-3871 or (915) 367-3872.

Company: Star Enterprise (Modification to Agreed Board Order Number 93-01(mm)), Location: Port Neches, Jefferson County, Type of Facility: asphalt plant, Rule Violated: TACB Rule 115.132(a), using a single or multiple compartment volatile organic compound water separator with liquids having a true vapor pressure above 0.5 psia entering the uncontrolled portion of the separator, without using one of the control methods listed in this TACB Rule. The original order is modified due to a change in the plant's function—by October 31, 1993 it will be closed down, and only operate thereafter as a terminal. Penalty: \$0.00 (No additional penalty), Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, (409) 898-3838 or (409) 898-3790.

Company: Texas Eastman Division, Eastman Chemical Company, an Unincorporated division of Eastman Kodak Company, Location: near the city of Longview, Harrison County, Type of Facility: petrochemical plant, Rule Violated: TACB Rule 101.20(1), and 40 Code of Federal Regulation 60.13(h) and 40 Code of Federal Regulation 60.45(g)(1), erroneously reporting excess opacity for two boilers. Penalty: \$2,500, Staff Attorney: Peter Gregg, (512) 908-1357, Regional Office: 1304 South Vine Avenue, Tyler, Texas 75701, (903) 595-2639.

Company: Timber Floyd, Inc., Location: Big Lake, Reagan County, Type of Facility: crude oil tank battery, Rule Violated: TACB Rule 116.1, unauthorized construction and operation of a crude oil tank battery. Penalty: \$500, Staff Attorney: Walter Ehresman, (512) 908-1843, Regional Office: 1901 East 37th Street, Suite 101, Odessa, Texas 79762, (915) 367-3871 or (915) 367-3872.

Company: TN Technologies, Inc., Location: Round Rock, Williamson County, Type of Facility: nuclear instrumentation manufacturing plant, Rule Violated: TACB Rule 116.4, violating permit provisions contained in Permit Number S-19511. Penalty: \$1,000, Staff Attorney: Peter Gregg, (512) 908-1857, Regional Office: 500 Lake Air Drive, Suite 1, Waco, Texas 76710, (817) 772-9240 or (817) 772-9241.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326136

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

Filed: July 21, 1993

Notices of Public Hearings

Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017(a); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations, 51.102 of the United States Environmental Protection Agency (EPA) regulations, concerning State Implementation Plans (SIPs), the TACB will conduct public hearings to receive testimony concerning revisions to its rules.

The TACB proposes to adopt revisions to its rules and SIP regarding the vehicle emissions inspection/maintenance (I/M) program by repealing §114.3 and adopting a new §114.3, concerning Vehicle Emissions I/M. The new §114.3 will contain: I/M program-specific definitions; prohibitions on the operation of a motor vehicle without satisfying required inspection requirements; prohibitions on the improper issuance of a vehicle emissions certificate; a prohibition on the use or distribution of falsified inspection documents; requirements that I/M program contractors satisfy all applicable provisions of the Texas SIP; requirements that state-exempt vehicles and certain fleet vehicles not registered but primarily operated in an I/M program area comply with the emissions inspection requirements; requirements that federal government agencies ensure that vehicles operated by Federal employees on property under the agency's jurisdiction comply with the I/M program requirements; requirements that motorists comply with all emission-related recalls; requirements that motorists with vehicles identified by on-road testing submit the vehicle for an out-of-cycle inspection and corrective action; provisions for receipt of minimum expenditure, hardship, and time extension waivers and other general exemptions; and specification of the model years subject to the inspection program and the applicable counties and compliance schedules.

The TACB concurrently proposes a control strategy to implement vehicle emissions inspection programs in the Houston/Galveston and El Paso nonattainment areas that will meet or exceed the enhanced I/M performance standard established by EPA and in the Dallas/Fort Worth and Beaumont/Port Arthur nonattainment areas that will meet or exceed the basic I/M performance standard established by EPA. This control strategy addresses specific program requirements in accordance with EPA rules promulgated on March 5, 1992. The test-only program will require the inspection of all 1968 and newer model year gasoline powered vehicles.

At the request of the TACB, the Texas Department of Transportation will be proposing revisions to the state vehicle registration process to provide effective enforcement of the emissions inspection program.

The TACB solicits testimony on the following subjects contained in §114.3 and/or the control strategy: consideration of additional waiver criteria, consideration of hardship waiver and other measures to mitigate the economic impact on low-income motorists, consideration of emis-

sion repair technician training and certification programs, and consideration of additional program measures, such as additional model years or an alternative set of model years to be included in high-tech testing, increased frequency of emissions testing, or increased waiver requirements. Program modifications may be necessary for the Houston/Galveston and El Paso areas if EPA later determines that these areas cannot meet the enhanced performance standard or if the Dallas/Fort Worth or Beaumont/Port Arthur areas need additional emissions reductions to meet reasonable further progress or attainment demonstration requirements.

Public hearings on the proposal will be held at the following times and locations: August 23, 1993, 7:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 24, 1993, 12:30 p. m., John Gray Institute, 855 Florida Avenue, Beaumont; August 25, 1993, 7:30 p. m., City of El Paso Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; and August 26, 1993, 3:00 p.m., Irving Central Library, 801 West Irving Boulevard, Irving.

The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to discuss the proposal one hour prior to each hearing.

Written comments not presented at the hearings may be submitted to the TACB, 12124 Park 35 Circle, Austin, Texas 78753 through August 27, 1993. On September 1, 1993, authority for the adoption and administration of all TACB rules will be transferred to the new Texas Natural Resources Conservation Commission. Material received by the TACB Mobile Source Division by 4:00 p.m. on August 27, 1993, will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information contact Stefanie Morris at (512) 908-1519.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326102 Lane Hartssock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: July 21, 1993

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Notice is hereby given that pursuant to the requirements of the Texas Clean Air Act, §382.017(a); the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5; §103.11(4) of the Procedural Rules of the Texas Air Control Board (TACB); and 40 Code of Federal Regulations, 51.102 of the United States Environmental Protection Agency regulations, concerning State Implementation Plans (SIPs), the TACB will conduct public hearings to receive testimony concerning revisions to the SIP.

The 1990 Federal Clean Air Act Amendments require that states having ozone nonattainment areas amend their SIPs to enact requirements which, by 1996, will reduce the emissions of volatile organic compounds by 15%, adjusted

for growth, from the 1990 levels. The rules that will accomplish this "Rate-of-Progress" must be in place by November 15, 1993. The TACB is proposing a two-phase approach. Phase I deals with "core" emission controls which will accomplish 70% or more of the required reductions and will be adopted by November 15, 1993. The remaining Phase II controls, to be adopted by November 15, 1994, are listed in a "committal" SIP. Other methods of control may be added to this initial "committal" list if desired by the Board or by the new Texas Natural Resource Conservation Commission. The control technologies listed in the "core" and "committal" portions of the SIP will achieve the rate-of-progress target with 3.0% for contingencies. Nitrogen oxides controls also may be considered for contingency measures as more information on this topic becomes available.

Public hearings on the proposal will be held at the following times and locations: August 23, 1993, 5:30 p.m., Houston-Galveston Area Council, Second Floor, Conference Room A, 3555 Timmons Lane, Houston; August 24, 1993, 10:30 a. m., John Gray Institute, 855 Florida Avenue, Beaumont; August 25, 1993, 5:30 p. m., City of El Paso Council Chambers, Second Floor, Two Civic Center Plaza, El Paso; and August 26, 1993, 1:00 p.m., Irving Central Library, 801 West Irving Boulevard, Irving.

The hearings are structured for the receipt of oral or written comments by interested persons. Interrogation or cross-examination is not permitted; however, a TACB staff member will be available to discuss the proposal 30 minutes prior to each hearing.

Written comments not presented at the hearings may be submitted to the TACB, 12124 Park 35 Circle, Austin, Texas 78753 through August 27, 1993. On September 1, 1993, authority for the adoption and administration of all TACB rules will be transferred to the new Texas Natural Resources Conservation Commission. Material received by the TACB Regulation Development Division by 4:00 p.m. on August 27, 1993, will be considered by the Commission prior to any final action on the proposal. Copies of the proposal are available at the central office of the TACB, Air Quality Planning Annex, located at 12118 North IH-35, Park 35 Technology Center, Building A, Austin, and at all TACB regional offices. For further information contact Amba Mann at (512) 908-1930.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearings should contact the agency at (512) 475-2245. Requests should be made as far in advance as possible.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326101 Lane Hartssock
Deputy Director, Air Quality Planning
Texas Air Control Board

Filed: July 21, 1993

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Texas Bond Review Board

Bi-Weekly Report on the 1993

Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of July 3-16, 1993. Since Congress did not act by March 1, 1993 to extend the provisions of the tax code which allow Mortgage Bonds and Small Issue

Bonds to qualify for tax-exempt financing, the amount of state ceiling remaining for those purposes has been proportionately redistributed to the other categories, pursuant to §2(e) of Article 5190.9a. Currently, there are three categories within the allocation program.

Total amount of state ceiling remaining unreserved for the \$239,513,792 subceiling for state-voted issues under the Act as of July 16, 1993: \$129,513, 792.

Total amount of state ceiling remaining unreserved for the \$68,428,035 subceiling for residential rental project issues under the Act as of July 16, 1993: \$48,743,035.

Total amount of state ceiling remaining unreserved for the \$574,858,173 subceiling for all other bonds requiring an allocation under the Act as of July 16, 1993: \$3,173.

Total amount of the \$882,800,000 state ceiling remaining unreserved as of July 16, 1993: \$178,260,000.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from July 3-16, 1993: None.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from July 3-16, 1993: None.

Following is a comprehensive listing of applications which were either withdrawn or canceled pursuant to the Act from July 3-16, 1993: None.

Following is a comprehensive listing of applications which released a portion of their reservation pursuant to the Act from July 3-16, 1993: Abilene HEA, Eligible Borrowers, Student Loans, \$3,173.

Issued in Austin, Texas, on July 19, 1993.

TRD-9326094 Jim Thomassen
Executive Director
Texas Bond Review Board

Filed: July 20, 1993

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Texas Education Agency
Request for Proposal #701-93-023

This request for proposals (RFP #701-93-023) is filed in accordance with Texas Education Code, §51.601, Engineering and Science Recruitment Fund.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals from Texas colleges and universities with predominantly female or minority populations that offer undergraduate programs in science, engineering, mathematics, or computer science or technology, or are involved in superconductivity research. A college or university with a predominantly female or minority population is defined as an institution where: the majority of the total student population is female or minority; or the largest population in the institution is female or minority. For the purposes of this RFP, minority groups are: black, not of Hispanic origin; Hispanic; Asian or Pacific Islander; or American Indian or Alaskan. The TEA prefers to contract with three different institutions. Each institution must reside in one of the three different evaluation service areas identified in the RFP. Multiple institution contractors will help to maximize female and minority college student participation in the evaluations and will minimize travel and per diem expenses.

Description. The objective of this project is to establish a formal process for using eligible female or minority colleges and universities in Texas to conduct on-site evaluations of the operations and results of the project organizations that operate programs funded under this same law. These project organizations and the individual programs they manage are funded by TEA to recruit females and underrepresented minority groups into the disciplines of science, engineering, mathematics, computer science or technology, or superconductivity research at institutions of higher education. The results of programs evaluated will be reported to TEA.

Dates of Project. The State Engineering and Science Recruitment Program Evaluation Project (SENSR) will be implemented during school year 1993-1994. Proposers should plan for a starting date of not earlier than October 1, 1993, and an ending date of not later than August 31, 1994.

Project Amount. For fiscal year 1993-1994 this project will allow up to a total of \$8,000, subject to the approval of the commissioner of education. These monies will be paid to the contractor institutions by previously funded project organizations for conducting on-site evaluations of the approved and funded programs managed by those project organizations. The total amount paid for all evaluations may not exceed \$8,000.

Selection Criteria. Proposals will be considered on the ability of each proposer to satisfy all requirements in the RFP. The TEA prefers to select a different college or university within each of the three evaluation service areas outlined in the RFP, but may select fewer institutions depending on the number and quality of the proposals. The TEA reserves the right to select from the highest ranking proposals that best meet the objectives specified. Other project quality indicators are specified throughout the RFP.

Requesting the Proposal. A copy of the complete request for proposals may be obtained by writing to the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to RFP #701-93-023 in your request.

Further Information. For clarifying information about this RFP contact Dr. Philip Gehring, Executive Assistant to the Associate Commissioner for Curriculum and Assessment, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9823.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the Texas Education Agency no later than 5:00 p. m., Friday, September 10, 1993.

Issued in Austin, Texas, on July 20, 1993.

TRD-9326110 Lionel R. Meno
Commissioner of Education

Filed: July 21, 1993

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Request for Proposal #701-93-024

This request for proposals is filed in accordance with Rider 60, Article III, Senate Bill 5, 73rd Legislature.

Eligible Proposers. The Texas Education Agency (TEA) is requesting proposals (RFP #701-93-024) from public accounting firms or other capable business consultants.

Description. The purpose of the request for proposals is to obtain the services of a public accounting firm(s) or other capable business consultants(s) for project objectives under Tiers I and II of the project. Tier I objectives include a needs analysis and identifying implementation alternatives for the following: reporting requirements and the data necessary to meet financial and decision support systems needed by the public school accountability system's users, standards for target (budgeted) performance outcomes and outputs versus actuals, and relationship of average daily attendance to service efforts accomplishments and expenditures; required financial operating data elements and balance sheet types, and crosswalk of public school financial accounting system to Uniform Statewide Accounting System; and financial accounting codes/manual for public schools. Tier II objectives include implementing the optimum alternatives identified under Tier I and the following: piloting the financial accounting codes/manual for public schools; developing a training program (including self-study materials, such as training books, workbooks, videotapes, diskette, and CD-ROM versions) for public school officials regarding accounting and business procedures and conducting statewide training to improve the accuracy and availability of data submitted to the TEA; and determining the most efficient and cost effective method for central administration of the accounting system.

Dates of Project. The consulting services project will be conducted during the 1994 and 1995 fiscal years. Proposers should plan for a project starting date of September 20, 1993, and an ending date of December 15, 1993. The contract may be extended to July 31, 1995, for Tier II activities, or the TEA may request proposals after December 15, 1993.

Project Amount. Initial funding of \$300,000 is available to conduct a needs analysis and identification of implementation alternatives for project objectives relating to the accounting system and manual. The contract will contain an option to extend the contract upon completion of the Tier I activities. The project may receive funding for the 1994 and 1995 fiscal years at a level not to exceed \$2.5 million (including Tier I). Funding for continuation of the project for the 1995 fiscal year will be contingent upon satisfactory monthly interim progress toward timely completion of the objectives and activities, and the general budget authorized by the State Board of Education and the commissioner of education.

Selection Criteria. Proposals will be approved based upon the ability of each proposer to carry out all requirements contained in the request for proposal. Special consideration will be provided to proposers that indicate involvement of underutilized businesses, in accordance with legislative intent for contracting with underutilized businesses. The TEA reserves the right to select from the highest ranking proposals those containing the best fee and to consider other factors.

Requesting the Proposal. A copy of the complete request for proposal (RFP #701-93-024) may be obtained by writing or calling the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9304. Please refer to the RFP by number in your request.

Further Information. For clarifying information about this request, contact Thomas D. Canby, Jr., School Audits Division, Texas Education Agency, (512) 463-9095.

Deadline for Receipt of Proposals. Proposals must be received in the Document Control Center of the Texas Education Agency by 5:00 p.m., Friday, August 30, 1993, to be considered.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326109 Lionel R. Meno
Commissioner of Education

Filed: July 21, 1993

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**Governor's Office of Immigration and
Refugee Affairs**

**Announcement of Available Funds and
Request for Proposals Refugee English
as a Second Language (ESL)**

Summary. The Governor's Office of Immigration and Refugee Affairs is pleased to announce the availability of Refugee Social Service Grant Funds for the purpose of providing English as a second language (ESL) services to the eligible refugee population in Texas. The actual amount of the award will be contingent upon federal appropriation.

The Code of Federal Regulations (CFR) 45 Parts 400 and 401 give the State the authority to contract with public or private non-profit agencies to provide services to refugees. In Texas, the Governor's Office of Immigration and Refugee Affairs is responsible for the administration of the Refugee Social Services Program.

Funds will be awarded on a competitive basis to those applicants that can demonstrate the greatest aptitude for effectively serving the desired constituents. All contracts will be on a cost reimbursement basis.

All public or private agencies and organizations that can demonstrate the expertise necessary to provide services to the refugee communities of Texas are encouraged to submit proposals. Proposals must be typewritten or printed, and five copies must be submitted to: Debbie Desmond, Refugee Program Manager, Governor's Office of Immigration and Refugee Affairs, 9101 Burnet Road, #216, Austin, Texas 78758.

Application Deadline Date. All proposals must be received in the Governor's Office of Immigration and Refugee Affairs by 4:00 p.m. on August 23, 1993. No proposal received after that deadline will be considered.

Evaluation of Proposal and Award. The final selection of grantees for award shall be made by the Governor's Office of Immigration and Refugee Affairs after careful evaluation of each proposal according to the attached evaluation criteria and in accordance with applicable state and federal laws and regulations.

A copy of the complete RFP package including a detailed explanation of the RFP and the evaluation criteria will be sent upon written request. Please contact Debbie Desmond at the previously listed address.

Issued in Austin, Texas, on July 16, 1993.

TRD-9326057 David A. Talbot
General Counsel
Office of the Governor

Filed: July 20, 1993

Announcement of Available Funds and Request for Proposals Refugee Health Related and Emergency Services

Summary. The Governor's Office of Immigration and Refugee Affairs is pleased to announce the availability of Refugee Social Service Grant Funds for the purpose of providing health related and emergency services to the eligible refugee population in Texas. The actual amount of the award will be contingent upon federal appropriation.

The Code of Federal Regulations (CFR) 45 Parts 400 and 401 give the State the authority to contract with public or private non-profit agencies to provide services to refugees. In Texas, the Governor's Office of Immigration and Refugee Affairs is responsible for the administration of the Refugee Social Services Program.

Funds will be awarded on a competitive basis to those applicants that can demonstrate the greatest aptitude for effectively serving the desired constituents. All contracts will be on a cost reimbursement basis.

All public or private agencies and organizations that can demonstrate the expertise necessary to provide services to the refugee communities of Texas are encouraged to submit proposals. Proposals must be typewritten or printed, and five copies must be submitted to: Debbie Desmond, Refugee Program Manager, Governor's Office of Immigration and Refugee Affairs, 9101 Burnet Road, #216, Austin, Texas 78758.

Application Deadline Date. All proposals must be received in the Governor's Office of Immigration and Refugee Affairs by 4:00 p.m. on August 23, 1993. No proposal received after that deadline will be considered.

Evaluation of Proposal and Award. The final selection of grantees for award shall be made by the Governor's Office of Immigration and Refugee Affairs after careful evaluation of each proposal according to the attached evaluation criteria and in accordance with applicable state and federal laws and regulations.

A copy of the complete RFP package including a detailed explanation of the RFP and the evaluation criteria will be sent upon written request. Please contact Debbie Desmond at the previously listed address.

Issued in Austin, Texas, on July 16, 1993.

TRD-9326056 David A. Talbot
General Counsel
Office of the Governor

Filed: July 20, 1993

Texas Department of Health

Notices of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered El Paso Refinery, L.P. (licensee-L04392) of El Paso to cease and desist from operating or using any source of radiation for which a license is required, and surrender to the bureau for impoundment all radioactive material in its possession. The order was issued because the licensee did not have an authorized radiation safety officer, approved users of radioactive materials, and an established radiation safety program.

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 19, 1993.

TRD-9326051 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 19, 1993

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered Robert J. Boren, M.D. (registrant-R01853) of Denton to cease and desist using any sources of radiation in his possession at his facility until all health-related violations found during a recent inspection of his facility have been corrected. The bureau determined that the continued use of uncalibrated therapeutic x-ray units at his facility constitutes an immediate threat to public health and safety. Doctor Boren is further required to provide written evidence satisfactory to the bureau regarding the actions taken to correct all violations and the methods to prevent their recurrence.

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 19, 1993

TRD-9326053 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 19, 1993

Notice of Exception to Conflict of Interest Rule in the Housing Opportunities for People with AIDS Program

The Department of Housing and Urban Development (HUD) published proposed new rules for the Housing Opportunities for Persons with AIDS (HOPWA) program in the *Federal Register*, (Vol. 57, No. 247), December 28, 1992. These interim rules state at §574.625(a) that:

...no person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee or project sponsor and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

The Texas Department of Health (TDH), as a recipient of the HOPWA grant program, perceives that a conflict of interest may arise because of the mechanism used to provide federal funding to local communities. The primary conduit for such support is the local HIV Care Consortia

in each community. These consortia are explicitly required by the Ryan White Comprehensive AIDS Resources Emergency Act of 1990. This federal law requires that consortia consist of both public and nonprofit private, health care and support service providers and community based organizations. Because consortia must identify and address the special care and service needs of all populations and subpopulations of individuals and families with HIV disease within their areas, this law encourages membership to be as inclusive and broadly based as possible. (Reference 42 United States Code §300ff-23 (a) (1) (West 1991).

As a result of these and similar requirements, many consortia representatives and members of individual community-based organizations are either HIV positive, persons with AIDS (PWA), or persons who have "family or business ties" to a PWA. As the conflict of interest provision under the interim HOPWA rules prohibits personal benefit from services offered by consortia organizations, the TDH is requesting that HUD allow an exemption to the individuals described previously.

The interim rules also state in §574.625, subparagraph (B) that upon written request, HUD may grant an exception to the provisions of subsection (a) when it determines that the exception will serve to further the purposes of the HOPWA program and the effective and efficient administration of the recipient's program or project, and after certain supporting information has been provided to HUD.

In order to receive this exception, the TDH has agreed with HUD to do the following:

1. require each HOPWA project sponsor/contractor to establish procedural rules which require affected persons to withdraw from their functions and responsibilities or the decision-making process with respect to the specific assisted activity from which they would derive benefit,
2. require each HOPWA project sponsor/subcontractor to provide written assurance to the TDH that the required procedural rules have been established;
3. add language consistent with 24 C.F.R. *574.625(a) to second year HOPWA contracts;
4. make a public disclosure of the conflict of interest, the waiver, and its terms in the *Texas Register*.

Questions regarding the HOPWA program or the conflict of interest exemption should be directed to Betty Cooper, HIV Services Program Director, HIV Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7207.

Issued in Austin, Texas, on July 19, 1993.

TRD-9326050 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 19, 1993

Notice of Order to Disable Sources of Radiation

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered all sources of radiation in the possession of Jesse C. Lopez, D.D.S., Inc. (registrant-R19880) of Houston be disabled until all requirements of the Agreed Final Judgment issued on July 14, 1992, have been met.

Doctor Lopez is further required to provide written evidence satisfactory to the bureau regarding the actions taken to meet the requirements of the Agreed Final Judgment.

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 20, 1993.

TRD-9326054 Susan K. Steeg, General Counsel
Office of General Counsel
Texas Department of Health.

Filed: July 19, 1993

Notice of Revocation of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificates of registration: Mesquite Physicians Hospital, Mesquite, R00709, July 13, 1993; Barry A. Martin, M.D., Houston, R02581, July 13, 1993; Harry E. Taylor, D.D.S., M.S., Inc., Fort Worth, R11062, July 13, 1993; Key to the Hills Equine Farm, Boerne, R11417, July 13, 1993; Chester William Ingram, M.D., Livingston, R13056, July 13, 1993; L.Q. Robinson, M.D., Nacogdoches, R13959, July 13, 1993; Alice X-Ray and Lab, Inc., Alice, R15916, July 13, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

Issued in Austin, Texas, on July 19, 1993.

TRD-9326052 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: July 19, 1993

Texas Department of Housing and Community Affairs Community Food and Nutrition Program

The Texas Department of Housing and Community Affairs (TDHCA) announces the imminent availability of funds under the Community Food and Nutrition Program (CFNP). TDHCA is applying to the United States Department of Health and Human Services (HHS) for \$288,082 in CFNP funds for Federal Fiscal Year (FFY) 1993. CFNP is authorized by Section 681A of the Community Services Block Grant Act, Public Law 97-35, as amended.

The Texas Department of Housing and Community Affairs will utilize the Community Food and Nutrition Program (CFNP) for one or more of the legislatively mandated program purposes, which are to: coordinate existing private and public food assistance resources to better serve low-income communities; assist low-income communities to identify potential sponsors of child nutrition programs

and initiate programs in unserved and under-served areas; and, develop innovative approaches at the State and local levels to meet nutritional needs of low-income individuals.

TDHCA will award funds to local governments and private nonprofit organizations based on a statewide competitive request for proposal (RFP) process. Applicants will be required to propose projects that address at least one of the legislatively designated purposes that are statewide in scope, and represent a comprehensive and coordinated effort to alleviate hunger within the State. Applicants will be encouraged to propose projects and activities that expand and enlarge upon other outreach activities or that generate additional funds and resources from other sources.

TDHCA intends to continue to fund, through the most appropriate agency, the Texas Summer Food Services Program Outreach Project, Share Our Surplus Network, and Hunters for the Hungry in a manner similar to past operation. These projects will continue to exist and be available to low-income Texans through the TDHCA CFNP grant.

TDHCA anticipates that the request for proposal (RFP) for this program will be available in early August, 1993.

To be placed on the mailing list for the CFNP RFP, write to: Community Services Section, Attention: David C. Galvan, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941 or call the Community Services Section at (512) 475-3950.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326107 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 21, 1993

Public Hearing Notice

As part of the public information consultation and public hearings requirements, the Texas Department of Housing and Community Affairs (TDHCA) is conducting four public hearings. The purpose of the hearings is to solicit comments on the proposed use and distribution of federal fiscal year (FFY) 1994 funds provided by the United States Department of Health and Human Services under the Low-Income Home Energy Assistance Program (LIHEAP). TDHCA plans to use the State's allocation of LIHEAP funds to support the Weatherization Assistance, the Energy Crisis, and the statewide implementation of the current Low-Income Home Energy Pilot Project. At these hearings, Intended Use Reports will be provided and public comments will be received for use in the preparation of final state plan.

The four public hearings have been scheduled as follows: Tuesday, August 11, 1993 at 1:30 p.m., Texas Department of Housing and Community Affairs, Seventh Floor Conference Room, 811 Barton Springs Road, Austin; Wednesday, August 12, 1993 at 1:30 p.m., Riverside Center, 201 South Sylvania Avenue, Fort Worth; Wednesday, August 12, 1993 at 5:30 p.m., Mahon Library, Community Room, 1306 Ninth Street, Lubbock; Wednesday, August 12, 1993 at 5:30 p.m., Corpus Christi Library, La Retama Room, 805 Comanche, Corpus Christi.

A representative from TDHCA will be present to explain the planning process and receive comments from inter-

ested citizens and affected groups regarding the proposed plan. Intended Use Reports may be obtained on or about July 30, 1993 by contacting the Texas Department of Housing and Community Affairs, Energy Assistance Section, P.O. Box 13941, Austin, Texas 78711-3941. For questions, contact the Energy Assistance Section at (512) 475-3859.

Comments on the intended use of the funds may be in the form of written comments or oral testimony at the hearings. Written comments may be submitted to TDHCA at the time of the hearings or by mail no later than August 16, 1993.

Individuals who require auxiliary aids or services for this meeting should contact Aurora Cavajal, 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 21, 1993.

TRD-9326108 Henry Flores
Executive Director
Texas Department of Housing and
Community Affairs

Filed: July 21, 1993

Texas Department of Insurance Notice of Hearings

The State Board of Insurance of the Texas Department of Insurance will consider a proposal filed by the Office of Public Insurance Counsel requesting the adoption of Consumer Bills of Rights for Personal Automobile Insurance and for Homeowners and Renters Insurance at a public hearing under Docket Numbers 2037 and 2038, set for 2:00 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Office of Public Insurance Counsel (OPIC) is proposing that the Board adopt separate rules for auto insurance and for homeowners and renters insurance to be included in the Texas Automobile Rule and Rating Manual and the Homeowners Manual of the Texas Personal Lines Manual respectively. The Office of Public Insurance Counsel is also requesting that the Board adopt a proposed "Consumer Bill of Rights for Personal Automobile Insurance" and a proposed "Consumer Bill of Rights for Homeowners and Renters Insurance" as drafted by OPIC. The rules proposed by OPIC would require insurers writing personal auto insurance policies or homeowners or tenants policies to provide with each new policy of such insurance the proposed "Consumer Bill of Rights" for that line of insurance and to provide such bill of rights with each renewal notice for such insurance unless previously delivered. The rules would require each bill of rights be printed in no less than 10-point type and be on separate pages. The rules would also require insurers to provide a Board-promulgated Spanish-language version of the bill of rights to any consumer who requests it. The proposed bills of rights set forth OPIC's summation of what it considers consumers' most important rights with regard to each line of insurance including consumers' rights to receive information from the Department of Insurance and their insurer, rights relating to buying insurance, rights regarding cancellation and refusal to renew policies, rights regarding claims made under such policies, rights regarding non-discrimination, and enforcement rights. The text of the proposed rules and proposed con-

sumer bills of rights are set forth in OPIC's First Amended Petition (Reference Number O-0693-16) filed by OPIC on July 12, 1993, with the Chief Clerk of the Board. OPIC previously filed its Original Petition for adoption of the proposed rules and bills of rights on June 15, 1993, with the Chief Clerk of the Board. The Board may also consider any amendments to the proposal.

A copy of the amended petition containing the full text of the proposed rules and consumer bills of rights is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. The Board invites the general public and any interested persons to provide written comments, including suggested amendments to the proposed rules and bills of rights, to the Board by filing them with the Chief Clerk's Office no later than August 26, 1993, with a copy to Lyndon Anderson, Associate Commissioner, Property and Casualty Division, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104

This notification is made pursuant to the Texas Insurance Code, Article 5. 96, which exempts it from the requirements of the Administrative Procedures and Texas Register Act.

For further information or to request copies of the petition, please contact Angie Arizpe (512) 322-4147, and (refer to Reference Number O-0693-16).

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 21, 1993.

TRD-9326130 Linda K von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §1.1300, concerning provision of updated underwriting guidelines by insurers. This section provides that a request for an insurer's underwriting guidelines made by the Office of Public Insurance Counsel or the Texas Department of Insurance, pursuant to newly enacted Article 1.24D of the Insurance Code, may include a request for future amendments to the underwriting guidelines. Enacted by the 73rd Texas Legislature, Article 1.24D authorizes the Texas Department of Insurance and the Office of Public Insurance Counsel to request and receive copies of an insurer's underwriting guidelines. Under the proposed rule, the guidelines in effect on the date the insurer receives the request must be provided within 14 days. Insurers would be required to provide any future changes to the guidelines to the requesting agency within 14 days after the effective date of the change if the agency requested updated guidelines. The proposed section is needed because the Texas Department of Insurance and the Office of Public Insurance Counsel will not know when a company's underwriting guidelines change and will have to periodically request the updated guidelines. These periodic requests could result in considerable expense to the two agencies, and the proposed rule would greatly diminish these expenses.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326116 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

◆ ◆ ◆
The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1000, concerning the use of underwriting decisions of other companies. This section prohibits an insurer or agent from considering the fact that an applicant for personal automobile, residential property, or life, accident, or health insurance was denied coverage, non-renewed, or canceled by another company. The proposed section also prohibits an insurer or agent writing or offering personal automobile or residential property insurance from refusing to insure or submit an application or binder because the applicant was previously insured by a county mutual or surplus lines insurer. Failure to comply with this section would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326117 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

◆ ◆ ◆
The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1001, concerning prohibiting insurers from refusing to renew a personal auto policy or from requiring a named driver exclusion for any family member as a condition of renewal solely because a family member of the insured reaches driving age. The section is proposed pursuant to the Insurance Code, Article 21.49-2B, §6(a), which prohibits an insurer from declining to renew a personal auto policy solely because of the age of the person covered by the policy. The proposed rule provides that a violation of the rule would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326118 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

◆ ◆ ◆
The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2044, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed amendments to §7.25 and §7.26 concerning the movement of books and records by a domestic insurance company to a location outside the State of Texas, under the Insurance Code,

Article 1.28. The amendments are necessary to implement changes to the Insurance Code, Article 1.36 regarding service of process on insurers approved to operate under Article 1.28. The sections establish a procedure for domestic insurers to provide written notice to the Commissioner of the intent to move all or any portion of the books, records, accounts and offices outside the State of Texas. The amendments to §7.25 add definitions, instructions, new forms and eliminate some forms which are no longer necessary. Proposal of these amendments includes the adoption by reference of the new forms for use by all insurers subject to the Insurance Code, Article 1.28. The board has filed a copy of the forms with the Secretary of State's office, *Texas Register* section. Persons desiring copies of the forms can obtain copies from the Texas Department of Insurance, Holding Company Activity, Mail Code 305-4A, P.O. Box 149104, Austin, Texas 78714-9104. Copies are also available for pick-up from the William P. Hobby State Office Building, Holding Company Activity, 333 Guadalupe, Austin. The amendments to §7.26 provide the Commissioner with the ability to approve or disapprove the notice of a company's intent to move its books and records and directs that the notice is to be filed with the Holding Company Activity of the department.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326131 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.900, concerning a required disclosure when an applicant is not written in the lowest rated company within an insurance group. This section requires an insurance company that is the company with the lowest rates in the company group to disclose each reason for declining to offer personal automobile or residential property insurance if the applicant is written in another company within the group or in writing disclose the right to request the reasons. The failure to comply with this section would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326120 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2036, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.901, concerning disclosures required when the use of a consumer report by an insurer adversely affects a consumer of automobile or residential property insurance. This section requires the insurer to disclose the name, address, and telephone num-

ber of the consumer reporting agency and the reference number or other identifying characteristic of the report. The section defines the terms "consumer report" and "consumer reporting agency" for purposes of the section. Failure to comply with this section would constitute unfair competition and unfair practices under the Insurance Code, Article 21.21, and would be subject to the provisions of that article.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326121 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2040, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §1.602, concerning information about complaints provided to the public through the department's toll-free telephone number. These rules are necessary to facilitate implementation of amendments to the Insurance Code, Article 1.35D(b), enacted in House Bill 1461 by the 73rd Legislature of Texas. In the proposed section, the terms "justified," "verified as accurate," "documented as valid," and "the number of insurance policies written by the insurer," are defined as they relate to the complaints information provided to the public through the department's toll-free telephone number.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326122 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2046, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider proposed new §21.1002, concerning prohibiting insurers writing personal automobile insurance from requesting or using information regarding automobile accidents, traffic violations, or claims of an applicant in connection with or in making an underwriting decision when such accidents, violations, or claims occur more than 39 months prior to the date of application for personal auto insurance except under certain conditions as provided in the proposed rule. Under the proposed rule, insurers would be permitted to use information regarding convictions for certain specified offenses for underwriting purposes for a period not to exceed 60 months prior to the date of the application. These offenses would include driving while under the influence of alcohol or drugs, involuntary manslaughter, criminally negligent operation of a motor vehicle, driving with suspended or no license, and insurance-related fraud.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326123 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2046, scheduled for 1:30 p.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.1003, concerning prohibiting insurers or agents from conditioning the issuance, renewal, price, continuation, or amount of coverage of personal automobile insurance on the number of vehicles to be insured on the policy or on the purchase of any other policy or policies from the policyholder's personal auto insurer or any affiliate of that insurer. The proposed rule, however, would not preclude the application of a type of discount as provided in a rate manual approved by the Texas Department of Insurance or the conditioning of the sale of any umbrella or excess coverage policy on the purchase of the underlying policy.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326124 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance, at a public hearing scheduled for 9:00 a.m. August 30, 1993 under Docket Number 2041, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed by The Texas Automobile Insurance Service Office, ("TAISO"). TAISO is proposing an amendment to Rule 74H of the Texas Automobile Rules and Rating Manual to establish a discount category for a student driver that is a member of a drug or alcohol program which is recognized or sponsored by school authorities. By Texas Automobile Insurance Services Office. The amendment was considered at the June 29, 1993, auto property rule hearing.

The Board will also consider a petition filed by Office of Public Insurance Counsel, (OPIC) proposing a mandatory discount for personal auto insurance for persons completing alcohol and drug education courses. The discount would be mandatory for all insurers. According to OPIC's petition the discount would encourage consumers to become educated about the perils of drinking or using drugs and driving, reduce alcohol and drug related accidents, and ultimately reduce the cost of auto insurance. OPIC's petition was filed in the Chief Clerk's Office on July 8, 1993.

The Board has jurisdiction to implement these changes pursuant to Texas Insurance Code, Articles 1.04(b), 5.06, 5.09, 5.10, and 5.96

A copy of both proposals containing the full text of the proposed amendments are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the proposals, please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number A-0793-17).

The Board invites the general public and any interested persons to provide written comments to the Board by filing them with the Chief Clerk's Office no later than August 26, 1993, with a copy to David Durden, Deputy Commissioner Property and Casualty Insurance Lines, P.O. Box 149104, MC #103-II, Austin, Texas 78714-9104

Issued in Austin, Texas, on July 21, 1993.

TRD-9326119 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance, at a public hearing under Docket Number 2042 scheduled for 9:00 a.m. on August 30, 1993 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, will consider a proposal filed by Texas Department of Insurance Staff proposing amendments to the Texas Automobile Insurance Rules and Rating Manual, Rules 74, 78 and 123, and amendments to endorsements 586 and TE 20 32A. The proposed amendments to Rule 74 provide a credit on certain vehicles for households in which there are more vehicles than operators. The amendments to rules 78 and 123 and endorsements 586 and TE 21 32A broaden the rules concerning antique autos, by expanding the applicable discounts to collectible autos and special interest autos.

The Board invites the general public and any interested persons to provide written comments, including suggested amendments to the proposed rules, to the Board by filing them with the Chief Clerk's Office no later than August 26, 1993, with a copy to David Durden Deputy Commissioner, Property and Casualty Insurance Lines, P.O. Box 149104, MC #103-II, Austin, Texas 78714-9104.

Copies of the full text of the proposed amendments to the rules and forms are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies, please contact Angie Arizpe at (512) 322-4147, refer to (Reference Number A-0593-18).

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

Issued in Austin, Texas, on July 21, 1993.

TRD-9326165 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

The State Board of Insurance of the Texas Department of Insurance at a public hearing under Docket Number 2043, scheduled for 9:00 a.m. August 30, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin will consider new §21.7 prohibiting insurers from engaging in unfair practices in the setting or use of rates or rating manuals for property and casualty insurance in Texas. The specific practices identified as unfair and prohibited include using any procedure, practice, method, underwriting guideline, or other activity which has the purpose or effect of: discriminating on the basis of race, color, religion, or national origin; discriminating on the basis of geographic location, age, sex, or disability, unless justified by sound actuarial principles; and unfairly distinguishing or unfairly discriminating among insureds or potential insureds having a like hazard. This section defines the terms "the setting or use of rates or rating manuals" and "insurer" for purposes of this

section. This regulatory action is necessary to address practices in the insurance industry which have the purpose or effect of unfairly discriminating among insureds or potential insureds. The Texas Department of Insurance has received information from individuals and organizations as well as statistical data which indicate a need for this regulatory action. This information includes: indications that insurers use underwriting guidelines and other factors unrelated to risk or hazard in the determination of rates; consumer complaints alleging unfair declinations and non-renewals as well as a lack of availability of insurance, statistical data reflecting patterns and trends in this state which suggest that rate discrimination based upon race or geographic location or factors correlated with race or geographic location may be taking place. In addition, this regulatory action is necessary to ensure that insurance practices in this state are in accordance with the basic civil rights of Texas citizens.

Issued in Austin, Texas, on July 21, 1993.

TRD-9326125 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: July 21, 1993

Texas Department of Licensing and Regulation

Correction of Error

The Texas Department of Licensing and Regulation proposed new 16 TAC §68. 100, concerning accessibility standards for the elimination of architectural barriers. The rule was published in the July 6, 1993, *Texas Register* (18 TexReg 4374).

The agency incorrectly said there would be no effect on small businesses as a result of the rule. The preamble should read as follows concerning small businesses. "Small businesses who construct or substantially renovate, modify, or alter their facilities and which are covered by the statute must comply with the rule as proposed. Anticipated economic costs to persons, including small businesses, who are required to comply with the rule as proposed are not expected to exceed 1-1/2% of the total construction cost. Cost may be slightly higher in renovations or multi-level facilities."

Texas Department of Protective and Regulatory Services

Request for Proposal

The Texas Department of Protective and Regulatory Services (TDPRS) is requesting proposals (RFP) for Post-Adoption services contracts to be awarded under the department's Protective Services for Families and Children's (CPS) division for Fiscal Year 1994.

Description of Services: The purpose of post adoption services is to help the adopted child and family adjust to the adoption; cope with any history of abuse in the child's background; and avoid permanent or long-term removal of children from the adoption family. Although out-of-home treatment is provided under this program, it is limited to critical situations. The objectives of the program are to provide outpatient treatment, counseling, and education

services to enable the child and parents to function as a cohesive family unit. Program emphasis is on preventing removal of a child from his home, either temporarily or long term.

Eligible Applicants: Eligible applicants include licensed child placing agencies that administer special-needs adoption and post-adoption services programs, and social services agencies/organizations that have administered post adoption services under contract with TDPRS. In the Abilene region, the eligibility qualifications have been waived and any social service agency or qualified individual demonstrating a level of expertise with CPS children and special-needs adoption issues is eligible to apply. The term "special needs adoption" refers to the adoption of a child who meets one of the following criteria at the time of placement: the child is at least six years old; the child is a member of a racial or ethnic minority; the child has a professionally diagnosed physical, mental, or emotional handicap; or the child belongs to a sibling group that was placed together in the same adoptive home.

Limitations: Funding of the proposals is dependent upon available appropriations. The department reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the department.

Term and Total Value: The effective dates of any contract awarded under this RFP will be December 1, 1993, through August 31, 1994. Funding will be approximately \$3.3 million for the state for the nine months remaining in Fiscal Year 1994.

Offeror's Conference: An offeror's conference is scheduled for Monday, August 9, 1993, from 10 am to noon in the Texas Department of Human Services Board Room, First Floor, East Tower, 701 West 51st Street, Austin.

Deadlines: All proposals and proposals modification that are to be considered for funding through this RFP must be received by 4:00 pm, August 31, 1993. Proposals received after this deadline will be accepted only if postmarked no later than August 28, 1993.

Evaluation and Selection: A panel of individuals knowledgeable of post-adoption services will rank and score the proposals. The evaluation criteria will be specified in advance. Considerations are staffing, qualifications, previous relevant experience, training, plan for provision of service, accessibility of services, examples of work and work quality, and budget information.

Contact Person: To obtain a complete copy of the RFP, please contact Susan Klickman, program specialist, Protective Services for Families and Children, Texas Department of Protective and Regulatory Services (MC W-415), P. O. Box 149030, Austin, Texas 78714-9030, Attn: Kym Nicol (512/450-3786).

Issued in Austin, Texas, on July 21, 1993.

TRD-9326106 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Protective and
Regulatory Services

Filed: July 21, 1993

Public Utility Commission of Texas Notice of Application to Amend Certificate of Convenience and Necessity

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on June 4, 1993, to amend a certificate of convenience and necessity pursuant to §§16(a), 18(b), 37, 50, 52, and 54 of the Public Utility Regulatory Act. A summary of the application follows.

Docket and Title Number. Application of Sugar Land Telephone Company to amend Certificate of Convenience and Necessity within Brazoria and Matagorda Counties, Docket Number 12084, before the Public Utility Commission of Texas.

The Application. In Docket Number 12084, Sugar Land Telephone Company seeks approval of the application to combine its Sweeny and Old Ocean exchange areas and base rate areas into a single exchange. The proposed application will enable Sugar Land to complete a digital cutover and consolidate operations in the exchanges.

Persons who wish to intervene in the proceeding or comment upon action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas, 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before August 27, 1993.

Issued in Austin, Texas, on July 19, 1993.

TRD-9326080 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 20, 1993

Notice of Proceeding for Approval of Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on July 1, 1993, seeking approval of optional extended area service (EAS) pursuant to §23.49(i) of the Public Utility Commission of Texas substantive rules. The following is a summary of the joint petition.

Project Title and Number. Joint Petition of GTE Southwest, Inc., Southwestern Bell Telephone Company, and the Cities of Kyle, Mountain City, and Woodcreek for Optional Extended Area Service from the Kyle and Wimberley Exchanges to the Austin Metro Area, Project Number 11591, before the Public Utility Commission of Texas.

The Joint Petition. In Project Number 11591, GTE-SW, SWB, and the Cities of Kyle, Mountain City, and Woodcreek seek approval of a joint petition to offer customers one of three new optional EAS calling plans: the Community Calling Plan providing for a measured one-way EAS arrangement; the Premium Calling Plan providing customers with a flat-rate one-way EAS arrangement; or the Premium Plus Calling Plan allowing customers to choose a flat-rate two-way EAS arrangement.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256, or (512) 458-0221 teletypewriter for the deaf on or before September 27, 1993.

Issued in Austin, Texas, on July 19, 1993.

TRD-9326037 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: July 19, 1993

Texas Southern University Consultant Contract Award

In accordance with Texas Civil Statutes, Article 6252-11c, Texas Southern University has awarded a contract to Stephen Klein and Associates, to analyze the testing skills of first-year law students at Thurgood Marshall School of Law, Texas Southern University. The scope of the consultant services will be to interpret test scores, compute multiple choice scale scores for each student and conduct an analysis of the relationship between student performance and faculty testing. The name and address of the Consultant is Stephen Klein, 120 Ocean Park Boulevard, #609, Santa Monica, CA 90405. The total value of the contract is \$15,000. The dates of the contract are May 28, 1993-July 30, 1993.

Issued in Houston, Texas, on June 30, 1993.

TRD-9326079 Bobby Wilson
Provost/Vice President for Academic Affairs
Texas Southern University

Filed: July 20, 1993

Texas Water Commission Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding International Switchboard Corporation (Solid Waste Registration Numbers 33451 and 52159) on July 9, 1993, assessing \$130,400 in administrative penalties with \$125,400 deferred.

Information concerning any aspect of this order may be obtained by contacting Bill Ballard, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8009.

Issued in Austin, Texas, on July 16, 1993.

TRD-9326075 Gloria A. Vasquez
Chief Clerk
Texas Water Commission

Filed: July 20, 1993

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding Southwestern Container Corporation (Formerly Permain Drum and Container Company) Solid Waste Registration Number 39255, on July 9, 1993, assessing \$10,520 in administrative penalties with \$9,520 deferred.

Information concerning any aspect of this order may be obtained by contacting Glenn Hall, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2057.

Issued in Austin, Texas, on July 16, 1993.

TRD-9326074

Gloria A Vasquez
Chief Clerk
Texas Water Commission

Filed: July 20, 1993



1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material 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 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
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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