

# Texas Register

Volume 18, Number 73, September 24, 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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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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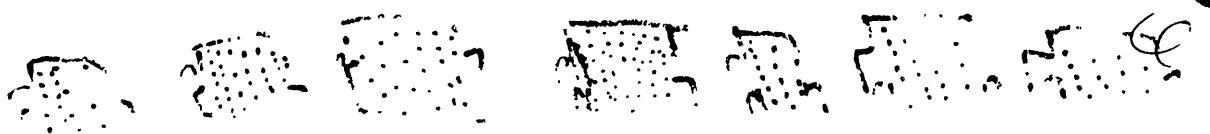
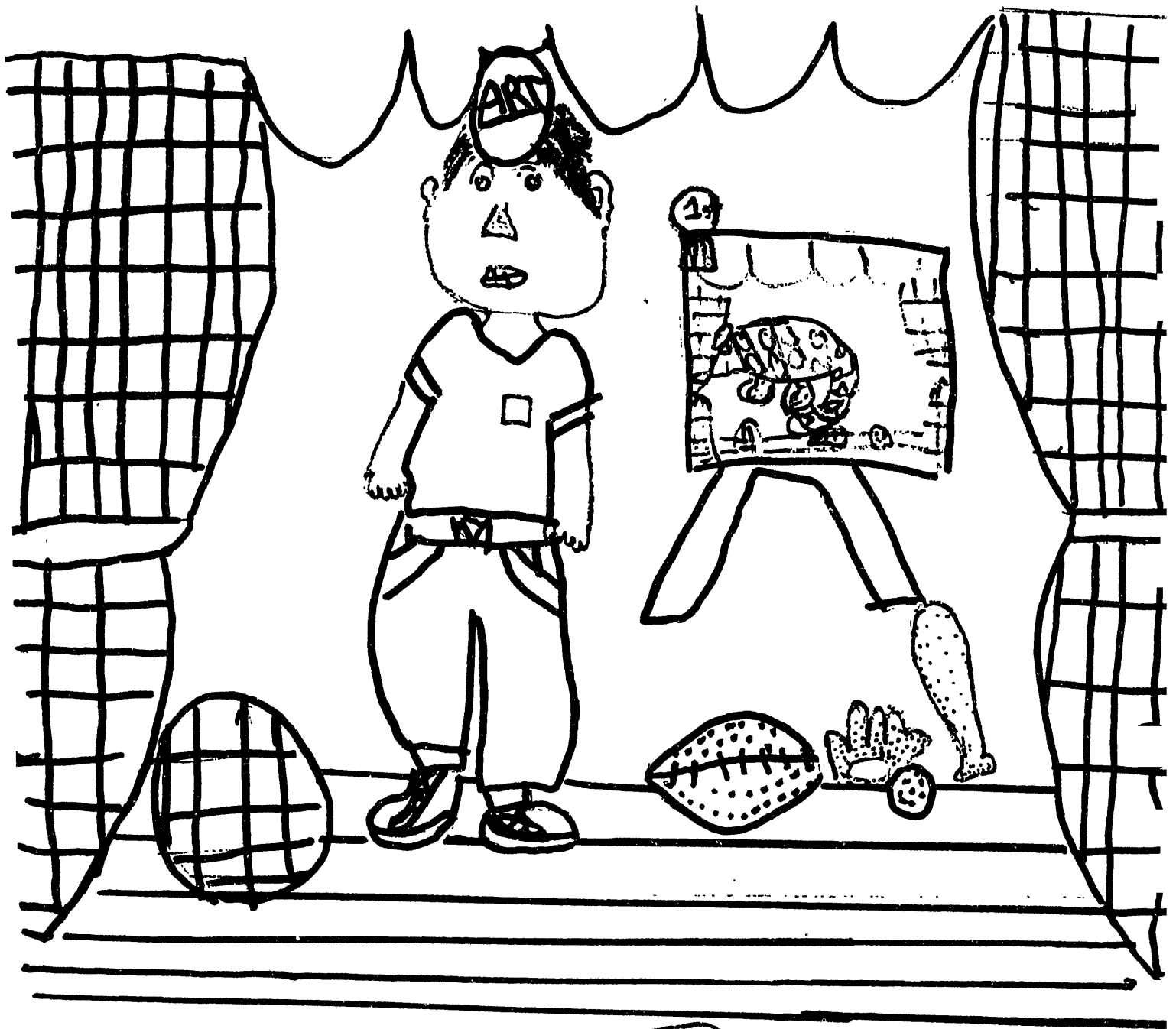
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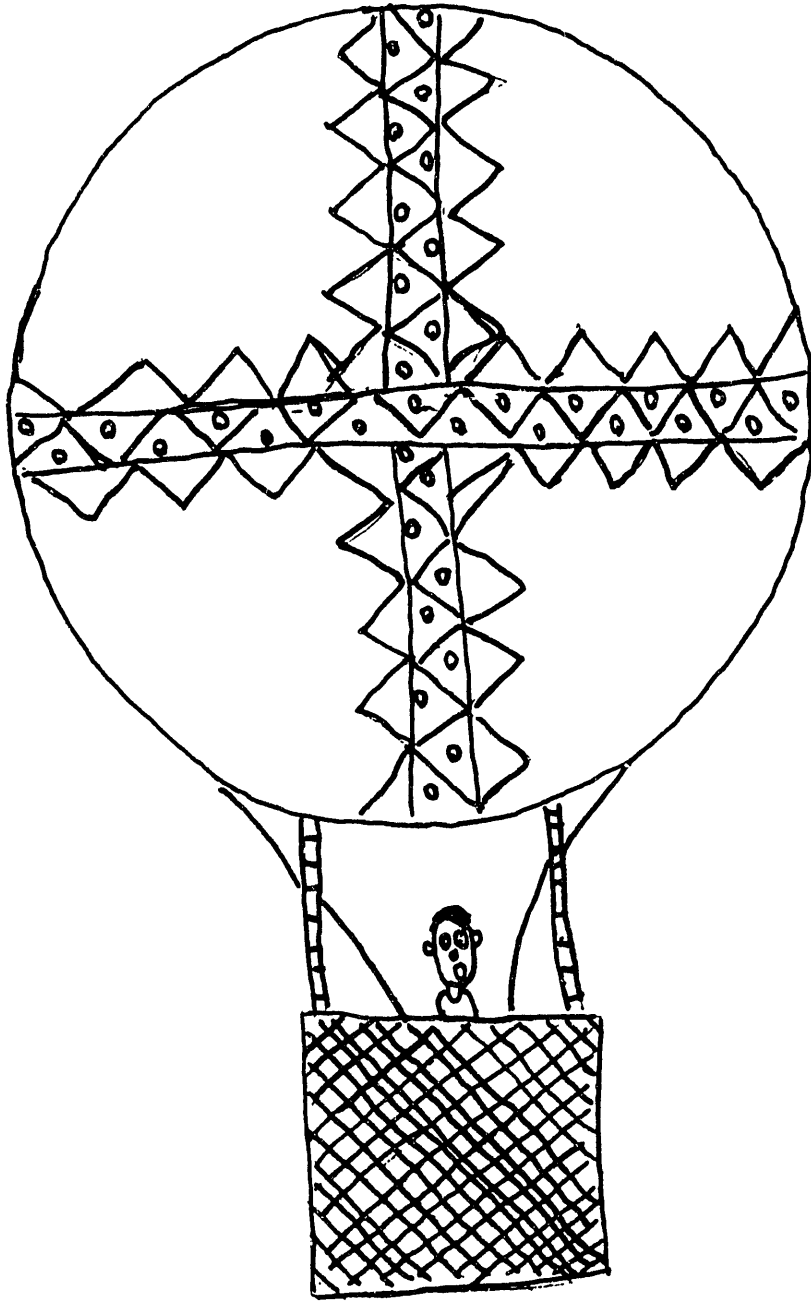
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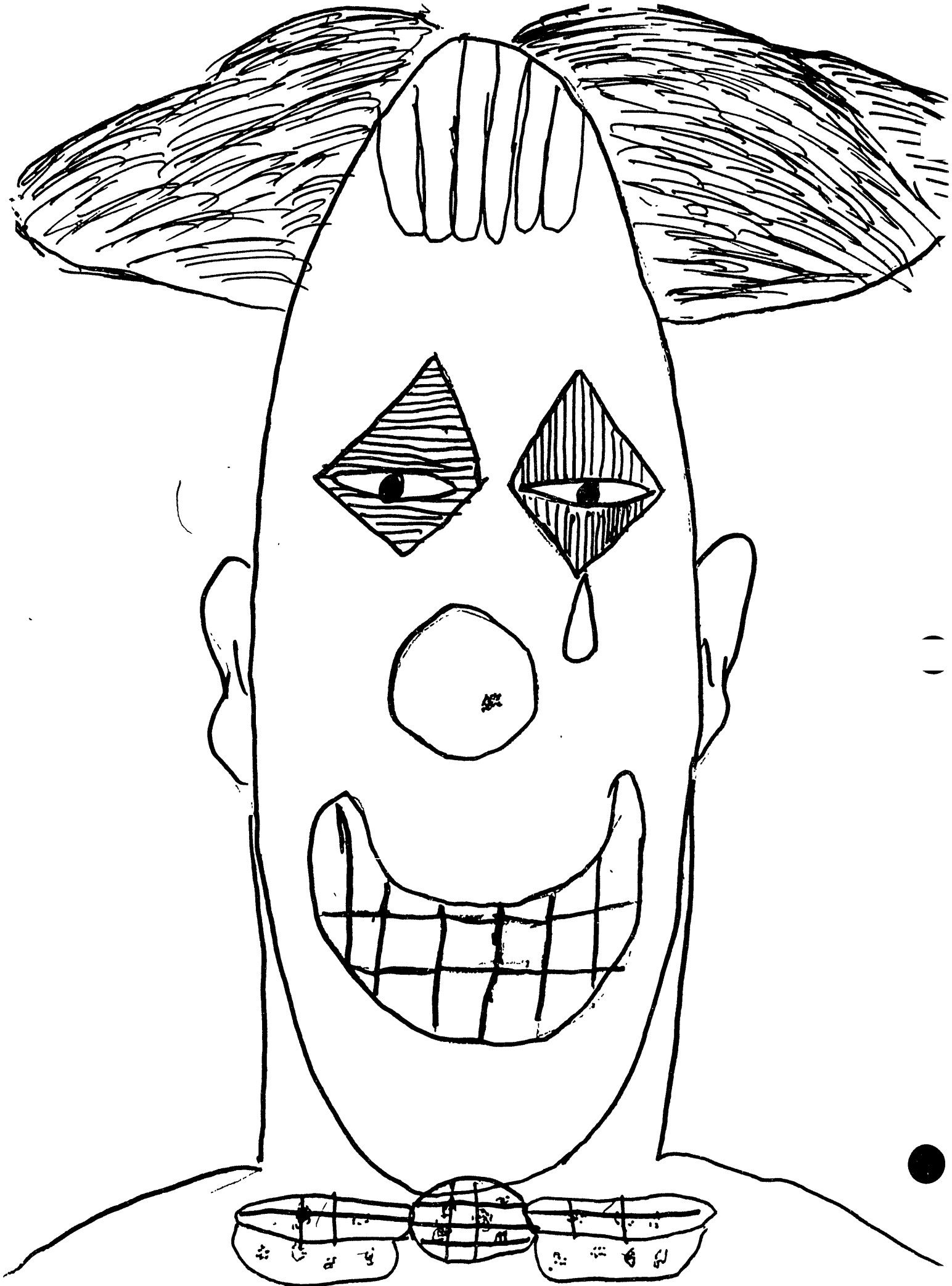
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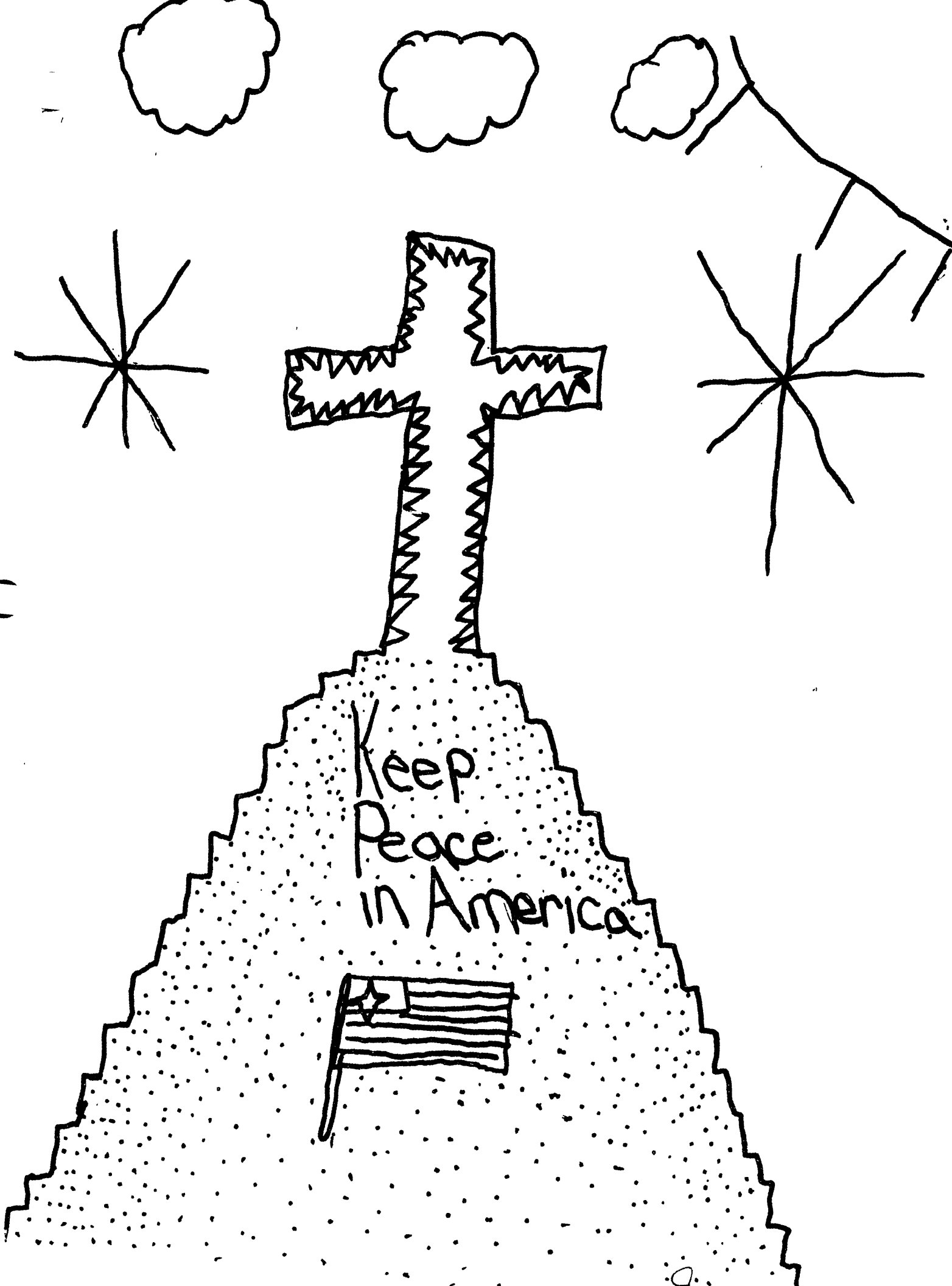


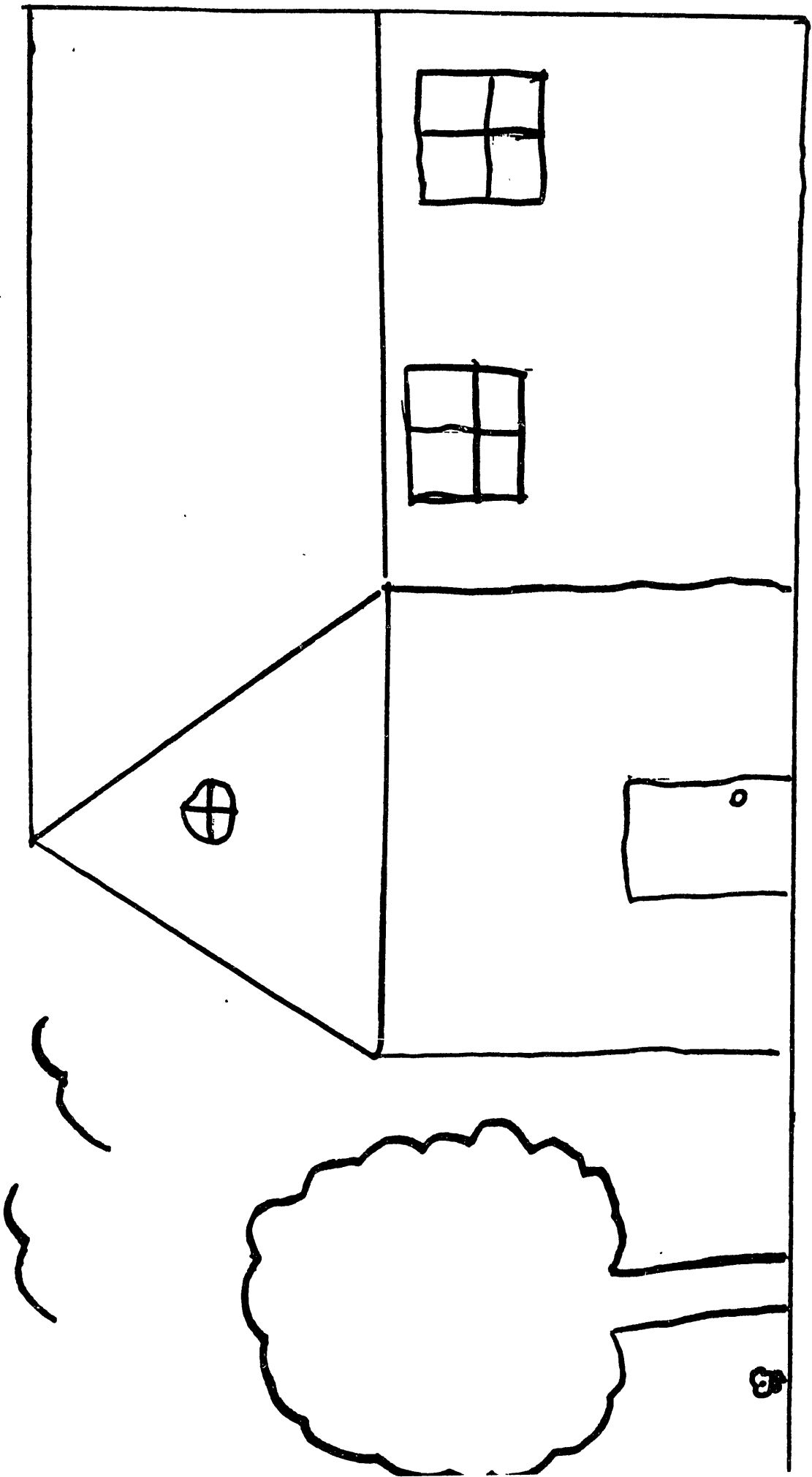












# The Governor

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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.

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## Appointments Made September 14, 1993

To be Judge of the 313th Judicial District Court, Harris County, until the next General Election and until her successor shall be duly elected and qualified, effective November 11, 1993: Ramona Freeman John, 10171 Beekman Place Drive, Houston, Texas 77043-4313. Judge John will be replacing Judge Robert L. Lowry of Houston, who is retiring.

To be a member of the Texas Higher Education Coordinating Board for a term to expire August 31, 1999: Janie Strauss McGarr, 5338 Wenonah, Dallas, Texas 75209. Ms. McGarr will be replacing Kathryn Priddy of Dallas, whose term expired.

## Appointments Made September 17, 1993

To be Judge of the 204th Judicial District Court, Dallas County, until the next General Election and until her successor shall be duly elected and qualified: Lena Levario, 722 Sherwood Drive, Richardson, Texas 75080. Ms. Levario will be replacing Judge Richard D. Mays of Dallas, who resigned.

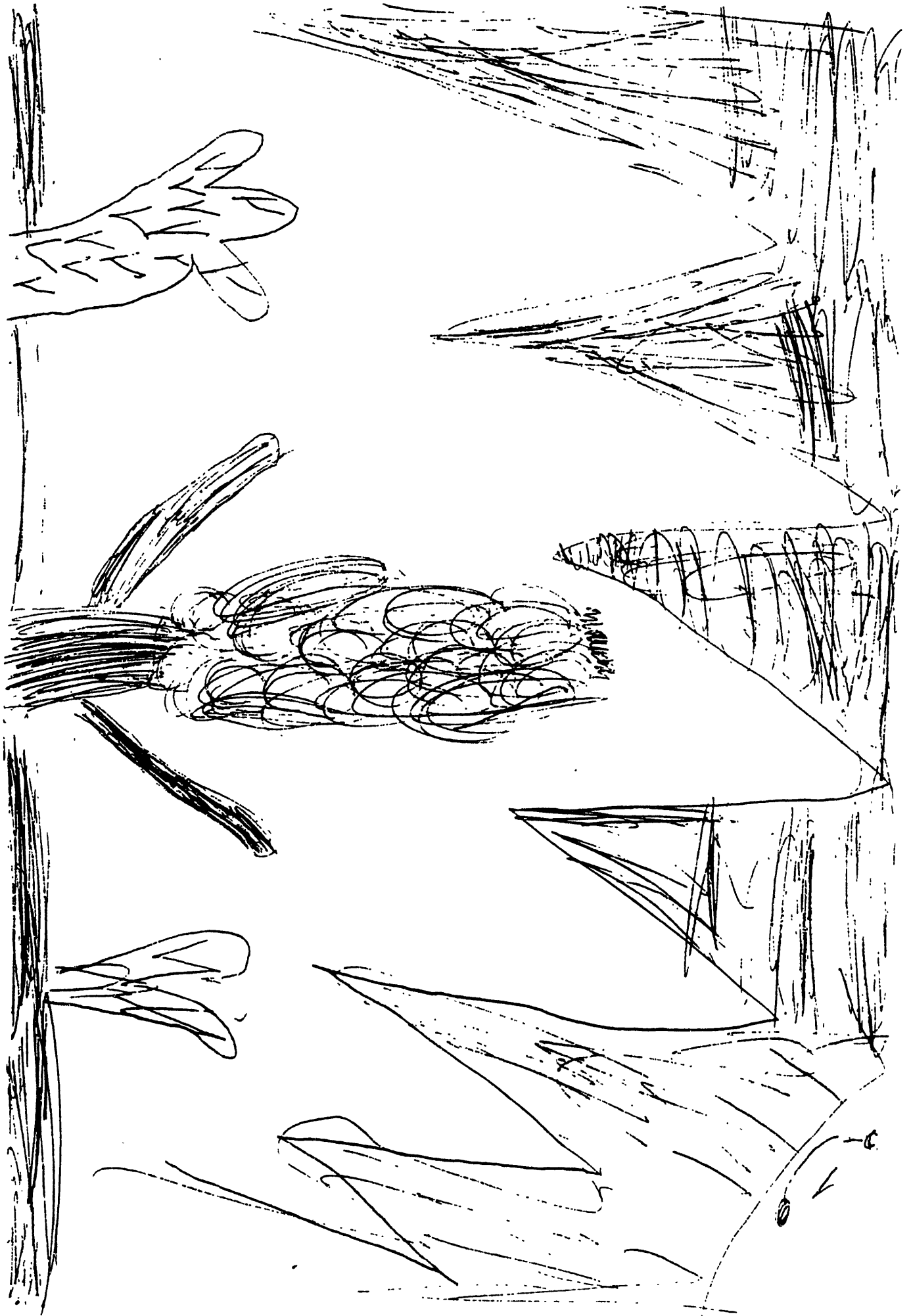
To be District Attorney of the 100th Judicial District, Carson, Childress, Collingsworth, Donley, and Hall Counties, until the next General Election and until his successor shall be duly elected and qualified: James T. Shelton, P.O. Box 855, Clarendon, Texas 79226. Mr. Shelton will be replacing David M. McCoy of Childress who was elevated to the position of Judge of the 100th District Court.

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

TRD-9329064

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 13. CULTURAL RESOURCES

### Part III. Texas

#### Commission on the Arts

#### Chapter 31. Agency Procedures

##### • 13 TAC §31.10

The Texas Commission on the Arts proposes an amendment to §31.10, concerning the Financial Assistance Application Form. The amendment will revise the application form and instructions to be consistent with Texas Arts Plan as amended September, 1993.

Connie Ree Green, director of Finance and Administrative, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Green also has determined that for each year of the first five years the section in effect the public benefit anticipated as a result of enforcing the section will be that the Commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, P.O. Box 13406, Austin, Texas 78711-3406.

The amendment is proposed under the Government Code, §444.009, which provide the Texas Commission on the Arts with the authority to make rules and regulations for its government and that of its officers and committees.

*§31.10. Financial Assistance [New Grant] Application Form.* The commission adopts by reference the application form and instructions for Financial Assistance as outlined in the Texas Arts Plan as amended September, 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, Austin, Texas 78711. [The following form is adopted by the Texas Commission on the Arts to meet national 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 September 15, 1993.

TRD-9328998      Connie Ree Green  
Director of Finance and  
Administration  
Texas Commission on the  
Arts

Earliest possible date of adoption: October 25, 1993

For further information, please call: (512) 463-5535

#### Chapter 37. Application Forms and Instructions for Financial Assistance

##### • 13 TAC §§37.23, 37.24, 37.26

The Texas Commission on the Arts proposes amendments to §§37.23, 37.24, and 37.26, concerning the Application Forms and Instructions for the Arts in Education Program-Sponsors; the Texas Touring Arts Program-Performing Arts; and the Texas Touring Arts Program-Sponsors. The amendments will revise application forms and instructions to be consistent with the Texas Arts Plan as amended September, 1993

Connie Ree Green, director of Finance and Administrative, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections

Ms. Green also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be that the Commission will be able to utilize federal and state financial assistance funds in a more effective manner, thereby allowing more Texas organizations, communities, and citizens to participate in agency programs. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Ricardo Hernandez, Assistant Director, P.O. Box 13406, Austin, Texas 78711-3406.

The amendments are proposed under the Government Code, §444.009, which provides the Texas Commission on the Arts with the

authority to make rules and regulations for its government and that of its officers and committees.

*§37.23. Application Form and Instructions for Arts In Education [Artist-in-Education] Program-Sponsors* The commission adopts by reference the application form and instructions for the Arts In Education [Artist-in-Education] Program-Sponsors as outlined in the Texas Arts Plan as amended September, 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, [Capitol Station.] Austin, Texas 78711.

*§37.24. Application Form and Instructions for the Texas Touring Arts Program-Performing Arts* The commission adopts by reference the application form and instructions for the Texas Touring Arts Program-Performing Arts as outlined in the Texas Arts Plan as amended September, 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, [Capitol Station.] Austin, Texas 78711.

*§37.26. Application Form and Instructions from the Texas Touring Arts Program-Sponsors.* The commission adopts [proposes to adopt] by reference the application form and instructions for the Texas Touring Arts Program-Sponsors as outlined in the Texas Arts Plan as amended September, 1993. This document is published by and available from the Texas Commission on the Arts, P.O. Box 13406, [Capitol Station.] Austin, Texas 78711.

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 September 15, 1993

TRD-9328997      Connie Ree Green  
Director of Finance and  
Administration  
Texas Commission on the  
Arts

Earliest possible date of adoption: October 25, 1993

For further information, please call (512) 463-5535

# TITLE 16. ECONOMIC REGULATION

## Part II. Public Utility Commission of Texas

### Chapter 23. Substantive Rules

#### • 16 TAC §23.11

The Public Utility Commission of Texas proposes an amendment to §23.11, concerning General Reports. This proposal is formulated subsequent to the publication of questions and receipt of comments concerning revisions to general reporting requirements. The amendment provides for setting deadlines for annual filings, eliminating duplicative filing requirements and clarifying some filing requirements.

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

Mr. Dhingra also has determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of enforcing the section will be streamlined reporting requirements by the utilities and public access to useful information. There will be no effect on small businesses as a result of enforcing the section. There is no additional anticipated economic cost to persons who are required to comply with the section as proposed.

Mr. Dhingra has also determined that for each of the first five years the section is in effect, there will be no effect on employment in the geographical areas affected by implementing the requirements of this section.

Comments on the proposed amendment (13 copies) may be submitted to John M. Rentrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication. Comments should refer to Project Number 11543.

This amendment is proposed under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and to enforce rules establishing general reporting requirements.

The following is the statutes that is affected by this rule: Texas Civil Statutes, Article 1446c, §16(a).

#### §23.11. General Reports.

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

(d) Due dates of reports. All periodic reports must be received by the commission on or before the following due dates unless otherwise specified in this section.

(1) monthly reports: 45 days after the end of the reported period;

(2) quarterly reports other than shareholder reports: 45 days after the end of the reported period;

(3) semi-annual and annual earnings reports: 100 days after the end of the reported period;

(4) shareholder annual reports: seven days from the date of mailing the same to shareholders;

(5) securities and Exchange Commission Filings: 15 days from the initial filing date with the Securities and Exchange Commission;

(6) special or additional reports: as may be prescribed by the commission; and

(7) annual reports required by subsections (f)-(h) of this section shall be due June 1 of each year and shall reflect the transactions for the most recent calendar year.

(e) (No change.)

(f) Relationships with affiliates. Copies of contracts or arrangements between any public utility and any affiliated interest shall be filed with the commission on request. If such contract or arrangement is not in writing, it shall be reduced to writing. The requirements of this subsection are not satisfied by the filing of an earnings report. The following information shall be reported annually:

(1) a narrative which details the names of each affiliated interest as defined in §23.3 of this title (relating to Definitions), and an organizational chart showing the relationship of each affiliated interest to the utility [all ownership and management relationships between companies or between companies and individuals]; and

(2) the contract amount for each cash and non-cash transaction with each affiliated interest [all transactions with affiliate] including, but not limited to, payments for costs of any goods and services, or any property, right, or thing, or for interest expense. These transactions shall be categorized by affiliated interest and by nature of the transaction. A brief description of each good and service shall be provided by affiliated interest.

(g) Payments and other compensation. An annual report shall be submitted to the commission which shows the payee and the amount of each transaction for [showing all] payments of compensation or a series of payments of compensation to a single party totaling more than \$600 (other than salary or wages subject to the withholding of federal income tax) [to residents of Texas, and all payments] for legal, and administrative[, or legislative] matters in Texas [or for representation before the

Texas Legislature or any governmental agency or body].

(h) Other expenditures. An annual report shall be filed with the commission providing the total for each of the following classes of expenditures and detailing each expenditure or a series of expenditures made for a single party exceeding \$250 [\$50]:

(1) business gifts and entertainment;

(2) institutional, consumption-inducing, and other advertising expenses;

(3) public relations expenses;

(4) legislative advocacy, legislative matters in Texas or representation before the Texas Legislature or any governmental agency or body;

(5) charitable, civic, religious, and political contributions and donations;

(6) all dues or membership fees paid; and

(7) other expenses as deemed appropriate by the commission.

(i)-(p) (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 September 15, 1993.

TRD-9328957

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

Earliest possible date of adoption: October 25, 1993

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

### Customer Service and Protection

#### • 16 TAC §23.55

The Public Utility Commission of Texas proposes an amendment to §23.55, concerning Live Operator Service. The purpose of the amendment is to reflect changes in state law, enacted by Senate Bill 162 (73rd Texas Legislature, regular session.)

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

Ms. Gonzalez also has determined that for each year of the first five years the proposed section is in effect, the public benefit anticipated as a result of enforcing the section will be to allow personalized service, thereby meeting public inquiries conveniently and effi-

ciently. Additionally, there will be no effect on small businesses as a result of enforcing the section. There is no anticipated economic cost to persons required to comply with the amendment as proposed.

Ms. Gonzalez also has determined that for each of the first five years the section is in effect, there will be no impact on employment in the geographical areas affected by implementing the requirements of this section.

Written comments (14 copies) on the proposal may be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days after publication in the *Texas Register*. Comments should refer to Project Number 12195.

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

The following is the statutes that is affected by this rule: Texas Civil Statutes, Article 1446c, §18A(h) and (i).

#### §23.55. Operator Services.

(a)-(i) (No change.)

(j) Access to a live operator.

(1) Each telecommunications utility that provides operator services shall ensure that a caller may access a live operator at the beginning of all mechanized operator assisted calls through a method designed to be easily and clearly understandable and accessible to the caller. By January 1, 1994, or within 30 days of initially providing operator services, whichever date comes later, each such telecommunications utility shall file in the Central Records Office of the Commission, for review, a document describing the method by which the utility is providing access to a live operator, as provided by Senate Bill 162 (73rd Legislature).

(2) This subsection applies regardless of the method by which the telecommunications utility provides the operator service.

(3) The requirements of this subsection shall not apply to telephones located in confinement facilities.

(k)[(j)] Local exchange carrier requirements.

(1)-(3) (No change.)

(l)[(k)] Call splashing. Call splashing shall not be allowed unless a waiver of the access requirements in subsection (i)(1)(A) of this section has been granted pursuant to subsection (i)(3) of this section and unless:

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

(m)[(l)] Other requirements.

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

(n)[(m)] Enforcement. The commission may investigate any complaint against any OSP, interexchange carrier, or local exchange carrier alleged to have violated the provisions of this section. The company shall be given an opportunity to informally resolve any complaint involving violation of these rules. If no resolution is achieved informally, the commission may upon its own motion or upon request of the original complaint formally investigate the complaint, and, upon proper notice, evidentiary hearing, and determination that a violation has occurred or is about to occur, may take action to stop, correct, or prevent the violation.

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

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

Issued in Austin, Texas, on September 15, 1993.

TRD-9328956

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

Earliest possible date of adoption. October 25, 1993

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

◆ ◆ ◆  
**TITLE 19. EDUCATION**  
**Part II. Texas Education Agency**  
**Chapter 33. Investment Program of the Permanent School Fund**

• **19 TAC §33.105**

The Texas Education Agency (TEA) proposes an amendment to §33.105, concerning the investment program of the Permanent School Fund. The rule is being amended to comply with recent changes in Internal Revenue Service (IRS) regulations that eliminated provisions restricting the use of the Available School Fund for repaying the Permanent School Fund for a defaulted guaranteed school bond.

Kevin O'Hanlon, chief counsel, has determined that for the first five-year period the rule is in effect there will be fiscal implications

as a result of enforcing or administering the rule. The effect on state government will be an estimated reduction in cost of \$4,200 for each of fiscal years (FY) 1994-1998.

The effect on local government will be an estimated reduction in cost to school districts of \$560,000 for each of FYs 1994-1998.

Mr. O'Hanlon and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that the bond guarantee program will be available to all school districts and students in all districts with a bond rating below the AAA category.

The cost of complying with the rule for small businesses cannot be accurately determined at this time; however, the savings to school districts could result in lower tax rates for taxpayers in the districts. There will be no difference in the cost of complying with the rule for small businesses compared with the largest businesses affected by the rule.

There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §20.913, which authorizes the State Board of Education to adopt rules necessary to administer the bond guarantee program.

#### §33.105. Guarantee Program for School District Bonds.

(a)-(f) (No change.)

(g) For bonds issued before August 15, 1993, a [A] school district seeking the guarantee of eligible bonds shall certify that on the date of issuance of any bond that no funds received by the district from the available school fund are reasonably expected to be used either directly or indirectly for the payment of the principal or interest on, or the tender or retirement price of, any bond of such political subdivision or to fund a reserve or replacement fund for any such bond.

(h) For bonds guaranteed before December 1, 1993, if [If] a school district is unable to pay the maturing or matured principal or interest on a guaranteed bond, the commissioner shall cause the amount necessary to pay such principal or interest to be transferred to the district's paying agent solely from the permanent school fund and not from the available school

fund, and shall direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, excluding payments from the available school fund.

(i) For bonds issued after August 15, 1993, and guaranteed on or after December 1, 1993, if a school district is unable to pay the maturing or matured principal or interest on a guaranteed bond, the commissioner shall cause the amount necessary to pay such principal or interest to be transferred to the district's paying agent from the permanent school fund, and shall direct the comptroller of public accounts to withhold the amount paid, plus interest, from the first state money payable to the district, regardless of source, including the available school fund.

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

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## Chapter 61. School Districts

### Subchapter C. Pupil Relationship

#### • 19 TAC §61.43

The Texas Education Agency (TEA) proposes an amendment to §61.43, concerning absences. The 73rd Texas Legislature changed the number of days a student must be in attendance to receive course credit from 80 days per semester to 90% of the days the class is offered. The amendment to §61.43 implements this and other statutory changes by deleting obsolete language, changing the basis for aggregating absences in different grades, and adding homelessness as an extenuating circumstance for absences.

Jay Cummings, executive deputy commissioner for education of special populations and adults, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. There will be no effect on state government.

The effect on local government will be that school districts will incur some costs in staff time when revising policies and operating procedures for absences; however, the costs cannot be accurately determined at this time.

Mr. Cummings and Criss Cloudt, associate commissioner for policy planning and evalua-

tion, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that homeless students will be given opportunities to make up missed school work and regain lost credit. The rule will also help reduce student retention by encouraging students to stay in school. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.041, which authorizes the State Board of Education to promulgate rules regarding absences.

#### §61.43. Absences.

(a) For purposes of reviewing student absences, extenuating circumstances include [, but are not limited to,] the following:

(1) an excused absence as defined in the Texas Education Code, §21.035, relating to violations of attendance requirements;

(2) days of suspension for which a student has [students have] satisfactorily completed assignments for the suspension [suspensions] period as provided in the Texas Education Code, §21.301(h);

(3) participation in a court proceeding or a child abuse or neglect [abuse/neglect] investigation in accordance with §129.22 of this title (relating to Court-Related Students);

(4) the late enrollment or [and/or] early withdrawal of a migratory student as defined in the [by] Code of Federal Regulations, §201.3;

(5) days missed by a runaway as defined by the Texas Family Code, §51.03, **Delinquent Conduct and Conduct Indicating a Need for Supervision** [relating to delinquent conduct; conduct indicating a need for supervision];

(6) completion of a competency-based education program for students identified as in at-risk situations in §75.195 of this title (relating to Alternatives to Social Promotion) or [and] dropouts;

(7) the late enrollment or early withdrawal of a student placed in [or having resided in] a community care home by the Texas Youth Commission (TYC);

(8) the absences of a teen parent due to caring for his or her [his/her] child; [and]

(9) participation in a substance abuse rehabilitation program; and [.]

(10) days missed by homeless children. For purposes of this section, "homeless person" is defined in 42 United States Code §11302.

(b) Each school district shall adopt policies establishing alternative ways for students to make up work missed or regain credit lost due to [because of] absences for extenuating circumstances. Alternatives may [Alternative ways for students to make up work missed or regain credit] include tutorials, evening school, Saturday classes, correspondence courses, independent study projects, computer assisted instruction, student contracts, and summer school.

(c) Each school district may adopt policies establishing alternative ways for students to make up work missed or regain credit lost due to unexcused absences. A district shall file a copy of the policies with the commissioner of education upon approval of the policies by the district board of trustees. A district may impose a grade adjustment on the work made up by a student for an unexcused absence. [Districts adopting such policies shall file a copy of the policies with the commissioner of education upon approval of the policies by the district board of trustees.]

(d) Provisions under subsection (c) of this section do not permit [or allow] credit for work missed due to student absences for participation in extracurricular activities in excess of the number of absences [those] permitted in §75.411(a) and (b) of this title (relating to Student Absences for Extracurricular or Other Activities).

(e) Absences in excess of those permitted under §75.411 of this title may not be considered extenuating circumstances.

(f)[(e)] For students in kindergarten-Grade 8, [grades K-eight,] absences may be aggregated on the basis of a scholastic [160 days per] year. For students in Grades 9-12, absences may be aggregated on the basis of a semester or a scholastic year.

[(f)] Absences in excess of those permitted under §75.411 of this title (relating to Student Absences for Extracurricular or Other Activities) may not be considered as extenuating circumstances.]

(g) For a student [students] identified as handicapped in §89.211 of this title (relating to Eligibility Criteria) [as handicapped students], the admission, review, and dismissal (ARD) committee shall deter-



mine whether absences due to the handicapping condition are [as] extenuating circumstances. The ARD committee shall determine what [any] modifications to his or her makeup work are necessary for a [regarding work to be made up by the handicapped] student with a handicap [in order] to regain class credit lost due to the absences.

(h) The attendance committee shall hear each case in which [all cases where] a student's attendance falls below 90% of the days the class is offered [80 days] and a petition by the student or the student's parent or [,] legal guardian [, or other person having lawful control pursuant to an order of a court] has been filed [and may review other cases at local option]. The hearing may be a review of student attendance records and other appropriate documents; an oral presentation before the committee with the student, his or her parent, or other appropriate representatives such as a case worker or substance abuse counselor; or another process established in policy by the district. The committee may review other cases at local option.

(i) If a student has an absence [that] the district recognizes as an extenuating circumstance and [if] the student satisfactorily makes up missed work, the student shall be considered in attendance for purposes [purpose] of computing compulsory attendance under the Texas Education Code, §21.032, and for driver's license eligibility under Texas Civil Statutes, Article [Articles] 6687b.

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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## Subchapter G. School Facilities School Facilities Standards

### • 19 TAC §§61.101-61.104

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

The Texas Education Agency (TEA) proposes the repeal of §§61.101-61.104, concerning school facilities standards. The

repeals are necessary to reorganize the rules by moving them from an undesignated head to a new Subchapter H.

Thomas Anderson, Jr., executive deputy commissioner for school support services, 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. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 a clearer organization of the rules concerning school facilities standards. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The repeals are proposed under the Texas Education Code, §16.402, which authorizes the State Board of Education to establish standards for adequacy of school facilities.

#### §61.101. Applicability.

#### §61.102. Space, Minimum Square Foot Requirements.

#### §61.103. Educational Adequacy.

#### §61.104. Construction Quality.

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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## Subchapter H. School Facilities Standards

### • 19 TAC §§61.101-61.104

The Texas Education Agency (TEA) proposes new §§61.101-61.104, concerning school facilities standards. Legislation passed during the 72nd Texas Legislature directed the State Board of Education to establish

standards for space, educational adequacy, and construction quality. Rules concerning size and construction quality were adopted to be effective August 6, 1992, with the understanding that modifications would be necessary after further study regarding educational adequacy. Working with the School Facilities Advisory Committee and members of the design and construction community, TEA has developed standards to be used by school districts for designing and constructing new facilities.

Thomas Anderson, Jr., executive deputy commissioner for school support services, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the repeals. There will be no effect on state government.

The effect on local government will be that certain components of the planning process, such as the demographic study, the survey of existing facilities, and the environmental study may result in additional expense to the school district if school district personnel are not qualified to perform these tasks. The costs cannot be accurately determined at this time.

Mr. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 consistent methodology for school facility planning that will raise the overall quality of planning, design, and construction of school facilities statewide. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed rules submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The new rules are proposed under the Texas Education Code, §16.402, which authorizes the State Board of Education to establish standards for adequacy of school facilities.

#### §61.101. Applicability.

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

(1) Design requirements—The physical characteristics of a school facility, including the following: the scope of the proposed facility project; site requirements; space requirements and their associated architectural relationships; circulation flow; net and gross floor area; structural systems;

energy requirements; mechanical, electrical, and plumbing systems; acoustical considerations; exterior and interior finishes; security and equipment needs; furniture and fixture requirements; operation and maintenance costs; and preliminary budget estimates.

(2) Demographic study—A survey of a school district's current enrollment data and enrollment projections by campus and grade, plus an analysis of the district population including size, density, distribution, and enrollment trends.

(3) Educational program—A written document that includes the following information:

(A) a summary of the school district's educational philosophy, mission, and goals;

(B) a description of the general nature of the district's instructional program in accordance with Chapter 75 of this title (relating to Curriculum); and

(C) a description of the grade level organization.

(4) Environmental concerns—A list produced by the school district superintendent of existing and proposed district facilities identifying conditions that may affect the health and safety of the occupants.

(A) The list shall summarize the following environmental conditions as known to the district:

(i) the presence of asbestos, radon gas, surface or subsurface hazardous materials, lead in the drinking water supply, and lead based paint;

(ii) indoor air quality;

(iii) direct or indirect sources of water pollution; and

(iv) site drainage.

(B) For a facility site proposed for acquisition, the following information shall also be included:

(i) site usage currently and for the past ten years;

(ii) geological history data;

(iii) existing and proposed zoning ordinances or other legal restrictions concerning the use of the proposed site; and

(iv) the short and long term effects of the proposed facility on the environment, and the associated health and safety effects on the occupants of the pro-

posed school facility and surrounding area within a two-mile radius of the school site.

(5) Final design documents—These documents shall include all of the following:

(A) evaluation of the district's long-range school facility study and educational specifications described in §61.103 of this title (relating to Educational Adequacy);

(B) the development of alternate approaches to design and construction (as applicable);

(C) preparation of drawings illustrating scale, size, and relationship of project components; and

(D) a preliminary estimate of construction cost based on current area, volume, or other unit costs.

(6) Instructional space—General classrooms, specialized classrooms, and major support areas.

(7) Library—Library will include the following minimum requirements:

(A) reading room;

(B) stack area; and

(C) necessary service areas.

(8) Long-range school facility planning committee—A committee appointed by a school district board of trustees, whose purpose is to develop the long-range school facility study. The committee should include members of the local board of trustees, administration, professional staff, parents, and the community.

(9) Major space renovations—At least 50% of the gross area of the facility's instructional space is within the limits of the work. The provisions of this subchapter shall apply to projects involving major space renovations. Other renovations associated with repair or replacement of architectural interior or exterior finishes; fixtures; equipment; and electrical, plumbing, and mechanical systems are not subject to the requirements of §61.102 of this title (relating to Space, Minimum Square Foot Requirements) and §61.103 of this title, but shall comply with applicable building codes as required by §61.104 of this title (relating to Construction Quality).

(10) Scope—A description of a proposed school facility expressing the range of issues and alternatives to be addressed, including the following informa-

tion: the type of facility (i.e., elementary, secondary, etc.); number of students; a list of any specialized classrooms or major support areas (e.g., library, gymnasium, science labs, etc.), non-institutional support spaces (e.g., custodial, food service, maintenance, mechanical areas, etc.), or external activity spaces (e.g., hard surfaces, parking areas, etc.); estimated size; estimated budget; school administrative organization; and hours of operation, public access, or use.

(11) Square feet per pupil—The net interior space of a room divided by the maximum number of pupils to be housed in that room during a single class period.

(12) Square feet per room measurements—The net square footage of a room that will house 22 students at the elementary level and 25 students at the middle or high school level. The net square footage of a room includes exposed storage space, such as cabinets or shelving, but does not include hallway space or storage space, such as closets or preparation offices.

(b) Documents required by effective date. The requirements in this section, §61.102 of this title, and §61.104 of this title shall apply to projects for new construction or major space renovations for which final design documents are approved by a school district board of trustees after December 31, 1993.

(c) All other requirements applicable. School districts shall satisfy all provisions of this subchapter.

(d) Certification of educational adequacy.

(1) The school district shall execute and keep on file certification that it has considered the recommendations of:

(A) the district-level, site-based decision making committee regarding the assessment of existing and planned campus facilities, and the long-range planning process; and

(B) the campus, site-based decision making committee regarding the assessment of existing and planned campus facilities.

(2) The school district shall certify that it has prepared:

(A) a long-range facility study; and

(B) educational specifications for each proposed school facility.

(3) The school district shall certify compliance with the provisions of:

(A) this subchapter;

(B) Chapter 75 of this title (relating to Curriculum); and

(C) the Texas Education Code, §§14.047, 14.063, and 14.065, concerning technology.

(e) Certification of design and construction.

(1) In this section, the word "certify" indicates that the architect or engineer has reviewed the standards and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the construction documents. The architect or engineer also certifies that these documents conform with the provisions of this subchapter, except as indicated on the certification.

(2) The school district shall notify and obligate the architect or engineer to provide the required certification. The architect's or engineer's signature and seal on the construction documents shall certify compliance.

(3) To ensure that facilities have been designed and constructed according to the provisions of this subchapter, each of the involved parties shall execute responsibilities as follows.

(A) The school district shall provide the architect or engineer the long-range school facility study and educational specifications approved by the board of trustees as required by this subchapter, building code specifications, and educational objectives for the facility.

(B) The architect or engineer shall perform a building code search under applicable regulations that may influence the project, and shall certify that the design has been researched before it is final.

(C) The architect or engineer shall also certify that the facility has been designed according to the provisions of this subchapter, based on the long-range school facility study, educational specifications, building code specifications, and all documented changes to the construction documents provided by the district.

(D) The building contractor or construction manager shall certify that the facility has been constructed according to the construction documents specified in subparagraph (C) of this paragraph.

(E) When construction is completed, the school district shall certify that the facility conforms with the design requirements specified in subparagraph (A) of this paragraph.

*§61.102. Space, Minimum Square Foot Requirements.*

(a) A school district shall provide instructional space as specified in subsection (b) of this section if required by the district educational specifications described in §61.103 of this title (relating to Educational Adequacy).

(b) For each type of instructional space, a district may satisfy the requirements of this section by using, as appropriate, either the standard for the minimum square feet per pupil or for square feet per room specified in paragraphs (1)-(3) of this subsection. Room size requirements are based on rooms that will house 22 students at the elementary level and 25 students at the middle or high school level.

(1) General classrooms.

(A) Classrooms for prekindergarten through first grade shall have a minimum of 36 square feet per pupil or 800 square feet per room.

(B) Classrooms at the elementary school level shall have a minimum of 30 square feet per pupil or 700 square feet per room.

(C) Classrooms at the secondary school level shall have a minimum of 28 square feet per pupil or 700 square feet per room.

(2) Specialized classrooms.

(A) Computer laboratories shall have a minimum of 41 square feet per pupil or 900 square feet per room at the elementary school level; and 36 square feet per pupil or 900 square feet per room at the secondary school level.

(B) Science lecture/lab shall have a minimum of 41 square feet per pupil or 900 square feet per room at the elementary school level; 50 square feet per pupil or 1,000 square feet per room at the middle school level; and 50 square feet per pupil or 1,200 square feet per room at the high school level.

(3) Major support areas.

(A) Primary gymnasiums or physical education space, if required by the district's educational program, shall have a minimum of 3,000 square feet at the ele-

mentary school level; 4,800 square feet at the middle school level; and 7,500 square feet at the high school level.

(B) Libraries shall have a minimum of 3.0 square feet times the planned student capacity of the school. The minimum size of any elementary school library shall be 1,400 square feet. The minimum size of any middle school library shall be 2,100 square feet. The minimum size of any high school library shall be 2,800 square feet.

*§61.103. Educational Adequacy.*

(a) General provisions. A school district shall certify that a proposed major space renovation or new school facility satisfies the conditions of educational adequacy. A school district meets the conditions of educational adequacy if the following requirements are satisfied.

(1) The school district shall consider the following:

(A) the district philosophy, mission, policies, goals, objectives, strategies, and action programs involving the district professional staff and district-level, site-based decision making policy and procedures established under the Texas Education Code (TEC), §21.930 and §21.931;

(B) recommendations made by the district site-based decision making committee regarding the assessment of existing and planned campus facilities and the long-range school facility planning process; and

(C) recommendations made by the campus site-based decision making committee established under the TEC, §21.931, regarding the assessment of existing and planned campus facilities.

(2) A school district shall prepare the following:

(A) a long-range school facility study, as specified in subsection (b) of this section; and

(B) educational specifications for the proposed school facility, as specified in subsection (c) of this section.

(3) A school district shall certify compliance with the provisions of this subchapter; Chapter 75 of this title (relating to Curriculum); and the TEC, §§14.047, 14.063, and 14.065, concerning technology.

(b) Long-range school facility study. This study is prepared by a school district and documents in writing the long-

range school facility planning process, relating past and present actions of the district to those planned for the future. The methodology of this planning process is intended to ensure that all public school facilities meet the needs of the educational program. The long-range school facility study shall include the following information:

(1) descriptions of the following:

(A) the long-range school facility planning process approved by the board of trustees;

(B) the roles and responsibilities of the long-range school facility planning committee;

(C) the local district's current educational program;

(D) a demographic study of the school district student population;

(E) site requirements based on an analysis of the demographic study; and

(F) site acquisition procedures;

(2) a survey that assesses the condition of existing district facilities by evaluating the following:

(A) the district's educational program and all provisions of this subchapter;

(B) operation and maintenance costs;

(C) critical issues and alternatives (including technology alternatives) for achieving the school district's educational goals;

(D) the feasibility of alternatives, identifying the preferred alternatives; and

(E) the environmental concerns of the existing facilities;

(3) an assessment of the school district's financial resources that includes the following:

(A) a budget comparison of the alternatives for achieving the school district's goals;

(B) the time schedule as may be required for proposed school facility projects, including planning, programming, design, funding, bidding, construction, and occupancy; and

(C) the capital outlay plan to complete the entire project; and

(4) an outline of procedures for reviewing the long-range school facility plan on an annual basis and upgrading campus plans in alternate (odd) years.

(c) Educational specifications. The educational specifications are intended to ensure the educational adequacy of the proposed public school facility. This document shall include the following information:

(1) a summary of the long-range school facility study adopted by the board of trustees, including a description of the educational program; and

(2) descriptions of the following:

(A) the scope of the proposed project; and

(B) the architectural requirements of the proposed school facility.

(d) Documents required by effective date. The requirements in this section shall apply to projects for new construction or major space renovations for which educational specifications or final design documents are approved by a school district board of trustees after September 1, 1994.

#### *§61.104. Construction Quality.*

(a) Districts with existing building codes. A school district located in an area that has adopted local building codes shall comply with those codes (including fire and mechanical, electrical, and plumbing codes). The school district is not required to seek additional plan review of school facilities projects other than what is required by the local building authority.

(b) Districts without existing building codes. A school district located in an area that has not adopted local building codes shall adopt and use the latest edition of either the Uniform Building Code or Standard (Southern) Building Code (and related mechanical and plumbing codes); the National Fire Protection Association Life Safety Code, NFPA 101, 1991 edition; and the National Electric Code. A qualified, independent third party, not employed by the design architect or engineer, shall review the plans and specifications for compliance with the requirements of the adopted building code. The plan review shall examine compliance conditions for emergency

egress, fire protection, structural integrity, life safety, plumbing, and mechanical and electrical design. The review shall be conducted before bidding and must be conducted by a certified building code consultant, architect, or engineer. Associated fees shall be the responsibility of the school district. The reviewer shall prepare a summary list of any conditions not in conformance with the provisions of the adopted building code and is required to send a copy to the school district, design architect, or engineer. The design architect or engineer shall revise the plans and specifications after interpretation review of the plan review and certify code compliance to the district. Any disputes shall be a matter for contract resolution.

(c) Other Provisions. School districts shall comply with the provisions of the Americans with Disabilities Act of 1990 (Title I and Title II) and other local, state, and federal requirements as applicable.

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

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## Chapter 75. Curriculum

### Subchapter H. Promotion and Alternatives to Social Promotion

#### • 19 TAC §75.195

The Texas Education Agency (TEA) proposes an amendment to §75.195, concerning alternatives to social promotion. The amendment implements statutory changes made by the 73rd Texas Legislature by adding pregnancy or parenthood as state criteria for students in at-risk situations.

Jay Cummings, executive deputy commissioner for education of special populations and adults, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. There will be no effect on state government.

The effect on local government will be that school districts not currently providing services for pregnant students will be required to implement appropriate programs and services; however the costs cannot be accurately determined at this time. There are no increases in anticipated costs for school districts already providing services related to pregnancy.

Mr. Cummings and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that, as a result of receiving needed programs and services, pregnant students and students who are parents will be less likely to drop out of school. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §21.557, which authorizes the State Board of Education to promulgate rules concerning students in at-risk situations and remedial instruction.

#### §75.195. Alternatives to Social Promotion.

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

(d) The purpose of identifying students as at-risk is to signal school districts that specialized programs and services are to be provided to students in order to promote their academic success and prevent school failure. Children in early childhood education programs who are identified as at risk by statute benefit from developmentally appropriate programs. Students in prekindergarten through grade level six who meet one or more of the following conditions shall be identified as at risk:

(1)-(3) (No change.)

(4) is sexually, physically, or psychologically abused based on an investigation and confirmation of abuse by the Texas Department of Human Services staff. Confirmation to the person alleging the abuse is required according to Child Protective Services, Policies and Procedures, Rule 2374, "Notification About Results"; [or]

(5) engages in conduct described by the Texas Family Code, §51.03(a); or [.]

(6) a student who is pregnant or is a parent.

(e) Students in Grades 7-12 who are below the age of 21 years and who meet one or more of the following conditions shall be identified as at risk:

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

(5) in addition to criteria outlined in this subsection, the district may consider the environmental, familial, eco-

omic, social, developmental, and other psycho-social factors in determining services where such factor contributes to the student's inability to progress academically; or [.]

(6) a student who is pregnant or is a parent.

(f)-(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.

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Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

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

## Chapter 89. Adaptions for Special Populations

### Subchapter B. Remedial and Compensatory Instruction

#### • 19 TAC §89.43

The Texas Education Agency (TEA) proposes new §89.43, concerning the investment capital fund. The rule implements legislation passed by the 73rd Texas Legislature that establishes the fund, directs the Central Education Agency to administer it, and authorizes the commissioner of education to make grants from the fund to eligible schools.

Jay Cummings, executive deputy commissioner for education of special populations and adults, 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. Cummings and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that students will benefit from opportunities to implement deregulation and school restructuring procedures to improve student achievement and increase parental and community involvement in the schools. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed rule submitted under the Administrative Procedure and Texas Register Act must be received by

the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The new rule is proposed under the Texas Education Code, §11.2092, which authorizes the Central Education Agency to administer the investment capital fund and the commissioner of education to make grants from the fund to eligible schools that apply under rules adopted by the State Board of Education.

#### §89.43. Investment Capital Fund.

(a) The commissioner of education may make grants from the investment capital fund to eligible schools under the provisions of the Texas Education Code, §11.2092.

(b) Priority shall be given to school campuses that are low-performing or have high percentages of students who are from low-income families.

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

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## Chapter 101. Assessment.

#### • 19 TAC §§101.1-101.6

The Texas Education Agency (TEA) proposes amendments to §§101.1-101.6, concerning assessment. The amendments implement recent statutory changes in the student assessment program and address issues regarding alternative assessments, end-of-course examinations, the testing calendar, eligible examinees, and access to assessment instruments.

Marvin Veselka, associate commissioner for curriculum and assessment, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. When the current statewide norm-referenced test (the Norm-referenced Assessment Program for Texas) is replaced with criterion-referenced testing in mathematics and reading in Grades 3-8, a potential savings to the state of approximately \$500,000 will be realized for each of fiscal years 1994 and 1995. There will be no effect on local government.

Mr. Veselka and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 efficiency of the assessment system will be increased because students will be able to satisfy their exit level assessment requirements in multiple ways. Also, annual growth in campus performance for school accountability will be demonstrated through an assessment system based on the Texas essential elements. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendments submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, Chapter 35, Subchapter B, which authorizes the State Board of Education to create and implement a statewide assessment program that is primarily performance-based.

#### *§101.1. General Provisions.*

(a) The State Board of Education (SBOE) shall adopt a [an interim] plan for assessment [that will remain in effect until the requirements of the Texas Education Code, §21.5512, regarding the development of a statewide assessment program] that is primarily performance-based and complies with the requirements of the Texas Education Code (TEC), Chapter 35, Subchapter B. [are fully implemented. This interim plan will serve as a transition between the assessment plan required under the Texas Education Code, §21.551, and the plan to be developed under the Texas Education Code, §21.5512.]

(b) For the grades and subjects for which they are available, Spanish-version criterion-referenced assessment instruments may [in reading, writing, and mathematics will continue to] be administered to appropriate [Grade 3] students [in the fall of each school year until other measures have been developed for determining language proficiency and/or skills in Spanish at the elementary school level].

(c) For each criterion-referenced assessment instrument developed under the TEC [Texas Education Code], Chapter 35 [21], Subchapter B [O], the SBOE [State Board of Education] shall approve the essential elements on [upon] which the [assessment] instruments are based, adopt the objectives to be assessed, and establish the standards for [satisfactory] performance, [and approve the assessment instruments] based on the recommendations of the commissioner of education. Correlations between the essential elements and the objectives to be assessed shall be

documented in appropriate informational materials.

(d) The commissioner of education shall [may] specify [other] testing periods as needed to administer [for the administration of] assessment instruments according to [in compliance with] the TEC [Texas Education Code], Chapter 35 [21], Subchapter B [O]. When notified of the testing schedule at least 12 months before its implementation, all districts shall comply with the specified testing dates.

(e) Each school district shall administer assessment instruments to its students according to [in accordance with] procedures established by the commissioner of education and specified [procedures set forth] in the applicable test administration materials. Each school district also [, and] shall assist with field tests and other activities necessary to implement the requirements of the TEC [Texas Education Code], Chapter 35 [21], Subchapter B [O].

(f) End-of-course tests shall be used for institutional accountability; however, a school district may adopt policies regarding the use of an end-of-course test for purposes such as awarding course credit, using the examination as a final examination or other test, or placing out of the particular course.

(g)[(f)] The superintendent or chief administrative officer in each school district shall be responsible for coordinating all local assessment activities, including:

(1) scheduling testing times on all affected campuses according to [in accordance with] the testing calendar developed [periods designated] by the commissioner of education;

(2) ensuring that security is maintained as specified in the appropriate test administration materials; and

[(2) administering the assessment instruments to the appropriate students;]

[(3) ensuring the maintenance of security; and]

(3)[(4)] ensuring that all assessment instruments are administered to all eligible students according to [in accordance with] procedures established by the commissioner of education.

#### *§101.2. Exit Level Requirements.*

(a) The superintendent or chief administrative officer in each school district shall be responsible for:

(1) informing 8th [eighth] grade students expected to take the exit level assessment instrument and their parents or guardians, as well as 8th-12th grade students new to the district and their parents or

guardians, of the instructional objectives [outcomes] to be measured on the exit level assessment instrument;

(2) notifying current students eligible to take the exit level assessment instrument and their parents or guardians of the dates, times, and locations of the test sites [places that the instrument will be administered.] and emphasizing the importance of testing on the scheduled dates; and

(3) publicizing within the community served by the district the dates, times, and locations of the test sites [on which the exit level assessment instrument will be administered, the precise location and time when testing will take place.] and what actions a former pupil interested in testing or retesting should take to assure access to the testing area and availability of testing materials.

(b) A student must meet the standards for performance [criteria for minimum expectations] established by the State Board of Education (SBOE) on the exit level examination of academic skills to be eligible to receive a high school diploma.

(c) To be eligible to receive a high school diploma, a student with a disability under the Individuals with Disabilities Education Act [handicapping condition] must meet the standards for performance [minimum expectations] on the sections [section(s)] of the exit level assessment instrument for which he or she is eligible [.] as specified in his or her individual educational plan by the special education admission, review, and dismissal [(ARD)] committee (ARD) .

(d) A student shall [will] not receive a diploma unless he or she has attained the established standards for performance [minimum expectations] on all sections of the exit level assessment instrument. A [Each] student who does not [fails to] demonstrate satisfactory performance on the exit level assessment instrument shall retake it during each fall and spring administration and may participate in the summer administration until the standards for performance are met [the assessment instrument each time it is administered until minimum expectations are demonstrated]. A former pupil [student] who has been denied a diploma because he or she failed [of failure] to meet the standards for performance [minimum expectations] on any sections [section] of the [this assessment] instrument may retake the sections [section(s)] each time the [assessment] instrument is administered.

(e) A foreign exchange student who has waived in writing his or her intention to receive a Texas public high school diploma may be excused from the exit level assessment requirement in the Texas Education Code (TEC), Chapter

35, Subchapter B. The term "foreign exchange student" is defined as a student who has an I-20 visa status.

(f) Other assessment instruments for the exit level test approved by the SBOE as appropriate alternative examinations may be substituted for the corresponding sections of the exit level assessment instrument required under the TEC, Chapter 35, Subchapter B.

(g) With the approval of the SBOE, satisfactory performance on certain end-of-course tests may be used to fulfill the corresponding exit level assessment requirements.

(h)[(e)] Although increasingly difficult standards and examinations may be established for the exit level assessment instrument, a student shall not [no individual will] be required to demonstrate subject-area performance at a standard higher than the one in effect when he or she [the student] was first eligible to take the [assessment] instrument.

(i)[(f)] Established requirements and procedures for testing out-of-school examinees shall [will] be specified [outlined] in the appropriate test administration materials.

#### *§101.3. Testing Appropriate Students.*

(a) Each student for whom an appropriate criterion-referenced assessment instrument has been developed shall participate in the administration of the instrument. A student shall be exempted from participation only upon [:] the formal determination of: [the student's admission, review, and dismissal committee, documented in the student's individual educational plan; or the formal determination of the student's language proficiency assessment committee, which shall also be documented. On the basis of limited English proficiency, a student may be exempted from administration of the criterion-referenced assessment instrument at one grade level only and shall thereafter participate in all administrations at subsequent grade levels. During the period of transition to the redesigned assessment plan, any student with limited English proficiency who is scheduled to participate in the assessment at the grade level following the one in which the student was exempted may receive one additional exemption at that grade if deemed necessary by the student's language proficiency assessment committee. The language proficiency assessment committee shall recommend appropriate alternative and formative assessment strategies for each student exempted from the required state assessment program. No student shall be exempted from an exit level examination based on limited English proficiency.]

(1) the student's special education admission, review, and dismissal committee (ARD), as documented in the student's individual educational plan; or

(2) the student's language proficiency assessment committee, as documented in the student's permanent record file.

(b) Based on limited English proficiency, a student may be exempted from administration of the criterion-referenced assessment instrument for no longer than three years and shall thereafter participate in all administrations at subsequent grade levels.

(c) The language proficiency assessment committee shall recommend appropriate alternative and formative assessment strategies for each limited English proficient student exempted from the required state assessment program.

(d) No student shall be exempted from an exit level examination based on limited English proficiency. However, a 10th grade student who is a recent immigrant with limited English proficiency may delay only one time the initial administration of the exit level assessment instrument until his or her 11th grade year. The term "recent immigrant" is defined as an immigrant entering the United States during the current or previous school year. Every summer, each school district shall provide an appropriate intensive language program for any student whose exit level administration was deferred until Grade 11.

(e) No student shall be exempted from a state-mandated end-of-course examination. Testing requirements shall be specified in the appropriate test administration instructions.

(f)[(b)] The appropriate test administration materials shall specify [set forth] any allowable modifications available to nonexempt students in the administration of criterion-referenced assessment instruments.

(g)[(c)] A student shall be eligible to participate in a norm-referenced assessment adopted under the Texas Education Code (TEC), Chapter 35, Subchapter B, if he or she meets the selection criteria used in the national standardization of the particular examination. Eligibility requirements [For the norm-referenced assessment program, students who meet the selection criteria used in the national standardization of the examinations in this program must participate in this program. The selection criteria must be provided to all school districts, and the districts must provide the selection criteria to parents and the public upon request. These selection criteria as well as exceptions, optional test-

ing.] and allowable and nonallowable modifications shall be specified [are explained] in the appropriate test administration materials. The language proficiency assessment committee may grant exemptions to students of limited English proficiency. The [language proficiency assessment] committee shall recommend appropriate alternative assessment strategies for each student exempted from the norm-referenced assessment program. The [language proficiency assessment] committee shall determine when the student has sufficient English proficiency to participate in the norm-referenced assessment program; however, it [the language proficiency assessment committee] may not exempt a student for longer than three years.

#### *§101.4. Security and Confidentiality.*

(a) Violation of the security or confidential integrity of any examination is prohibited. The term "examination" [An examination] is defined as any secure test or other assessment instrument required by state statute, rule, or regulation that is administered to assess [for the purpose of assessing] student academic achievement or performance and takes place on the dates specified on the testing calendar developed by the commissioner of education.

(b) Under [In accordance with] the Texas Education Code (TEC), §13.046, the commissioner of education may sanction a person who engages in conduct prohibited by this section.

(c) Procedures for maintaining the security and confidential integrity of all assessment instruments shall be specified in the appropriate test administration instructions. Conduct that violates the security or confidential integrity of an examination is defined as any [material] departure from either the requirements established by the commissioner of education for the administration of an examination [,] or from the procedures specified [set forth] in the applicable test administration materials. Conduct of this nature may include [, including,] but is not limited to the following acts and omissions:

(1) [unauthorized] viewing [of] secure examination materials;

(2) duplicating [wrongful duplication of any portion of] secure examination materials;

(3) disclosing [revealing] the contents of any portion of secure examination materials;

(4) providing, suggesting, or indicating to an [any] examinee a response or [the] answer to any secure examination item [question];

(5) changing or altering any response or answer of an examinee to a secure [an] examination item [question];

(6) aiding or assisting an examinee with a response or answer to any secure examination item;

(7)[(6) ] encouraging or assisting an individual [another] to engage in the conduct described in paragraphs (1)-(6) [(1)-(5)] of this subsection; or

(8)[(7)] failing [failure] to report to appropriate authority that an individual [another] has engaged in [the] conduct set forth in paragraphs (1)-(7) [(1)-(6)] of this subsection.

(d) The superintendent or chief administrative officer of each school district shall develop [ensure that] procedures [are in place that are designed] to ensure the security and confidentiality integrity of all assessment instruments and test items. The [It shall be the responsibility of the] superintendent or chief administrative officer shall be responsible for notifying [to notify] the Texas Education Agency (TEA) in writing of conduct that violates the security or confidentiality integrity of an examination.

(e) To acknowledge the achievement of [For the purpose of] academic recognition, a student's parent or guardian, or where appropriate, the student, may waive in writing the confidentiality requirements of the TEC [Texas Education Code], §30.030 [§21.556, may be waived in writing by a student's parent or guardian, or, where appropriate, by the student].

(f) The superintendent or chief administrative officer and chair of the school board of each school district may review all assessment instruments required under the TEC, Chapter 35, Subchapter B, immediately after their administration according to procedures established by the commissioner of education.

#### §101.5. Reporting of Results.

(a) Student performance data aggregated by campus and district, with appropriate interpretations, shall be reported to the school district board of trustees according to the schedule outlined in the appropriate test administration materials.

(b) A school district [School districts] shall notify each of its students [student] and his or her parent or guardian of assessment results according to the schedule outlined in the appropriate test administration materials, observing confidentiality requirements in the Texas Education Code (TEC), §30.030 [§21.556(b)].

(c) Assessment results shall be included in each student's academic achievement record and on the official transcript

and shall be furnished for each student transferring to another school district.

#### §101.6. Local District Achievement Testing.

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

[(1) Company or organization-Publishers of assessment instruments, regional education service centers, and other entities providing scoring services.

[(2) Assessment instrument-A group-administered achievement test.

[(3) Same form of an assessment instrument-The same test or test form, or two or more tests or test forms that yield equivalent or parallel scores and share 50% or more of the same items on each form. This term does not include ancillary materials that may accompany assessment instruments.]

(a)[(b)] Districts participating in optional, local norm-referenced testing under the Texas Education Code (TEC), §35.026 [§21.560], shall use the norm-referenced instrument approved by the State Board of Education (SBOE). [adhere to the rules as follows.]

[(1) Updated norms will be produced by the publisher every two school years for each assessment instrument covered by this section. The date of publication of the norms will determine when the next update is required. The date of publication may not exceed one year from the date of data collection. After establishing national standardization norms for a particular form, user norms may be employed for the biennial updates. Publishers producing the updated user norms must use sampling and psychometric procedures approved by the commissioner of education. These norms must be provided to scoring centers as soon as they are available to minimize delays in reporting. National standardization norms are not eligible for use in Texas more than seven years after the date of publication.]

(b) The norm-referenced assessment instrument approved by the SBOE shall be nationally recognized and meet accepted standards for educational testing.

(c) [(2)] To maintain the security of the contents of all assessment instruments, school districts shall follow procedures for test administration established by the commissioner of education. Violators of security provisions shall [will] be subject to penalties under [as stated in] §101.4(b) of this title (relating to Security and Confidentiality)

[(3) School districts may not purchase assessment instruments or services

from companies or organizations not in compliance with this section.]

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

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## Chapter 137. Professional Educator Preparation and Certification

### Subchapter A. Educator Preparation Accountability System

#### • 19 TAC §137.5

The (TEA) proposes an amendment to §137.5, concerning educator assessment. The amendment implements the Texas Education Code, §13.032(j), which requires the State Board of Education to establish procedures for assessing the braille reading and writing skills of individuals preparing to teach visually impaired students.

Linda Cimusz, administrator for curriculum, assessment, and professional development, has determined that for the first five-year period the rule is in effect there will be fiscal implications as a result of enforcing or administering the rule. The effect on state government will be an estimated additional cost of \$2,500 for each of fiscal years (FY) 1994-1998. There will be no effect on local government.

Ms. Cimusz and Criss Cloudt, associate commissioner for policy planning and evaluation, have determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be that teachers will be prepared to teach reading and writing in braille to students and to use braille regularly in the classroom. There will be no effect on small businesses.

The anticipated economic cost to persons who are required to comply with the rule as proposed will be \$2,500 for each of FYs 1994-1998. The cost is based on a \$50 fee for each of 50 persons TEA anticipates will take the test each year.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not



more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.032(i), which authorizes the State Board of Education to promulgate rules requiring satisfactory performance on an examination prescribed by the board that is designed to assess competency in braille reading and writing skills according to standards adopted by the board.

§137.5. *Educator Assessment.*

(a)-(j) (No change.)

(k) Beginning September 1, 1993, an individual seeking certification to teach visually impaired students must take a test of braille reading and writing skills. Beginning September 1, 1994, an individual seeking this certification must pass the test of braille reading and writing skills adopted by the SBOE by performing at or above the standard adopted by the SBOE.

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

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◆ ◆ ◆  
Chapter 149. Education  
Personnel Development

Subchapter A. Educational Personnel Development Program

The Texas Education Agency (TEA) proposes amendments to §§149.1, 149.2, 149.21, 149.22, and 149.41-149.46, and new §149.23, concerning education personnel development. The rules establish a professional development program for education personnel and guidelines for inservice education, appraisal of certified personnel, and the teacher career ladder. The amendments are needed to implement Senate Bill 7, 73rd Texas Legislature, which repeals various statutes that created the teacher career ladder and makes significant changes to the Texas Teacher Appraisal System (TTAS) and minor changes to administrator appraisal and management training.

Linda Cimusz, administrator for curriculum, assessment, and professional development, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. There will be no effect on state government.

The effect on local government will be an estimated reduction in cost to school districts of \$33.6 million in fiscal year (FY) 1993; \$36.7 million in FY 1994; \$39.4 million in FY 1995; \$42.4 million in FY 1996; and \$45.2 million in FY 1997.

Ms. Cimusz and Criss Cloudt, director of policy planning and evaluation, have determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be an emphasis on student learning as a measure for teacher appraisal. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendments and new rule submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

• 19 TAC §149.1, §149.2

The amendments are proposed under the Texas Education Code, §13.302, which authorizes the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers.

§149.1. *Purpose of Program.*

(a) Policy. To complement its professional educator preparation program, the Texas Education Agency (TEA) shall administer a statewide education personnel development program. The program shall involve public school districts, colleges and universities, education service centers (ESC), and the TEA. The program shall provide education personnel the opportunity to develop and maintain the potential for current educational processes by focusing on the following strategies. The program shall:

[(1)] The Texas Education Agency maintains a regular professional teacher preparation program and shall maintain a complementary statewide educational personnel development program to meet the particular personnel needs of the state. The program shall involve public school districts, colleges and universities, education service centers, and the Texas Education Agency. The program shall focus on the following basic strategies:]

(1)[(A)] direct training and retraining efforts toward pre-elementary, elementary, middle, and high school [and secondary] education personnel;

(2)[(B)] encourage variation among training projects across the state;

(3)[(C)] encourage and develop cooperative action plans among and within the state and local education agencies, colleges, and universities; and

(4)[(D)] promote imaginative, multiply-funded projects using local, state, and federal resources.

[(2)] Efforts shall concentrate on providing the opportunity for educational personnel to develop and maintain their potential for current educational processes.]

(b) Administrative procedure. [The Texas Education Agency administers and directs the statewide program.] The TEA maintains the Texas state plan for attracting and qualifying teachers to meet critical teacher shortages and the Texas statewide design for education [educational] personnel development [are maintained by the Texas Education Agency]. These two plans describe the regulations and operations of the statewide education [educational] personnel development program.

§149.2. Education [Educational] Aid for Teachers: Designation of Areas and Fields of Acute Teacher Shortage.

(a) Annually, the State Board of Education (SBOE) shall designate [those] areas or fields of acute teacher shortage for purposes of the education [educational] aid for teachers programs authorized under [in] the Texas Education Code, Chapter 61, Subchapter M.

(b) The SBOE shall designate these [These] fields and areas [shall be designated] based on [upon] the most current teacher supply and demand [supply/demand] information, including [, but not limited to,] numbers and types of new certificates issued, shortages reflected in school district permit requests, and needs that have changed as a result of [changing needs which result from] new curriculum or program 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.

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## Subchapter B. Inservice Education

### • 19 TAC §§149.21-149.23

The amendments and new rule are proposed under the Texas Education Code, §13.302, which authorizes the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers.

#### *§149.21. General Requirements for Staff Development.*

(a) The staff development required under the Texas Education Code, §16.052(e), must be predominantly campus-based, designed to improve student achievement, and planned with the involvement of the campus school committee established under the Texas Education Code, §21.931. Campus staff development may include activities that enable the campus staff to accomplish the following: plan together, enhance existing skills, share effective strategies, reflect on curricular and instructional issues, analyze student achievement results, reflect on means of increasing student achievement, study research, practice new methods, identify students' strengths and needs, develop meaningful programs for students, appropriately implement site-based decision-making, and conduct action research. Staff development activities may include the following: study teams, individual research, peer coaching, workshops, seminars, conferences, and other reasonable activities that have the potential to improve student achievement. [Staff development is defined as a planned program of learning opportunities that affords staff members of school districts opportunities for improving performance in currently held or newly assigned positions and creates an environment that encourages continuing job-related learning throughout the career of educators. Staff development shall include technology training.]

(b) The district's staff development program may include topics designated by the State Board of Education (SBOE) for annual district priority consideration, such as the following: special education, abuse or neglect of [in] students, dyslexia, discipline management, teacher appraisal orientation, human immunodeficiency virus [HIV] infection (HIV), suicide prevention, emotional disturbance, and recognition of signs that a student is using alcohol or other drugs.

(c) Teachers shall not be required to participate in group meetings, training, or other activities outside the classroom on preparation days, except for the three hours specified in the Texas Education Code, §16.052(d) [statute].

(d) Participants shall include all professional personnel and those paraprofessionals who regularly work with students in an instructional setting. Districts are encouraged to offer staff development opportunities for all personnel.

(e) With advance approval from the local district [approval], activities planned by or sponsored by other school districts, education service centers (ESC), colleges or universities [colleges/universities], professional associations, or governmental agencies may be counted as part of the required staff development.

#### *§149.22. Induction Program for Beginning Teachers.*

(a) General provisions. Beginning teachers who do not have [Effective with the 1991-1992 school year, all beginning teachers without any] prior teaching experience earned in employment with an entity listed in §121.33 of this title (relating to Entities Recognized for Creditable Service) shall be assigned a mentor teacher.

(b) Induction training for beginning teachers. Beginning [All beginning] teachers shall participate in teacher orientation, which may include specialized induction year program activities [that are approved by the district for school year 1991-1992].

#### *§149.23. Standards for Management and Leadership Development for Administrators.*

(a) General provisions. The training required under the Texas Education Code, §13.353, concerning management skills and practices, applies to school district administrators in positions listed in the Texas Education Code, §16.056(d), starting with the position of supervisor I and extending through the position of superintendent-district with 50,000 or more average daily attendance (ADA).

(1) Continuing inservice. After fulfilling the initial training requirement for instructional leadership and the Texas teacher appraisal system, each school administrator shall participate annually in continuing education in management and leadership development as defined in the Texas Education Code, §13.353(a) and (c), including training in site-based decision making established under the Texas Education Code, §21.930 and §21.931.

(2) Program training. Each institution providing training in general management, instructional leadership, and teacher evaluation must designate a member of its training staff to attend a workshop on content, standards, and techniques sponsored by the Texas Education Agency (TEA).

(b) Continuing professional development. Continuing professional development programs are required in the following areas.

(1) General management training.

(A) General management training may be based on a core curriculum and job-specific content approved by the State Board of Education (SBOE). The core curriculum shall include administrative, conceptual, interpersonal, and resource skills.

(B) The curriculum shall be revised and updated periodically.

(C) The program of management and leadership development will help ensure improved student performance and effective implementation of the school district's goals and the SBOE's long-range plan.

(2) Instructional leadership development.

(A) Development programs for instructional leadership must address the knowledge and skills related to the following content areas:

- (i) learners and learning;
- (ii) teaching;
- (iii) managing and supervising teaching and learning;
- (iv) climate for instruction; and
- (v) diverse presentation models.

(B) The initial professional development program for administrators in instructional leadership shall consist of at least 36 hours.

(C) A school district administrator must have completed initial training in instructional leadership before attending programs for teacher appraiser certification.

(D) An individual charged with primary fiscal responsibility for a district's instructional resources must complete the initial instructional leadership development requirement. Thereafter, continuing education for these administrators in leadership and management may be job-specific.

(3) Teacher evaluation training.

(A) As an exception to subsection (a) of this section, superintendents

and school district administrators who serve as appraisers of teacher performance must complete teacher evaluation training. A superintendent previously certified for teacher evaluation who will not be conducting appraisals during the school year is required to complete only the portion of appraisal training that focuses on changes in the system.

(B) An appraiser of teacher performance shall satisfy initial training requirements relating to teacher evaluation by completing the training and certification program established under the Texas Education Code, §13.302(c).

(C) An appraiser of teacher performance shall satisfy continuing requirements for certification by maintaining proficiency or by completing appraisal update training.

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 September 20, 1993.

TRD-9329088 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: October 25, 1993

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

◆ ◆ ◆  
The Texas Education Agency (TEA) proposes the repeal of §§149.24, 149.25, 149.71, and 149.81, concerning education personnel development. The rules establish guidelines for inservice education and the teacher career ladder. The repeals are needed to implement Senate Bill 7, 73rd Texas Legislature, which repeals various statutes that created the teacher career ladder and makes significant changes to the Texas Teacher Appraisal System (TTAS) and minor changes to administrator appraisal and management training, and to reorganize the rules in Chapter 149.

Linda Cimusz, administrator for curriculum, assessment, and professional development, 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.

Ms. Cimusz and Criss Cloudt, director of policy planning and evaluation, have 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 an emphasis on student learning as a measure for teacher appraisal and a clearer organization of the rules concerning education personnel development. There will be no effect on small businesses. There is no anti-

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

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the Texas Register.

• 19 TAC §149.24, §149.25

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

The repeals are proposed under the Texas Education Code, §13.302, which authorizes the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers.

§149.24. *Standards for Management and Leadership Development for Administrators.*

§149.25 *Master Teacher Program*

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 September 20, 1993.

TRD-9329089 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption. October 25, 1993

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

◆ ◆ ◆  
Subchapter C. Appraisal of Certified Personnel.

• 19 TAC §§149.41-149.46

The amendments are proposed under the Texas Education Code, §13.302, which authorizes the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers.

§149.41. *General Provisions.*

(a) Each teacher and administrator shall be appraised annually in the performance of his or her duties. This requirement shall apply to all certified personnel [ , as classified in the Texas Education Code, §16.056, Texas Public Education Compen-

sation Plan, including the nondegreed teacher and the noncertified administrator.

(b) The results of the appraisal of teachers shall be used for professional [career ladder and] staff development purposes and may be used for contract renewal considerations subject to statutory time lines. The results of the appraisal of administrators shall be used for staff development purposes [( ) relating to management standards [for management] and administrator leadership [development for administrators] purposes] and may be used for contract renewal considerations.

(c) Professional personnel, including each nurse, vocational education teacher, Reserve Officers' Training Corps (ROTC) teacher, librarian, visiting teacher, psychological associate, occupational or physical therapist, counselor, education diagnostician, and each individual assigned to a supervisory position, shall be appraised at least once each year. Each appraisal shall be [For professional personnel exempted from the career ladder under §149.71(b)(7) of this title (relating to Assignment to the Teacher Career Ladder), at least one evaluation] conducted by one appraiser [is required.] using the evaluation instruments [instrument(s)] adopted by the local board of trustees. Nondegreed teachers shall be evaluated at least once each year by one appraiser [two appraisers].

(1) [Beginning with school year 1991-1992, all] Each administrator [administrators] shall be appraised annually by at least one appraiser, the administrator's supervisor [supervisor(s)], using the state criteria and procedures approved by the State Board of Education (SBOE) under §149.45 [and §149.46] of this title (relating to Administrator Performance Criteria) and §149.46 of this title (relating to [;] Administrator Appraisal Procedures) or criteria and procedures adopted by the local board of trustees.

(2) Each appraiser shall be trained in the appropriate use of the evaluation instruments [instrument(s)].

(d) Each school district shall appraise teachers using one of the following methods: [the state appraisal process and performance criteria developed and approved by the State Board of Education.]

(1) the state appraisal process and performance criteria developed and approved by the SBOE and outlined in §149.42 of this title (relating to Teacher Performance Criteria), §149.43 of this title (relating to Teacher Appraisal Procedures, and §149.44 of this title (relating to Teacher Appraisal Instrument); or

(2) an appraisal process and performance criteria that is:

(A) based on:

(i) domains listed in the Texas Education Code, §13.302; and

(ii) observable, job-related behavior, including teachers' implementation of discipline management procedures;

(B) developed by the district using the procedures established under the Texas Education Code, §21.930 and §21.931; and

(C) approved by the commissioner of education.

[(e) As an exception to subsection (d) of this section, districts approved by the State Board of Education to conduct research projects for the state may be exempted from certain provisions of the state appraisal system. Approved research projects will address the use of student progress, a different approach to the identification of quality aspects of teacher performance, alternate procedures for scoring at the criterion level, or other issues of merit.]

*§149.42. Teacher Performance Criteria.* Teacher [In the appraisal of teacher performance for career ladder assignments and for staff development.] performance shall be appraised using [with the following performance] criteria grouped into [subsumed under] five [major areas henceforth called] domains as follows.

(1) Domain I—instructional strategies.

(A) Criterion 1. The teacher [-] provides opportunities for students to participate actively and successfully.

(B) Criterion 2. The teacher [-] evaluates and provides feedback on student progress during instruction.

(2) Domain II—classroom management and organization.

(A) Criterion 1. The teacher [3-] organizes students and materials [and students].

(B) Criterion 2. The teacher [4-] maximizes the amount of time available for instruction.

(C) Criterion 3. The teacher [5-] manages student behavior.

(3) Domain III—presentation of subject matter.

(A) Criterion 1. The teacher [6-] teaches for cognitive, affective, and/or psychomotor learning and transfer.

(B) Criterion 2. The teacher [7-] uses effective communication skills.

(4) Domain IV—learning environment.

(A) Criterion 1. The teacher [8-] uses strategies to motivate students to learn [for learning].

(B) Criterion 2. The teacher [9-] maintains a supportive environment.

(5) Domain V—professional growth and responsibilities.

(A) Criterion 1. The teacher [10-] plans for and engages in professional development.

(B) Criterion 2. The teacher [11-] interacts and communicates effectively with parents.

(C) Criterion 3. The teacher [12-] complies with policies, operating procedures, and requirements.

(D) Criterion 4. The teacher [13-] promotes and evaluates student growth.

*§149.43. Teacher Appraisal Procedures.*

(a) Appraiser qualifications.

(1) The teacher appraisal process requires at least one appraiser [two appraisers for each appraisal period].

(2) One appraiser must be the teacher's supervisor or an appraiser approved by the school board. [and, except for those serving as part-time principals or in other extraordinary circumstances approved by the commissioner of education, must hold administrator or supervisor certification.]

(3) Except for an individual serving as a part-time principal or under other extraordinary circumstances approved by the commissioner of education, the teacher's supervisor must hold administrator or supervisor certification. An appraiser [Appraisers] other than the teacher's supervisor must [, including appraisers serving as a third appraiser, must be approved by the local board of trustees.] have a valid teaching certificate [,] and [have] at least two years of prekindergarten, kindergarten, elementary, or secondary classroom teaching experience.

(4) A classroom teacher [Classroom teachers] may not appraise a teacher [teachers] on the same campus unless there is only one school campus in the district. [Teachers serving as appraisers must have an assignment on the career ladder at least as high as the teacher being appraised.]

(5) Before conducting appraisals, an [each] appraiser must receive instructional leadership training and [, must receive] uniform appraiser training. [, and must reach the required standard of proficiency as established by the State Board of Education. Coursework equivalent to the required instructional leadership training may be substituted if completed within three years prior to receiving appraisal training.] Periodic recertification shall [will] be required for each appraiser.

(b) Teacher orientation. A [Each] district shall [will] provide a [each] teacher [with] an orientation to the teacher appraisal system before [prior to] the teacher's first observation. [appraisal with the system. As early as possible, but not later than the beginning of the orientation, each teacher must receive a copy of the teacher appraisal orientation manual.] The State Board of Education (SBOE) shall [will] provide materials for additional training of teachers as part of the [local] district's inservice program.

(c) Appraisals, observations, and conferences.

(1) At least one appraisal is [two appraisals are] required each year for each [probationary] teacher. [and each teacher on career ladder level one who does not meet the state's minimum criteria for advancement to level two. The first appraisal shall be formative. It shall be scored, but not be used for career ladder assignment. Teachers on level one who have met the state's minimum requirements for advancement to level two, but who have not been assigned to level two because of school district stricter performance criteria, and teachers on levels two, three, and four on the career ladder whose performance was exceeding expectations or clearly outstanding on the most recent overall summative performance score, shall be appraised at least once each year. Teachers on career ladder levels two, three, or four whose performance on the most recent overall summary performance score was less than exceeding expectations shall have at least two appraisals. Each teacher on career ladder level three who has passed the written portion of the master teacher comprehensive examination required for entry to level four and whose most recent overall summary performance score was evaluated as clearly outstanding shall receive one appraisal during the school year every other year. During the school year in which a formal teacher

appraisal will not be conducted for the teacher, the district is authorized to substitute a formative appraisal instrument as an alternative.]

(2) An [One] appraisal consists of at least [a minimum of] one 45-minute observation [two formal 45-minute observations, one] by an [each] appraiser.

[(3) School districts which use the minimum of two appraisers during any appraisal period shall provide for an observation by a third appraiser if requested by a teacher due to a variance of 15 or more points between the sum of the domain subtotals for Domains I-IV awarded by the teacher's supervisor and the sum of the domain subtotals for Domains I-IV awarded by the other appraiser. Each district shall adopt procedures for uniform implementation of this procedure within the district.]

(3)[(4)] Each [local] school district shall establish a calendar for appraisal during the required days of instruction for students during one school year. The appraisal calendar:

[(A) shall designate the time frame for each of the three required appraisal periods;

[(B) may uniformly extend the appraisal period for teachers who are eligible for a single appraisal throughout the days of instruction for students, at the district's discretion;]

[(A)[(C)] shall exclude the first two weeks of instruction;

[(B)[(D)] shall prohibit observations on the last [instructional] day of instruction before any official school holiday or on any other day deemed inappropriate by the [local] board of trustees; and

[(E) shall provide for scheduling of all requested observations by a third appraiser identified during Appraisal Period I as soon as practical in Appraisal Period II;]

[(C)[(F)] shall provide that all [formal] observations be completed 15 working days before [prior to] the last [instructional] day of instruction for students. [, with the exception of an observation by a third appraiser or other extenuating circumstances; and]

[(G) shall be disseminated to all staff prior to the beginning of formal observations.]

(4)[(5) For formal observations, teachers shall be observed teaching classes] An appraisal shall be based on the teacher's performance in fields [field(s)] and teaching assignments for which he or she is [they are] certified whenever possible.

(5)[(6) Fifty percent of the formal observations must] Observations may be scheduled by day or [and] time of day. Each district shall adopt procedures for implementing this section. [, and 50% of the formal observations must be scheduled within a reasonable period of time designated by the local district and uniformly applied for all teachers. If a formal observation by a third appraiser from another campus is required, that observation must be scheduled by day and time of day.]

(6)[(7)] Before the first observation of a [the] teacher, the length of the observation [in any appraisal period, the requirement for consecutive minutes for formal observations] may be waived by mutual consent at the request of the [that] teacher or the appraiser. [Under such waiver, each observation may be comprised of two to three instructional segments of not less than 15 minutes each.] A [Such] waiver should be considered only when the nature of the teaching assignment requires shorter instructional segments.

[(8) Appraisers may not conduct formal observations simultaneously.]

(7)[(9)] After an [a formal] observation, each appraiser must complete a written preliminary observation report [record]. The report shall not [written record is not to] be completed during the observation. A copy of the written report [record] shall be given to the teacher within ten [seven] working days of the [formal] observation. Under [If there are] extenuating circumstances, this time period [the seven working day requirement] may be extended to a maximum of 15 working days.

(8)[(10)] During the [an] appraisal period, the teacher's supervisor may continually evaluate and document performance specifically related to the performance criteria and [the] indicators specified [subsumed under the criteria] in §149.42 of this title (relating to Teacher Performance Criteria). If it [such documentation] would influence the teacher's final written observation report [appraisal], the documentation must be shared in writing with the teacher within ten [seven] working days of the occurrence or, in unusual circumstances, the teacher supervisor's knowledge of the occurrence. [This additional documentation shall be combined with, but shall not replace, the formal observation to determine credit for the criteria or indicators. Appraisers other than the teacher's supervisor shall have access to Domain V documentation

only in the event that the teacher's total score for the year on Domain V determined by the teacher's supervisor is less than meets expectations as specified in §149.44(b)(2) of this title (relating to Teacher Appraisal Instrument, Scoring Procedures, and Forms).]

(9)[(11)] At the request of the teacher or appraiser, a preconference shall be conducted [For level one teachers who receive two appraisals, the supervisor shall conduct a pre-conference with the teacher prior to the supervisor's formal observation. The preconference shall be conducted] within a reasonable period of time before [prior to] the observation. Following each [formal] observation, an appraiser must conduct a postobservation [post-observation] conference with the teacher. In this conference, the teacher's supervisor shall review the results of the observation, discuss the teacher's instructional goals and outcomes, and make recommendations regarding domains that need improvement. The teacher and his or her supervisor shall also discuss teacher self-assessment aspects, such as the goals of the teacher, campus planning, instructional strategies, and student outcomes. The postobservation conference [if the teacher's performance is judged less than meets expectations in one or more domains. Regardless of the teacher's performance, each teacher supervisor must conduct a post-observation conference after each formal observation. Appraisers other than the teacher's supervisor are encouraged to conduct post-observation conferences after all formal observations. Required post-observation conferences] must be held within ten working days of the formal observation. Under [If there are] extenuating circumstances, this time period [the ten working day requirement] may be extended to a maximum of 15 working days. [At the conclusion of the first appraisal period, a conference will be held at the request of either the teacher or the appraiser.]

(10) A written final observation report must be placed in the teacher's personnel file and shared with the teacher within five working days of the postobservation conference. The final observation report may be changed as a result of the postobservation conference.

(d) Teacher response and appeals

(1) A teacher may submit a written rebuttal of [response regarding] the appraiser's written final observation report [record] within ten working days after receiving the report [of receipt of that record] Under [If there are] extenuating circumstances, this time period [the ten working day requirement] may be extended to a maximum of 15 working days. The written rebuttal shall be attached to the final observation report and placed in the

teacher's personnel file. [Such written response shall become part of the appraisal record.]

(2) When a teacher receives a proposed notice of nonrenewal or a written observation report with which he or she disagrees, the teacher may request another observation by a different appraiser within ten working days. Under extenuating circumstances, this time period may be extended to a maximum of 15 working days. A teacher may request that another observation be conducted by a different appraiser for formative purposes at any time.

(3)[(2)] Each school [local] district shall adopt [a] written procedures [policy establishing a procedure] for a teacher to present grievances and receive written response regarding the appraisal [evaluation] process. The procedures [This policy] shall be disseminated at the time of employment to each professional staff member and updated annually or as needed [The judgment of the commissioner of education shall not be substituted for that of the local district unless the district's decision was arbitrary and capricious or made in bad faith.]

(e) Plan for professional [Professional] growth [plan].

(1) For teachers receiving two appraisals, a professional growth plan must be developed or modified if any domain is judged less than meets expectations at the end of the first appraisal period.

(2) Professional growth activities may be planned and implemented any time at the request of the teacher or the appraiser(s).]

(1)[(3)] A plan for professional growth [plan] must be developed or modified for any teacher whose [overall summary] performance [score] is less than satisfactory [meets expectations]. At the teacher's request, a plan for professional growth [plan] may [must] be developed or modified as a result of the final observation report [for any teacher whose overall summary performance score meets expectations].

(2)[(4)] The teacher's supervisor, in cooperation with the teacher, shall [will] develop the [growth] plan for professional growth. Other appraisers, as appropriate, may participate in this process. Options for growth activities shall be provided, and at least one option shall not place [no] significant financial burden on either the teacher or the school [local] district. [Fulfillment of the provisions of a professional growth plan does not, in and of itself, serve as a guarantee of career ladder advancement.]

(f) Summative conference [appraisal].

(1) Each teacher may [must] receive a summative conference if requested by either the teacher or the teacher's supervisor. [at the end of the teacher's last appraisal period. In this conference, the teacher's supervisor will review the teacher's instructional goals and outcomes, inform the teacher of the domain performance scores and the overall summary performance score for the year, review the teacher's status relating to requirements for advancement and/or maintenance on the teacher career ladder, make recommendations regarding domains needing improvement, and address a professional growth plan as appropriate. The teacher's supervisor and the teacher shall also discuss teacher self-assessment aspects such as the goals of the individual teacher, campus planning, instructional strategies, and student outcomes during the summative conference ]

(2) The requirements for post-observation conferences set forth in subsection (c)(11) of this section may be met through the summative conference, provided the appropriate appraisers are present and time requirements are met ]

(2)[(3)] Any documentation collected after the summative conference but before the end of the required days of instruction for students during one school year may be considered if it will affect the teacher's [domain and] overall [summary] performance [scores]. Another summative conference shall be held to inform the teacher of the changes.

§149.44. Teacher Appraisal Instrument [, Scoring Procedures, and Forms].

(a) The State Board of Education (SBOE) shall develop and approve the Texas teacher appraisal instrument [, which shall include the domains and criteria listed in §149.42 of this title (relating to Teacher Performance Criteria) and indicators for each criterion].

[(b) The State Board of Education shall develop and approve scoring procedures which guarantee that each teacher, at the close of the appraisal process, receives a performance score for each domain and an overall summary performance score

(1) Each appraiser will score Domains I-IV

(2) The teacher's supervisor shall score Domain V. In the evaluation of Domain V the teacher is assumed to have credit for all indicators unless the teacher's supervisor has documented otherwise. In the event that the teacher's total score for the year in Domain V is less than meets expectations, the other appraiser shall re-

view Domain V documentation and independently score Domain V for that teacher.

(3) An appraiser must document evidence on the written record when:

[(A) absent or below expectation is recorded for any indicator; and

[(B) exceptional quality credit is granted for any criterion.

(4) The domain credit totals issued at the close of each appraisal period by the teacher's supervisor reflect the results of the formal observation issued on written records and the additional appraisal documentation gathered during the appraisal period. The domain credits issued by the teacher's supervisor have an assigned weight of 60% of the domain total.

(5) The domain credit totals issued at the close of each appraisal period by appraisers other than the teacher's supervisor reflect the average of domain credits issued on each written record completed by the other appraisers during the appraisal period. The domain credits issued by other appraisers have an assigned weight of 40% of the domain total

(6) For teachers qualifying for one appraisal each school year, the teacher's supervisor will determine the overall summary performance score at the end of the appraisal period. For teachers receiving two appraisals each school year, the teacher's supervisor will combine the results of the first and second appraisal to determine the overall summary performance score

(7) Scoring of the teacher's performance is done in accordance with the Texas Education Code, §13.304, and is based on the summary domain credits issued each appraisal period by the teacher's supervisor and the other appraiser(s) unless the difference between the observations is such that the teacher's performance cannot be accurately evaluated in accordance with paragraphs (1)-(6) of this subsection and an observation by a third appraiser from another campus is requested. When a third appraiser observation is made, each of the three appraisers' scores will be averaged together, recorded on the evaluation record, and will constitute the teacher's score for that appraisal period. The State Board of Education shall establish the standards for conversion of summary domain credits to domain performance scores of:

[(A) unsatisfactory;

[(B) below expectations;

[(C) meets expectations;

(D) exceeding expectations;  
and

(E) clearly outstanding.]

(b) For each domain, teacher performance shall be evaluated as:

(1) unsatisfactory, if the teacher's performance is clearly not acceptable in some major criterion;

(2) below expectations, if the teacher's performance needs improvement in some major criteria;

(3) satisfactory, if the teacher's performance meets expectations;

(4) exceeding expectations, if the teacher's performance excels in some major criteria; or

(5) clearly outstanding.

(c) An appraisal shall be based on an overall assessment of general performance in the domains. Indicators shall not be scored numerically, but shall be instructive in nature and used for guidance in the assessment of overall performance. Each district shall adopt procedures for determining the teacher's overall performance rating. [The forms approved by the State Board of Education shall be used by each school district to record observation and documentation results, teacher assessment of instructional goals and outcomes information, professional growth plans, and final performance scores.]

#### §149.45. Administrator Performance Criteria.

(a) The criteria used to evaluate each administrator in a [the] district may [shall] include [, but will not be limited to.] the following:

(1) instructional management;

(2) school or organization morale [school/organizational climate];

(3) school or organization [school/organizational] improvement;

(4) personnel management;

(5) [administration and fiscal/facilities] management of administrative, fiscal, and facilities functions;

(6) student management;

(7) school or community [school/community] relations,

(8) professional growth and development;

(9) academic excellence indicators and campus performance objectives, and

(10) school board [board/superintendent] relations (for superintendents only).

(b) The following criteria descriptors for administrator appraisal were piloted in school year 1989-1990 and are available for use by districts at their discretion. [.]

(1) **Instructional** [instructional] management. The administrator [.] promotes [the] improvement of instruction through activities such as the following: monitoring student achievement and attendance; [.] diagnosing student needs; helping [, assisting] teachers design [in designing] learning experiences for students; [.] encouraging the development and piloting of innovative instructional programs; [.] and facilitating the planning and application of emerging technologies in the classroom. [.]

(2) **School or organization morale.** The administrator [school/organizational climate:] fosters a positive school or organization morale [school/organizational climate] through activities such as the following: assessing and planning improvement of the school, district, or community [school/district/community] environment; [.] reinforcing excellence; [.] promoting a positive, caring climate of learning; [.] and using [employing] effective communication skills. [.]

(3) **School or organization** [school/organizational] improvement. The administrator [.] promotes leadership in efforts to improve the school or organization [school/organizational improvement efforts] through activities such as the following: collaborating in the development and articulation of a common vision of improvement; [.] encouraging appropriate risk-taking; [.] and ensuring continuous renewal of curriculum, policies, and methods. [.]

(4) **Personnel** [personnel] management. The administrator [.] manages personnel effectively through activities such as the following: delegating appropriately; [.] recognizing exemplary performance of teachers and staff; [.] encouraging personal and professional growth and leadership among the staff; [.] complying with applicable personnel policies and rules; [.] securing the necessary personnel resources to meet objectives; [.] and evaluating the job performance of assigned personnel. [.]

(5) **Management of administrative, fiscal, and facilities functions.** The administrator [administration and fiscal/facilities management.] manages administrative, fiscal, and facilities functions responsibly through activities such as the following: obtaining broad-based input for fiscal or financial [fiscal/financial] analysis; [.] compiling reasonable budgets and cost estimates; [.] ensuring that facilities are maintained and upgraded as necessary; [.]

and managing a broad range of school operations (e.g., attendance, accounting, payroll, transportation) . [.]

(6) **Student** [student] management. The administrator [.] promotes positive student conduct through activities such as the following: helping students develop a sense of self-worth; [.] developing and communicating guidelines for student conduct; [.] ensuring rules are observed uniformly; [.] disciplining students for misconduct in an effective and fair manner; [measure.] supporting collaboration by working with faculty; [.] and encouraging the [student/parent] participation of students and parents. [.]

(7) **School or community** [school/community] relations. The administrator [.] promotes a positive tone for school or community [school/community] relations through activities such as the following: fostering collaborative educational efforts among members of the total school community; [.] articulating the school mission and needs to the community; [.] seeking support for school programs; [.] and involving himself or herself [oneself] in community activities that foster rapport between the district and the larger community. [.]

(8) **Professional** [professional] growth and development. The administrator [.] provides leadership in professional growth and development through activities such as the following: participating actively in professional associations; [.] conducting himself or herself [oneself] in an ethical and professional manner; [.] disseminating ideas and information to other professionals; [.] and seeking and using evaluative information for improvement of performance. [.]

(9) **School board** [board/superintendent] relations (for superintendents only). The superintendent [.] promotes and supports a positive relationship with the school board [of education] through activities such as the following: meeting the board's needs for information; [.] interacting with [the] board members in an ethical, sensitive, and professional manner; [.] demonstrating competence in written and verbal communications to the board; [.] and recommending policies to the board to enhance teaching and learning.

(c) In developing indicators and [and/or] descriptors for the criteria, the district shall use the local job description as applicable and [in concert with] the state criteria descriptors for administrator appraisal specified in [under] subsection (b) of this section.

(d) Each district may implement a process for collecting [the collection of] staff input for evaluating [the evaluation of] administrators or [and/or] for developing plans for professional growth for [plans of] administrators

**§149.46. Administrator Appraisal Procedures.**

(a) To [In order to] provide [local] school districts [with] maximum flexibility, the following procedures for administrator appraisal are established as minimum requirements. Each district shall establish an annual calendar providing [that shall provide] for the following activities that [which] shall involve both the administrator and the appraiser:

(1) procedures for setting goals that define [a goal setting procedure that defines] expectations and set [sets] priorities for the administrator being appraised;

(2) formative conferences [conference(s)];

(3) summative conferences [conference(s)]; and

(4) a written individual plan for professional growth [plan] that shall be based on assessment, formative input, and self-assessment. [upon:]

[(A) assessment;

[(B) formative input; and

[(C) self-assessment.]

(b) Each district shall involve appropriate administrators in the development, selection, or [and/or] revision of the instruments [instrument(s)] and process.

(c) Before [Prior to] conducting appraisals, an appraiser [all appraisers] shall provide evidence of training in appropriate personnel evaluation skills related to the locally established criteria and process.

(d) If a district implements a process for collecting [the collection of] staff input to evaluate administrators, the [such staff] input must not be anonymous.

(e) The individual plan for professional growth [plan] must be confidential and controlled by [under the control of] the administrator and supervisors [the supervisor(s)].

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 September 20, 1993.

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Director, Policy Planning  
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Texas Education Agency

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**Subchapter D. Teacher Career Ladder**

**• 19 TAC §149.71, §149.81**

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

The repeals are proposed under the Texas Education Code, §13.302, which authorizes the State Board of Education to adopt an appraisal process and criteria on which to appraise the performance of teachers.

**§149.71. Assignment to the Teacher Career Ladder.**

**§149.81. Advanced Academic Training.**

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

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**Chapter 157. Hearings and Appeals**

**Subchapter AA. General Provisions for Hearings Before the Commissioner of Education**

**• 19 TAC §157.1058**

The Texas Education Agency (TEA) proposes an amendment to §157.1058, concerning filing exceptions and replies to proposals for decisions. The rule is being amended to correct an outlining error. As filed for adoption and published with changes in the March 26, 1993, issue of the *Texas Register* (18 TexReg 1930), subsection (e) was mislabeled subsection (f).

Criss Cloudt, associate commissioner for policy planning and evaluation, 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

Ms. Cloudt also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a clearer understanding of procedures for filing exceptions and replies to proposals for decisions. There

will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §11.13, which provides for appeals before the commissioner of education; and Texas Civil Statutes, Article 6252-13a, §3 and §4, which authorize the State Board of Education to adopt rules of practice specifying the nature and requirements of all formal and informal procedures available.

**§157.1058. Filing of Exceptions and Replies to Proposal for Decision.**

(a)-(d) (No change)

(e)(f) The exceptions shall be specifically and concisely stated. The evidence relied upon shall be stated with particularity, and any evidence or arguments relied upon shall be grouped under the exceptions to which they relate

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 September 20, 1993

TRD-9329092 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

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

**Chapter 175. Proprietary Schools and Veterans Education**

**Subchapter A. Proprietary School Advisory Commission**

**• 19 TAC §175.1**

*(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 Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Education Agency (TEA) proposes the repeal of §175.1, concerning the Proprietary School Advisory Commission. The repeal is needed to implement House Bill 2585, 73rd Texas Legislature, which



abolishes the Proprietary School Advisory Commission.

Thomas Anderson, Jr., executive deputy commissioner for school support services, has determined that for the first five-year period the repeal is in effect there will be fiscal implications as a result of enforcing or administering the repeal. The effect on state government will be an estimated reduction in cost of \$4,800 for fiscal year (FY) 1994 and \$8,800 for each of FYs 1995-1998. There will be no effect on local government.

Mr. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 consumer protection through implementation of the Texas Proprietary School Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeal submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rule has been published in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt rules necessary for carrying out the provisions of the Texas Proprietary School Act.

#### §175.1. Proprietary School Advisory Commission.

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

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Criss Cloudt  
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and Evaluation  
Texas Education Agency

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### Subchapter E. Minimum Standards for Operation of Texas Proprietary Schools

- 19 TAC §§175.122, 175.125, 175.127, 175.128

The Texas Education Agency (TEA) proposes amendments to §§175.122, 175.125, 175.127, and 175.128, concerning minimum standards for operation of Texas proprietary schools. The amendments implement House Bill 1705, 73rd Texas Legislature, by reducing regulation of small proprietary schools in the following areas: the fee schedule; participa-

tion in the proprietary school tuition protection fund; refund policies; bonding requirements; the examination of small proprietary schools for compliance; reporting requirements of students; and the term for which a certificate of approval may be issued.

Thomas Anderson, Jr., executive deputy commissioner for school support services, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government for the first five-year period the rules are in effect will be an estimated reduction in cost of \$4,000 for each of fiscal years (FY) 1995-1998. There is no anticipated increase or decrease in cost for the first year the rules are in effect, FY 1994. There will be an estimated increase in state revenue of \$5,690 in FY 1994; \$3,276 in FY 1995; \$11,863 in FY 1997; and \$3,276 in FY 1998. There will be an estimated loss in state revenue of \$938 in FY 1996. There will be no effect on local government.

Mr. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 improved consumer protection through implementation of the Texas Proprietary School Act.

The cost of complying with the rules for small businesses will be an estimated loss in revenue of \$5,690 in FY 1994; \$3,276 in FY 1995; \$11,863 in FY 1997; and \$3,276 in FY 1998. There will be an estimated increase in revenue of \$938 in FY 1996.

The cost of complying with the rules for small businesses compared with the largest businesses affected by the rules may differ based on \$100 of sales since there is a minimum renewal fee of \$500. Currently, all schools are assessed a renewal fee based on 0.3% of tuition and fees. Small schools have paid as little as \$7.00 for renewal. The rules would require such a school to pay the minimum fee of \$500.

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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendments submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §32.22, which authorizes the State Board of Education to adopt rules necessary for carrying out the provisions of the Texas Proprietary School Act.

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

**Continuing professional education-Instruction** that allows an individual to maintain an existing professional license or certificate.

[Instructor trainer-A driver training instructor that has been trained to prepare instructors to give instruction in a specified curriculum.]

**New seminar or workshop**-A seminar or workshop is considered new when:

(A) it has not been offered previously or has been offered and then discontinued;

(B) the objective has been revised; or

(C) the total hours of the approved seminar or workshop change 25% or more within a 12-month period.

**Seminars and workshops**-Educational programs that [Continuing education programs of 40 clock hours or less in duration which] serve to enhance a student's career, as opposed to programs offered to develop basic skills and fundamental knowledge required for entry into a particular field of endeavor. This includes continuing professional education and a review for examination.

**Small proprietary school**-A proprietary school that does not receive any payment from federal funds under 20 United States Code, §1070 et seq and its subsequent amendments or a prepaid federal or state source for any student tuition, fees, or other charges, and either:

(A) has an annual gross income from student tuition and fees that is less than or equal to \$100,000 for programs regulated by the agency;

(B) exclusively offers programs to assist students to prepare for an undergraduate or graduate course of study at a college or university; or

(C) exclusively offers programs to assist students who have obtained or are in the process of obtaining degrees after completing an undergraduate or graduate course of study at a college or university to prepare for an examination.

**Unearned tuition**-This definition is for application in qualifying for a \$5,000; \$10,000; \$15,000; or \$20,000 bond. The total projected maximum, based on the total projected enrollment, at any given time during the period for which the certificate of approval is issued, of the following:

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

§175.125. Approvals.

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

(c) Renewal of certificate of approval. With the exception of small proprietary schools as defined in §175.122 of this title (relating to Definitions), the certificate of approval must be renewed annually. Effective January 1, 1994, the certificate of approval for a small proprietary school must be renewed as determined by the director, but at least every three years. A complete application for renewal of a certificate of approval shall consist of the following:

(1) the [annual] renewal fee specified [as set forth] in the Texas Education Code, §32.71(a)(2), and the fee specified in the Texas Education Code, §32.91, for the tuition protection fund [as set forth in the Texas Education Code, §32.91];

(2)-(5) (No change.)

(d)-(k) (No change.)

§175.127. Minimum Standards for Operation of Proprietary Schools.

(a) (No change.)

(b) Schools desiring issuance and renewal of certificates of approval shall adhere to the following standards.

(1) Personnel.

(A) School director and administrative staff members.

(i) (No change.)

(ii) The school director shall be a graduate of an accredited institution of higher learning (college or university) with one year of experience in administration, institutional management, or the total years of administrative/management experience and/or higher education shall equal five years. [An exception is permitted for schools that qualify for a \$5,000 bond as allowed by the Texas Education Code, §32.38(a). In that event, the school director shall have sufficient background and training in the area for which the school director will be responsible.] If the school employs a director of education, that director shall meet the same requirements as an instructor and shall also have one of the following:

(I)-(II) (No change.)

(iii)-(vi) (No change.)

(vii) Schools exclusively offering seminars and workshops and small proprietary schools as defined in §175.122 of this title (relating to Definitions) are only required to comply with

clauses (i), (iii), and (iv) of this subparagraph.

(B) (No change.)

(2) Admission requirements.

(A) The school shall submit for approval by the director its admission requirements for each program with justification for the requirements.

(i) The school shall require for admission into its programs proof of one of the following [as appropriate]:

(I) high school graduation;

(II) a recognized high school equivalency credential; [or]

(III) ability to benefit by obtaining a satisfactory score on the approved entrance test; or [.]

(IV) specific justification for entry requirements for approval by the director, if subclauses (I)-(III) of this clause do not apply to seminars, workshops, and small proprietary schools as defined in §175.122 of this title.

(ii)-(vii) (No change.)

(B) The school must maintain a written record of the previous education and training of the student applicant that [student which clearly] indicates that appropriate credit has been given by the school for previous education and training. Official transcripts provided by the student of all previous postsecondary institutions attended [provided by the student] must be placed in the student file with a written evaluation initiated by the school director or the school director's designee. Where warranted, the [The] new training period shall be shortened using [where warranted through use of] appropriate skills or achievement tests, and the student shall be [so] notified. When the training period is shortened, the course cost shall be reduced accordingly. Each school shall use a form approved by the director that will become part of the student's permanent record at the school. Seminars, workshops, small proprietary schools with programs of 40 clock hours or less as defined in §175.122 of this title, and individual subject offerings are not required to comply with this provision. [With the exception of seminars and workshops as defined in §175.122 of this title (relating to Definitions) and individual subjects within an established curriculum, schools shall use

form DPSVE-010 or the equivalent which will become a part of the student's permanent record at the school. The subject matter involved in seminars and workshops is such that credit for previous education and training may not be required.]

(C) Prior to enrollment the school shall furnish the following to each prospective student:

(i) a school catalog and program outline. Seminars and workshops as defined in §175.122 of this title are not required to provide a school catalog;

(ii)-(ix) (No change.)

(x) exam passage rates for programs that [which] prepare students for state licensing, certification, or registration exams; and

(xi) (No change.)

(D) (No change.)

(E) With the exception of seminars, workshops, small proprietary schools with programs of 40 clock hours or less as defined in §175.122 of this title, and individual subjects, each school [In addition, all schools] shall use a form approved by the director to verify the student's receipt of the information required in subparagraphs (C) and (D) of this paragraph. At the discretion of the director, the form shall also include the following statements.

(i)-(iii) (No change.)

(F) (No change.)

(G) The school shall submit an enrollment agreement to the director for approval. Further, with the exception of seminars and workshops, the school shall enroll students using the approved enrollment agreement. The agreement shall include, but is not limited to, the following:

(i)-(vi) (No change.)

(vii) a Federal Trade Commission statement for holder in due course, unless no loans, grants, or installment payments are involved.

(3)-(4) (No change.)

(5) Cancellation and refund policy

(A) (No change.)

(B) Each school must have a cancellation and settlement policy that will permit a potential student to cancel any enrollment agreement or contract within 72

hours (until midnight of the third day, excluding Saturdays, Sundays, and legal holidays) after the enrollment contract is signed by the prospective student. Any potential student who has not toured the school facilities and inspected the equipment before [prior to] signing an enrollment contract has an additional three days, excluding Saturdays, Sundays, and legal holidays, following a tour and inspection to request a full refund of any money [monies] paid to the school and release from all obligations. The student shall sign and date a form certifying the tour. Correspondence, combination correspondence- residence, and seminars and workshop programs are not required to provide the student a tour.

(i)-(ii) (No change.)

(iii) A refund [Refunds] based on enrollment in a resident school shall [schools will] be totally consummated within 60 [30] days after the effective date of termination. Proof of consummation of refund will be the refund document or copies of both sides of the cancelled check and must be on file within 120 days of the effective date of termination. A [All] refund check [checks] must identify the student to whom the refund is assigned. In a case in which [those cases where] multiple refunds are made using one check, the check must identify each [individual] student individually and the amount to be credited to that student's account.

(C)-(E) (No change.)

(F) For correspondence programs, the [such] policy must provide the following.

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

(vi) A refund [Refunds] shall be totally consummated within 60 [30] days after the effective date of termination as defined in clause (ii) of this subparagraph.

(vii) An enrollment contract [Enrollment contracts] must specify the amount of time allotted the student to complete the program. If at the end of the specified period the student has not completed the program, the student's enrollment [student] must be terminated and a refund [must be] totally consummated within 60 [30] days. If [Should] the student desires [desire] to reenroll, appropriate credit must be given as outlined in paragraph (2) of this subsection.

(G)-(H) (No change.)

(I) A penalty shall be paid on any refund not consummated within the period required by the Texas Educa-

tion Code, §32.39. The penalty shall be on the interval beginning with the first day following the expiration of the refund period and ending with the day immediately preceding the date the refund is consummated.

(J)[(I)] etb>Penalty [Interest] on late refunds for grants shall be paid to the tuition protection fund if the amount is \$15 or less. Any other penalty [interest] assessed on a school's late payment of student refunds, as provided by the Texas Education Code, §32.39(e), shall be disbursed in the following order of priority [order]:

(i)-(iii) (No change.)

(K)[(J)] If it is determined that the method used by the school to calculate refunds is in error or the school does not routinely pay refunds within the time required by the Texas Education Code, §32.39(b)(7) and (12), the school shall submit [a report of] an audit report of the refunds due former students that [which] includes any interest due specified [as set forth] in the Texas Education Code, §32.39(e), conducted by an independent certified public accountant or public accountant registered with the State Board of Public Accountancy [, of the refunds due former students]. The audit opinion letter shall be accompanied by a schedule of student refunds due that discloses [which shall disclose] the following information for the [previous] four years previous to [from] the date of request by the agency for each student

(i)-(iii) (No change.)

(6) Vocational instructional programs

(A) Subject hour length and program standards, generally. No subject or combination of subjects constituting a particular program shall be approved by the administrator unless [it is demonstrated by] the applicant demonstrates that the program [offered] is of such quality, content, and length that it [as to] reasonably and adequately imparts [impart] to a student the job skills and knowledge necessary for the student to obtain employment in the business, trade, technical, or industrial occupation for which the instruction is offered. The director may develop an abbreviated procedure for new program applications resulting from revisions to existing programs.

(B)-(M) (No change.)

(7) Seminars and workshops. A seminar or workshop shall be of such quality, content, and length that it reasonably and adequately imparts to a stu-

dent the necessary skills or knowledge required for the stated objective. The director may develop an abbreviated procedure for schools submitting applications for new seminars or workshops.

(8)[(7)] Advertising.

(A)-(R) (No change.)

(9)[(8)] Minimum progress and attendance standards.

(A) Progress. With the exception of seminars and workshops, appropriate [Appropriate] standards must be implemented to ascertain the progress of the students enrolled. Progress standards must meet the following requirements.

(i)-(iii) (No change.)

(iv) Programs of 40 clock hours or less [Seminars and workshops] as defined in §175.122 of this title [(relating to Definitions)] may give only a final exam at the end of the program in lieu of the progress evaluation system [outlined] required in this subsection to determine whether the student has the knowledge to warrant a certificate of completion.

(v) For programs of 41-200 [200] clock hours [or less], a student's grades will be recorded at mid-term and at the end of each grading period. A student who is not making satisfactory progress at mid-term shall be placed on probation for the remainder of the grading period. If the student does not [fails to] achieve satisfactory progress at the end of the probationary period, the student's enrollment shall be terminated.

(vi)-(vii) (No change.)

(B) Attendance.

(i)-(ii) (No change.)

(ii) The attendance policy shall require terminating the enrollment of a student who accumulates [stipulate the following condition for termination of students who accumulate] absences as outlined in the following subclauses before [prior to] entering the period in which the student is obligated for all tuition, fees, and other charges:

(I) (No change.)

(II) more than 15% of the total clock hours in a program of more than 200 clock hours; [or]

(III) more than 25% of the total clock hours, if the program or individual subject is 41-200 [200] clock

hours [or less] in length; or [the approved programs.]

(IV) more than 25% of the total clock hours for seminars, workshops, individual subjects, or programs of 40 clock hours or less, unless a makeup policy has been approved by the director.

(iv)-(vi) (No change.)

(vii) Leaves of absence are as follows.

(I) With the exception of seminars, workshops, and small proprietary schools with programs of 40 clock hours or less as defined in §175.122 of this title, schools may grant leaves [Leaves] of absence for reasonable purposes acceptable to the school director that shall not exceed the lesser of 30 school days or 60 calendar days.

(II)-(V) (No change.)

(viii) (No change.)

(10)[(9)] Equipment requirements.

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

(11)[(10)] School-sponsored housing.

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

(12)[(11)] Financial stability.

(A)-(H) (No change.)

(13)[(12)] Adequate space for classroom instruction and shop or laboratory [shop/laboratory] experiences.

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

(14)[(13)] Maximum pupil-teacher ratio. These ratios may be varied at the discretion of the director to conform to conditions in an individual school. If adequate facilities and equipment are available, the following pupil-teacher ratios shall [will] be acceptable:

(A)-(E) (No change )

(15)[(14)] Records.

(A) A school [All schools] shall make available the records and necessary data required for approval and to show compliance with the Texas Education Code, Chapter 32, and this chapter for inspection by authorized representatives of the agency. In addition, a copy of the accreditation authorization and the letter of eligibility from

the U.S. [United States] Department of Education shall be available for review. [There will be at least one unannounced compliance survey at each school each year. Other compliance surveys may be announced at the discretion of the director.]

(B) There will be at least one unannounced compliance survey at each school each year. Other compliance surveys may be announced at the discretion of the director. Small proprietary schools as defined in §175.122 of this title are not subject to the statutory on-site visit specified in the Texas Education Code, §32.34(f), unless the director determines that good cause exists to warrant an on-site visit to review the school for compliance.

(C)[(B)] A school [The schools] shall retain all student records for at least three years. Financial records must be retained as required by federal retention requirements.

(D)[(C)] A school [Schools] must maintain student transcripts of [which record] academic records permanently. Transcripts shall be available to students and prospective employers at a reasonable charge [,] if the student has fulfilled the financial obligation to the school and is neither [not] in default nor owes a refund on any federal or state student financial aid program.

(E)[(D)] A [Each] school shall maintain a master student registration list consisting of at least the information in this paragraph. An entry shall be made on this list for any person who signs an enrollment agreement, makes a down payment to attend the school, or attends a class. The entry shall be made on the date the first of these events occurs. The order of these events may vary from school to school. The following information is required:

(i)-(vii) (No change.)

(F)[(E)] A school [All schools] must maintain positive records of student attendance acceptable to the director.

(G)[(F)] A school offering programs approved for an occupational objective [All schools] must complete the labor market information survey on forms provided by the division and submit them on or before the date provided in the survey packet as requested by the administrator.

(H)[(G)] A school [All schools] shall report job placement and em-

ployment data on an annual basis in each program approved for an occupational objective.

(i)-(ii) (No change.)

(16)[(15)] Student Complaints.

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

§175.128. Application Fees and Other Charges.

(a) (No change.)

(b) The [annual] renewal fee for a school is based on the gross amount minus refunds of annual student tuition and fees. This gross amount minus refunds must be included in the annual financial statements required by §175.127(b)(11) of this title (relating to Minimum Standards for Operation of Proprietary Schools) and reflect the amount for each school separately. If the financial statements of the parent corporation are submitted, the gross amount minus refunds may be included as a separate document but must be reported in accordance with §175.127(b)(11)(C)(v) of this title. For small proprietary schools as defined in §175.122 of this title (relating to Definitions), if a certificate is issued for more than one year, the renewal fee is the greater of \$501 or the amount specified in the Texas Education Code, §32.71(a)(2)(A), for the first year, and \$250, to be paid on the anniversary date of the certificate, for each subsequent year.

(c) A late renewal fee of 12% of the renewal fee, but not less than \$500, [\$250] shall be paid in addition to the [annual] renewal fee if the school fails to file a complete application for renewal at least 30 days before the expiration date of the certificate of approval. The requirements for a complete application for renewal are found in §175.125 of this title (relating to Approvals). The complete renewal application must be postmarked with a date on or before the due date.

(d) (No change.)

(e) Certificate and registration fees shall be collected by the administrator and deposited with the state treasurer according to [in accordance with] the following schedule.

(1) Initial fee for: [a school is \$2,550.]

(A) a school is \$2,550; and

(B) a small proprietary school is \$1,001.

(2) The first [annual] renewal fee and each subsequent renewal fee autho-

ized by the Texas Education Code, §32.71(a) (2), is the greater of 0.3% of the school's gross tuition and fees, excluding refunds as provided by Texas Education Code, §32.39, or \$500. Small proprietary schools shall pay the renewal fee specified in subsection (b) of this section if the certificate of approval is issued for more than one year.

(3)-(14) (No change.)

(f) (No change.)

(g) A school may elect to pay any single fee in excess of \$1,000 by quarterly installment. A service charge of 10% of the fee shall be added to the fee and the total divided into equal quarterly installment payments. The first payment shall be due on the date the fee is due. The second payment shall be due 90 days after the initial due date. The third installment shall be due 180 days after the initial due date. The final installment shall be due 270 days after the initial due date. Failure to pay any installment by the due date shall result in a penalty being assessed in the amount of 50% of the total amount of the fee, with full payment of the penalty and outstanding balance due within 30 days. Failure to submit timely payments as required shall suspend participation in the installment payment plan for the next renewal period.

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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Texas Education Agency

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



## Chapter 176. Driver Training Schools

### Subchapter A. Driver Training School Advisory Commission

The Texas Education Agency (TEA) proposes the repeal of §§176.1, 176.21, and 176.24, concerning driver training schools. The repeals are needed to implement House Bill 2585, 73rd Texas Legislature, which abolishes the Driver Training School Advisory Commission, and to delete obsolete and duplicative language.

Thomas Anderson, Jr., executive deputy commissioner for school support services, has determined that for the first five-year period the repeals are in effect there will be fiscal implications as a result of enforcing or administering the repeals. The effect on state

government will be an estimated reduction in cost of \$2,600 for each of fiscal years (FY) 1994-1998. There will be no effect on local government.

Mr. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 improvement in the attitudes and skills of drivers through effective driver education and training. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

#### • 19 TAC §176.1

*(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 Education Agency or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under Texas Civil Statutes, Article 4413(29c), §4, which authorize the State Board of Education to adopt rules necessary to carry out the Texas Driver and Traffic Safety Education Act.

#### §176.1. Driver Training School Advisory Commission.

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

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### Subchapter B. Minimum Standards for Operation of Texas Driver Training Schools

#### • 19 TAC §§176.11, 176.13, 176.14, 176.16-176.20, 176.22, 176.23, 176.25-176.34

The Texas Education Agency (TEA) proposes amendments to §§176.11, 176.13, 176.14, 176.16-176.20, 176.22, 176.23, and 176.25-176.34, concerning minimum standards for Texas driver training schools. The

rules implement House Bill 2410, 73rd Texas Legislature, which requires providing for a system of branch schools and reducing the course length of driving safety programs from eight to six hours.

Significant aspects of the amendments include the following. Branch school licensure requirements include posting a driver training school bond and branch location. Rules concerning course content, course management, course guides, instructor training guides, and instructor licenses reflect the reduction in course length mandated by House Bill 2410. Driver education shall have a permanent year-round facility and may have additional classrooms. Course owners and primary consignees of driving safety courses shall furnish data pertaining to student enrollments or attendance. Application fees and other charges are set for branch schools, renewal licenses for driver training schools that offer driver education, changes of ownership that contain the criteria specified in statute, school directors, and extensions.

Additionally, a member of the State Board of Education (SBOE) requested that staff bring forward an amendment that defines the type of course that meets the agency requirements for approval of driving courses delivered by technology. New §176.19(a)(1)(L) provides for approval of driving safety courses to be delivered by technology if that technology meets specific criteria applicable to course management, instructors, student access to instructors, issuance of certificates of completion, availability of equipment and course materials, and adequate security measures.

Thomas Anderson, Jr., executive deputy commissioner for school support services, has determined that for the first five-year period the rules are in effect there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government will be an estimated loss in revenue of \$26,600 for FY 1994; \$18,550 for FY 1995; and \$14,725 for each of FYs 1996-1998. There will be no effect on local government. There is no additional estimated cost, estimated reduction in costs, or any estimated loss or increase in revenue to state or local government as a result of enforcing or administering new §176.19(a)(1)(L), the amendment that defines criteria for driving safety courses delivered by technology.

Mr. Anderson and Criss Cloudt, associate commissioner for policy planning and evaluation, have 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 improvement in the attitudes and skills of drivers through effective driver education and training.

The cost of complying with the rules for small businesses will be an estimated increase in revenue of \$26,600 for FY 1994; \$18,550 for FY 1995; and \$14,725 for each of FYs 1996-1998.

The cost of complying with the rules for small businesses compared with the largest businesses affected by the rules may differ based on \$100 of sales since the renewal fee schedule is based on a graduated scale with

a maximum fee of \$600. The largest business will therefore pay less per \$100 of sales than the smallest business.

Although new §176.19(a)(1)(L) may produce a competitive disadvantage for small businesses related to the cost of technology, the amendment does not affect the cost of technology; rather, it sets the industry-wide standards to be applied. Because only the schools that choose to develop and use technology-based delivery systems are required to comply with the amendment, there will be no adverse effect on small businesses due to the amendment and no increase in the cost per employee, hour of labor, or \$100 of sales.

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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed amendments submitted under the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the rules has been published in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 4413(29c), §4, which authorizes the SBOE to adopt rules necessary to carry out the Texas Driver and Traffic Safety Education Act; and Texas Civil Statutes, Article 6701d, which authorizes TEA to administer comprehensive rules governing driving safety courses adopted by the SBOE.

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

**Branch school-A licensed driver training school that has the same ownership as a licensed primary school.**

**Break-An interruption in a course of instruction occurring after the course introduction and before the course summation.**

**Clock hour-50 minutes of instruction in a 60-minute period for a driving safety course; 55 minutes of instruction in a 60-minute period for driver education classroom session; and 60 minutes of instruction in a 60-minute period for behind-the-wheel instruction.**

**Driver training school or school-Refers to primary and branch schools unless otherwise specified.**

**New course-A driver education course is considered [to be] new when it has not been offered previously or has been offered and then discontinued. A driving safety course is considered new when it has not been offered previously, or has been offered and then discontinued, or [and/or] the content or lessons of the course have been changed [25% or more].**

**Primary or main school-A licensed driver training school that may have branch schools or extensions.**

**Teen and teenage-Eligible students of driver education as specified in the "Standards for an Approved Course in Driver Education for Texas Schools," contained in §75.316(c) of this title (relating to Instructor Hours, Class Size, and Age Level for the driver education curriculum) [who are at least 14 years of age when the classroom phase begins and who will be at least 15 years of age at the time the classroom phase ends].**

*§176.13. School Licensure.*

(a) **Application** An application for a driver training school license for a primary or branch school shall be made on forms supplied by the agency.

(b) **(No change)**

(c) **Verification of ownership**

(1) In the case of an original or change of owner application for a primary school, the owner of the school shall provide verification of ownership that [which] includes, but is not limited to, copies of stock certificates, partnership agreements, and assumed name registrations. The director may require additional evidence [as is deemed necessary] to verify ownership.

(2) In the case of an original or change of owner application for a branch school, the owner shall submit an application on forms supplied by the agency.

(3) [(2)] With the renewal application, the owner of the school shall provide verification that no change in ownership has occurred. The director may require additional evidence [as is deemed necessary] to verify that no change of ownership has occurred.

(d) **Effective date of the driver training school license** The effective date of the driver training school license for a primary school shall be the date the license is issued. Exceptions may be made if the applicant was in full compliance on the effective date of issue. For a branch school, the expiration date of the driver training school license shall be concurrent with the driver training school license for the primary school.

(e) **Purchase of school** [A person or persons purchasing a licensed driver training school shall comply with all the requirements for securing an original license. In addition, copies of the executed sales contract(s), bill(s) of sale, deed(s), and all other instruments necessary to transfer ownership of the school shall be submitted to the agency. The contract or any instrument transferring the ownership of the school shall include the following.]

(1) A person or persons purchasing a licensed driver training school shall obtain an original license.

[(1) The purchaser shall assume all refund liabilities incurred by the seller or any former owner prior to the transfer of ownership.]

(2) A driver training school license for a branch school is not transferable to an applicant who does not own a currently licensed primary driver training school. The new owner shall obtain an original driver training school license for a primary school.

[(2) The sale of the school shall be subject to approval by the agency.]

(3) In addition, copies of the executed sales contracts, bills of sale, deeds, and all other instruments necessary to transfer ownership of the school shall be submitted to the agency. The contract or any instrument transferring the ownership of the school shall include the following.

[(3) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.]

(A) The purchaser shall assume all refund liabilities incurred by the seller or any former owner before the transfer of ownership.

(B) The sale of the school shall be subject to approval by the agency.

(C) The purchaser shall assume the liabilities, duties, and obligations under the enrollment contracts between the students and the seller, or any former owner.

(4) A change of ownership is considered substantially similar:

(A) in the case of ownership by an individual, when the individual transfers ownership to a corporation in which the individual owns 100% of the stock of the corporation;

(B) in the case of ownership by a corporation, when the ownership is transferred to a partnership in which the stockholders possess equal interest in the owning partnership; or

(C) in the case of ownership by a partnership or a corporation that transfers ownership to a corporation in which the partners hold interest that

equals the interest of the owning partnership or the owning corporation transfers ownership to a different corporation in which the stockholders for both corporations possess equal shares.

(f) **New location.**

(1) The director shall be notified of any change of address at least [within] three working days before [prior to] the move.

(2) (No change.)

(3) If the move is beyond 10 miles and, as determined by the director, a student is prevented from completing the training at the new location, a full refund of all money paid and a release from all obligations are due.

(g) **Renewal of driver training school license.** A complete application for the renewal of a license for a primary or branch school shall be submitted before [prior to] the expiration of the license and shall include the following:

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

(h) **Denial, revocation, or conditional license.** The authority to operate a branch school ceases if a primary driver training school license is denied or revoked. The operation of a branch school license may be subject to any conditions placed on the continued operation of the primary driver training school. A driver training school license for a branch school may be denied, revoked, or conditioned separately from the license for the primary school.

(i) [(h)] **Notification of legal action.** A school [All schools] shall notify the director in writing of any legal action that [which] may concern the operation of or is filed against the school, its officers, any owner, or any school instructor within five working days after the school, its officers, any owner, or any school instructor has commenced the legal action or has been served with legal process. Included with the written notification, the school shall submit a file-marked copy of the petition or complaint that has been filed with the court.

(j) **School Closure.** In reference to Texas Civil Statutes, Article 4413(29c), §9, a school shall make all records available for review to the agency within 90 days of the date the school ceases operation.

*§176.14. Driving Safety Course-Extensions [Extension Locations].*

(a) (No change.)

(b) Schools desiring to conduct extensions shall:

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

(3) notify the agency within 30 [thirty (30)] days of [prior to] the discontinuance of an extension. Notification shall include a statement of assurance [to the effect] that verification and retrieval of all uniform certificates of completion provided to the extension have been accomplished;

(4)-(5) (No change.)

(c) (No change.)

(d) **An extension that has a change of name shall submit the appropriate fee and an application reflecting the name change.**

(e)[(d)] The extension shall have permanent physical and mailing addresses that are provided to the agency. Any changes to the permanent address shall require submission of a registration application and fee. Changes to the mailing address shall not require payment of the fee.

(f)[(e)] An extension may provide instruction at multiple classroom addresses. All the [such] addresses shall be provided to the agency on a form supplied by the commissioner. Changes in classroom addresses shall not require submission of a new registration application or fee.

(g)[(f)] An [Every] extension shall have an agency-approved administrative staff member who is [shall serve as the person] responsible for submitting documentation to the school from the extension.

(h) [(g)] All contacts by the agency with extensions, except on-site investigations, shall be made through the licensed school. A violation of the law or rules by an extension constitutes a violation by the school.

(i)[(h)] An extension that [which] chooses to offer more than one school's approved driving safety course shall be registered and approved for each school. Procedures shall be developed by the course owners or primary consignees for the courses being offered and submitted to the agency for approval to ensure that a system for issuing uniform certificates of completion for an extension that offers multiple courses is established.

(j)[(i)] All extension registrations are contingent on the school license and shall be subject to denial or revocation if such action is taken against the license of the school that [which] has responsibility for the extension

*§176.16. Driver Training School Responsibility for Employees.*

(a) All instruction in a driving safety course shall be performed by agency-licensed instructors in agency-approved locations. However, [except] a student instructor may teach the 12 [16] hours

necessary for licensing in an agency-approved location under the direction and in the presence of a licensed driver training instructor trainer who has been trained in the curriculum being instructed. If a licensed instructor enters or leaves the employment of any driver training school or extension, the school director shall within five days notify the director on forms furnished by the commissioner, indicating the name, address, and license number of the school and the instructor, the date of employment or the termination date, and the reason for termination.

(b) No driver training school owner-operator, director, or manager shall:

(1) permit any individual to give classroom instruction or behind-the-wheel instruction at the school or any extension or classroom location unless the individual has a valid current driver training instructor's license issued by the division [agency], except as provided in subsection (a) of this section;

(2)-(4) (No change.)

(c) (No change.)

*§176.17. School Directors and Administrative Staff Members*

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

(c) An administrative staff member shall be designated by the school director for each registered extension and may be designated by the school director for a school.

(1) Duties. The administrative staff member shall perform all the administrative functions of the extension or school.

(2) (No change.)

(d) (No change.)

(e) The school director, acting school director, or administrative staff member [for the extension] shall serve as a liaison [person] during any announced compliance visit by the agency.

(f) (No change.)

*§176.18. Driver Training Instructor License.*

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

(c) A person applying for a driver training instructor license may qualify for the following endorsements

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

(5) Driving safety instructor

(A) The application shall include evidence of completion of 24 hours of training, covering techniques of instruction and in-depth familiarization with material

contained in the driving safety curriculum in which the individual is being trained and 12 [16] hours of practical teaching in the same driving safety course.

(B) (No change.)

(6) Driving safety instructor trainer.

(A) The application shall include a statement signed by the driving safety course owner or primary consignee, if different than the applicant, recommending the instructor as an instructor trainer and evidence of one of the following:

(i) a Texas teaching certificate with driver education endorsement and 60 [80] hours of experience, exclusive of the 36-hour [40-hour] instructor development course, in the same driving safety course for which the individual is to teach;

(ii) a teaching assistant certificate and 60 [80] hours of experience, exclusive of the 36-hour [40-hour] instructor development course, in the same driving safety course for which the individual is to teach; or

(iii) completion of an agency-approved, 36-clock-hour [40-clock-hour] driving safety instructor development course in the same driving safety course for which the individual is to teach and 300 [400] hours of verifiable experience as a licensed driving safety instructor, of which the most recent 60 [80] hours shall be in the same driving safety course for which the individual is to teach. [; or]

(iv) a statement signed by the driving safety course owner or primary consignee, if different than the applicant, recommending the instructor as an instructor trainer.]

(B) The responsibilities include instructing an agency-approved driving safety course and signing as a driving safety instructor trainer for the 12 [16] hours of practice teaching required for driving safety instructor trainees.

(7) (No change.)

(d)-(i) (No change.)

*§176.19 Courses of Instruction.*

(a) This subchapter contains requirements for driving safety, driver education, and instructor development courses. For each course, the following curriculum documents and materials are required to be submitted as part of the application for approval.

(1) Driving safety courses.

(A) (No change.)

(B) Minimum course content. A driving safety course shall include, as a minimum, materials adequate to address the following topics and to comply with the minimum time requirements for each topic and the course as a whole:

(i)-(ii) (No change.)

(iii) Factors influencing driver performance—minimum of 20 [30] minutes (instructional objective—to identify the characteristics and behaviors of drivers and how they affect driving performance):

(I)-(V) (No change.)

(iv) (No change.)

(v) Special skills for difficult driving environments—minimum of 20 [30] minutes (instructional objectives—to identify how special conditions affect driver and vehicle performance and [to] identify techniques for management of these conditions):

(I)-(V) (No change.)

(vi) (No change.)

(vii) Perceptual skills needed for driving—minimum of 20 [30] minutes (instructional objective—to identify the factors of perception and how the factors affect driver performance):

(I)-(VI) (No change.)

(viii) Defensive driving strategies—minimum of 40 [50] minutes (instructional objective—to identify the concepts of defensive driving and demonstrate how they can be employed by drivers to reduce the likelihood of crashes, deaths, injuries, and economic losses).

(I)-(VIII) (No change.)

(ix) Driving emergencies—minimum of 40 [50] minutes (instructional objective—to identify common driving emergencies and their countermeasures):

(I)-(III) (No change.)

(x) Occupant restraints and protective equipment—minimum of 15 [20] minutes (instructional objective—to identify the rationale for having and using occupant restraints and protective equipment):

(I)-(V) (No change.)

(xi) Alcohol and traffic safety—minimum of 40 [50] minutes (instructional objective—to identify the effects of alcohol on roadway users):

(I)-(V) (No change.)

(xii) Comprehensive examination and summation—minimum of 15 minutes (this [This] shall be the last unit of instruction). [ ] The remaining required 55 minutes of instruction shall be allocated to topics, excluding clause (i) of this subparagraph, and this clause or to additional driving safety topics included in the approved curriculum guide.]

(xiii) The remaining required 20 minutes of instruction shall be allocated to the topics included in the minimum course content, excluding clauses (i) and (xii) of this subparagraph, or to additional driving safety topics that satisfy the educational objectives of the course.

(C) Course management. Approved driving safety courses shall be presented in compliance with the following.

(i) (No change.)

(ii) The total length of the course shall consist of a minimum of 360 [480] minutes.

(iii) A minimum of 300 [400] minutes of instruction is required.

(iv) Sixty [Eighty] minutes of time exclusive of the 300 [400] minutes of instruction shall be dedicated to break periods or to the topics included in the minimum course content, excluding the course introduction and comprehensive examination and summation. All break periods shall be provided after instruction has begun and before [prior to] the comprehensive exam and course summary.

(v) Administrative procedures, such as enrollment, shall not be included in the 360 minutes of the course [instructional time].

(vi)-(vii) (No change.)

(viii) Each class of students shall receive the topics of the course in the same order. The order of topics shall be approved by the agency as part of the course approval.

(D) Driving safety course guides. A course guide is a description of the content of the course and the techniques of instruction that will be used to present the course. The guide shall be bound into one unit or contained in a hole-punched notebook with a cover and a table of contents. To be approved for licensing, each course owner or primary consignee shall



submit as part of the application a course guide that includes the following:

(i)-(iv) (No change.)

(v) a list of relevant instructional resources such as textbooks, audio and visual media and other instructional materials, and equipment that will be used in the course. A variety of relevant motion picture films, slides, videos, or [and/or] tape recordings shall be used for at least 60 [80] minutes but cannot be used in excess of 150 [200] minutes of the 300 [400] minutes of instruction. The [list of] resources may be included in a single list, or they may appear at the end of each instructional unit;

(vi)-(vii) (No change.)

(viii) units of instruction sufficient to present the topics identified in subparagraph (B) of this paragraph and any additional topics unique to the course. Each instructional unit shall include the following:

(I)-(VI) (No change.)

(VII) techniques for evaluating [evaluation of] the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the course guide [instructional unit's description]. The evaluative technique may be used throughout the unit or at the end;

(ix) (No change.)

(E) Instructor training guides. An instructor training guide contains a description of the plan, training techniques, and curriculum to be used to train instructors to present the concepts of the approved driving safety course described in the applicant's driving safety course guide. To be approved, each course owner or primary consignee shall submit as part of the application an instructor training guide that is bound or hole-punched and placed in a binder and that has a cover and a table of contents. The guide shall include the following:

(i) (No change.)

(ii) a description of the plan to be followed in training instructors. The plan shall include, as a minimum, provisions for the following:

(I)-(V) (No change.)

(VI) a minimum of 600 [800] minutes of instruction of the course in a regular approved course under

the observation of a licensed instructor trainer. The instructor trainee shall provide instruction for two full courses. It is not mandatory that the two courses be taught as two complete courses; however, every instructional unit shall be taught twice;

(iii) instructional units sufficient to address the provisions identified in clause (ii)(I)-(V) of this subparagraph. The total time of the units shall contain a minimum of 24 instructional hours. Each instructional unit shall include the following:

(I)-(VI) (No change.)

(VII) techniques for evaluating [evaluation of] the comprehension level of the students relative to the instructional unit. If oral or written questions are to be used to measure student comprehension levels, they shall be included in the instructor training guide [instructional unit's description]. The evaluative technique may be used throughout the unit or at the end.

(F)-(K) (No change.)

(L) Driving safety courses delivered by technology. The commissioner of education may approve a driving safety course delivered by technology and waive any rules to accomplish this approval if:

(i) the educational objectives, minimum course content, applicable areas of course management, examination, and student course evaluation requirements are met;

(ii) the course materials are written by a licensed instructor;

(iii) with the exception of circumstances beyond the control of the course owner, the student has adequate access to a licensed instructor (on the average, within two minutes) throughout the course such that the flow of instructional information is not delayed;

(iv) the certificate of completion is signed by a licensed instructor;

(v) the equipment and course materials are available only through and at the approved driving safety school or extension; and

(vi) there is sufficient evidence to demonstrate the security of the course and that it cannot be circumvented by the general public.

(2) Teenage driver education.

[(A) A 14-year-old student who will be 15 years old before the classroom phase of the driver education course ends may receive classroom instruction. A 14-year-old shall not be given behind-the-wheel in-car instruction.]

(A)[(B)] Driver training schools instructing [14- to 18-year-old] students ages 14-18 shall meet the requirements promulgated in the state-approved curriculum guide for driver education, the "Standards for an Approved Course in Driver Education for Texas Schools," and this chapter.

(B)[(C)] Driver training schools that [, who] desire to instruct students [persons] ages 14-18 [14 to 18 years.] shall provide classes with uniform beginning and ending dates. Students shall be enrolled and in attendance in the class before [prior to] the seventh hour of classroom instruction.

(i)-(iii) (No change.)

(C)[(D)] Each student younger than [under] 18 [years of age] shall be provided [with] a driver education textbook currently adopted by the State Board of Education

(D)[(E)] A copy of the current edition of the Texas Drivers Handbook, motorcycle supplement, or [and/or] agency-approved study material shall be furnished to each student enrolled in the classroom phase of the driver education course

(E)[(F)] The school director shall ensure [is responsible for ensuring] that each driver education instructor provides [is providing] instruction as outlined in the most recent edition of the "Standards for an Approved Course in Driver Education for Texas Schools" and the current state-approved curriculum guide. In addition, the school director shall obtain [is responsible for obtaining] a current copy of the "Standards for an Approved Course in Driver Education for Texas Schools" and a current state-approved curriculum guide appropriate for the phase of instruction.

(F)[(G)] A school may not permit more than 36 [35] students per driver education class

(G) [(H)] When a student changes schools, interrupting the classroom phase of the driver education course, the school may grant credit for the hours completed, provided the student enters and com-

pletes within 90 days and completes a course comparable to that in which the student first enrolled. Any credit received shall be documented in the student file.

(H)(I) The classroom phase of driver education shall be completed in no fewer than 20 and no more than 90 calendar days from the first day of class, with no more than two hours of regularly scheduled classroom activities in one day. This shall not circumvent the attendance and progress policies.

(I)(J) All behind-the-wheel instruction shall consist of actual driving practice while the motor vehicle is in motion or as provided for in the curriculum guide for driver education. No school shall permit a ratio of less than two students or more than four students per instructor, except as allowed by subparagraph (k)(ii) [(L)(ii)] of this paragraph. The behind-the-wheel phase shall be completed in no less than 14 calendar days from the first actual driving lesson. The behind-the-wheel phase shall be completed within 180 calendar days of the completion of the classroom phase or the first contracted behind-the-wheel lesson, whichever comes first. [The behind-the-wheel phase shall be completed in no less than 14 calendar days or more than 180 calendar days from the first actual driving lesson.]

(J)(K) A student must have a valid driver's license or instruction permit in his or her [the student's] possession during behind-the-wheel instruction

(K) [(L)] Driver training schools are authorized exceptions to the standards for an approved course in driver education and the state-approved curriculum guide (driver education classroom and in-car instruction) as follows.

(i) The maximum amount of in-car instruction time permissible for a driver training school instructor to teach minors shall not exceed eight hours per day ]

(j)(ii) A student may receive two 30-minute sessions or, at the discretion of the instructor of behind-the-wheel in-car instruction, one 60-minute session per day [at the discretion of the instructor of behind-the-wheel in-car instruction per day] This does not remove the minimum requirement of [for] seven hours of observation time or alter the 20-day minimum time-frame for concurrent courses or the 14-day minimum time-frame for in-car training courses as currently outlined in the agency-approved curriculum guide and the standards for an approved course in driver education.

(ii)(iii) In-car instruction may be provided for only one student when [in those instances where] it is not practical to instruct more than one student or a hardship would result if scheduled instruction is not provided. The school shall obtain a waiver signed and dated by the parent or legal guardian of the student and the school director stating that the parent or legal guardian understands that the student may be provided in-car instruction on a one-on-one basis with only the instructor and student present in the vehicle during instruction. The waiver may be provided for any number of lessons; however, the waiver shall specify the exact number of lessons for which the parent is providing the waiver. The waiver shall be signed before the first lesson in which the parent is granting permission for the student to receive one-on-one instruction. [Documentation shall be maintained to support the in-car instruction for one student ]

(iii)(iv) Schools are not required to employ supervising teachers to supervise and evaluate teaching assistants in driver education courses

(iv)(v) Motion picture films, slides, videos, tape recordings, and other media approved by the director that present concepts outlined in the curriculum guide may be used as part of the required clock hours of the 32 hours of classroom instruction Units scheduled to be instructed may also be conducted by guest speakers as part of the required clock hours of instruction Together, these shall not exceed 640 minutes of the total 32 clock hours

(3) Instructor development courses

(A) Driving safety instructors [Instructors] shall successfully complete 36 clock hours, and adult driver education instructors shall successfully complete 40 clock hours (50 minutes of instruction in a 60-minute [60 minute] period) in traffic safety education and driver training, under the supervision of a driver training instructor trainer Supervision is considered to have occurred when the instructor trainer is present and personally provides the 36 clock hours of training for driving safety instructors and 40 clock hours of training for adult driver education instructors, excluding those clock hours approved by agency staff that [which] may be presented by a guest speaker or using films and other media that pertain directly to the concepts being taught

(B)-(D) (No change )

(E) The driving safety course owner or primary consignee shall submit dates of instructor development course offerings for the 24-hour training that covers techniques of instruction and in-depth familiarization with the material contained in the driving safety curriculum, locations, class schedules, and scheduled instructor trainers' names and license numbers at least 30 [thirty (30)] days before the courses are offered. The 12-hour practical-teaching portion of the instructor development course shall be provided at properly registered extensions or schools approved to offer the course being provided.

(F)-(H) (No change )

(I) Applicants shall complete 36 [40] hours of training in the driving safety curriculum that shall be taught. Of the 36 [40] hours, 24 shall cover techniques of instruction and in-depth familiarization with materials contained in the driving safety curriculum The additional 12 [16] hours shall consist of practical teaching with students and shall occur after the first 24 hours have been completed.

(b) Branch schools. A branch school may not offer a course that is not approved for the primary school.

(c) Application procedures for additional courses. Schools applying for approval of additional courses after the original approval has been granted shall submit the documents designated by the director with the appropriate fee. Courses shall be approved before soliciting students, advertising, or conducting classes. An approval for an additional course shall not be granted if the school's compliance is in question at the time of application.

(d) Discontinuance of program. If an approved course is discontinued, the director shall be notified within 72 hours of discontinuance and furnished with the names and addresses of any students who could not complete the course because it was discontinued. If the school does not make arrangements satisfactory to the students and the director for the completion of the courses, the full amount of all tuition and fees paid by the students are due and refundable. If arrangements are not made satisfactory to the students and the director, the refunds must be made no later than 30 days after course was discontinued. Any course discontinued will be removed from the list of approved courses.

(e)(b) If, upon review and consideration of an original, renewal, or amended application for course approval, the commissioner determines that the applicant does

not [fails to] meet the legal requirements, the commissioner shall notify the applicant, setting forth the reasons for denial in writing.

(f) [(c)] The commissioner may revoke approval of an institution's courses [course(s)], including, but not limited to:

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

*§176.20. Contracts—Students.*

(a) (No change.)

(b) All driver training school contracts shall contain at least the following:

(1) the student's [full] legal name and driver's license or social security number. If a student who is a minor is unable to provide a driver's license or social security number, the driver's license number or social security number of the parent shall be used;

(2) the full legal name and license number of the primary school, the branch school, and extension registration number, if appropriate;

(3) (No change.)

(4) a statement indicating the agreed total contract charges that itemizes all tuition, fees, and other charges;

(5)-(9) (No change.)

(10) statements substantially as follows.

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

(C) This agreement constitutes the entire contract between the school and the student, and no verbal assurances or promises not contained herein shall bind the school or the student.

(D)[(C)] "I further realize that any grievances not resolved by the school may be forwarded to the Division of Proprietary Schools and Veterans Education, and Driver Training, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701 [, (512) 475-3547]"

(E)[(D)] If the course is driving safety, the statement required in subparagraph (C) of this paragraph shall include the name and address of the course provider.

(c) In addition to the items required for all driver training school contracts, all driver education student contracts shall contain the following:

(1) (No change.)

(2) rate per lesson or course for [-] classroom instruction [or course];

(3) rate per lesson or course for [-] behind-the-wheel instruction [or course];

(4)-(5) (No change.)

(6) the student's signature, or if the driver education student is younger [less] than 18 [years of age], the signature of the parent or guardian, except that the signature of the parent or guardian is not required for an individual younger than [persons under age] 18 who is [are] or has [have] been married or whose disabilities of minority have been removed generally by law. Instead, such an individual [persons] shall:

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

(d)-(i) (No change.)

(j) Contracts used at branch schools must be those approved for use at the primary school.

*§176.22. Progress.* Appropriate standards shall be implemented to ascertain the progress of the students.

(1) Driver education.

(A) (No change.)

(B) Each primary school shall submit to the director for approval an established procedure to ensure that each student who attends the primary school and all branch schools demonstrates [all students demonstrate] an acceptable level of mastery of the essential elements for driver education. Mastery is a prerequisite to awarding a grade of 70 or above.

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

(2) (No change.)

*§176.23. Attendance.* Appropriate standards, which include positive records of student attendance, shall be implemented to ascertain the attendance of the students.

(1) Driver education.

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

(C) The student may receive credit for previous training if the student reenters and completes the applicable [classroom] portion of the course within the following guidelines from [90 days of] the first scheduled day of class on the original contract: [.]

(i) 90 days for the classroom phase; or

(ii) 180 days for the behind-the-wheel phase.

(D) (No change.)

(2) Driving safety. A school that [which] offers a driving safety course shall document the hours scheduled each day and each hour not attended in a manner approved by the director.

*§176.25. Make Up and Alternative Scheduling.*

(a) (No change.)

(b) A primary school [Schools] shall submit a makeup [make-up] policy for approval. Branch schools shall use the policy approved for use at the primary school. All makeup [make-up] lessons shall be documented on the individual instruction record, which shall reflect the signature and license number of the instructor responsible for conducting the makeup session [and evidence of coursework performed shall be placed in the student file]. Makeup [Make-up] lessons other than alternative scheduling may be presented in any sequence.

(1) (No change.)

(2) Teenage driver education only.

(A) For a policy that allows a student [students] to perform an [a self-study or] individual makeup [make-up] session, a synopsis of each lesson shall be submitted as part of the application for licensure. A sample of each makeup [make-up] lesson, clearly labeled as "makeup [make-up] for the driver education course," shall be available for review by the agency at the school. Each lesson shall be clearly identified as a makeup [make-up] lesson and [shall be] identified as to the units of instruction to be covered. A licensed instructor shall be available without other teaching assignments to provide assistance directly to students during the individual-study [self-study] lesson. Any makeup [Self-study make-up] shall be considered an absence and be subject to the attendance policy

(B) (No change.)

(c) All classroom make-up lessons shall be completed by the student within 90 days of the first scheduled day of class. If the student does not [fails to] complete the entire classroom phase, including all makeup [make-up] lessons, within the 90-day period, the student shall be terminated, and no credit for classroom instruction shall be granted. Makeup [Make-up] work shall not be authorized to remove [for the purpose of removing] absences.

**§176.26. Conduct Policy.**

(a) The primary school shall submit a copy of the policies pertaining to conduct for approval. Branch schools shall use the policies approved for use at the primary school.

(b) (No change.)

**§176.27. Cancellation and Refund Policy.**

(a)-(e) (No change.)

(f) Any funds received from, or on behalf of, a student shall be recorded in a format that is readily accessible to representatives of the agency and acceptable to the director. Receipts shall be issued to the student.

(g) Branch schools shall use the policies approved for use at the primary school.

**§176.28. Facilities and Equipment.**

(a) (No change.)

(b) No classroom facility will be located in a private residence. Driver education schools, including primary and branch schools, that offer the classroom phase for adult or teenage driver education shall have a permanent year-round facility. The classroom facilities, when used for instruction, shall contain at least the following:

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

(c) Additional classrooms may be approved for use by a driver training school. The school owner shall provide a proposal that shall be approved before using the additional classroom facilities. The proposal shall include:

(1) a floor plan indicating the exact dimensions of the classroom facility and its location in respect to the school facilities. The classroom facilities shall be located in the same building as the main school, or in the case of portable facilities, the structure shall be on the property owned or leased by the school and immediately adjacent to the school facility;

(2) evidence that the school owner owns, has leased, or is able to lease the classroom facilities. In the case of portable facilities, evidence shall be submitted that the structure can be placed on the property leased or owned by the school owner in the location designated in the proposal;

(3) a revised contract or equivalent document acknowledging parental consent to the arrangement that will be signed by a parent of each student who will receive training in the class-

room. The school shall offer each parent a tour of the classroom facilities, and the acceptance or denial of the offer to tour the facilities shall be noted in the consent statement;

(4) a description of all materials and equipment to be used in the classroom. The description shall include assurance that the classroom facilities and equipment meet or exceed the current requirements and that all materials and equipment contained in the proposal will be used during the instruction that occurs in the classroom facility;

(5) a schedule that provides the hours of the day the classroom will be used for instruction;

(6) a description of staff supervision and security that will be provided for all students attending classes at the classroom; and

(7) any other items or assurances requested by the director.

(d)[(c)] A school [All schools] offering [teenage] driver education shall maintain an office in a place other than a private residence.

(e)[(d)] The amount of classroom space shall meet the use requirements of the maximum number of current students in class with appropriate seating facilities as necessitated by the activity patterns of the course.

(f)[(e)] Enrollment shall not exceed the design characteristics of the student work stations. The facilities shall meet any state and local ordinances governing housing and safety for the use designated.

**§176.29. Motor Vehicles.**

(a) All behind-the-wheel instruction of students in driver education training schools shall be conducted in motor vehicles owned or leased by the owner of the driver training school, unless the student is physically handicapped and shall use special vehicle controls. All school motor vehicles and vehicles owned by physically handicapped students that [which] are used to demonstrate or [for the purposes of demonstration and/or] practice [of] driving lessons shall:

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

(b) At the time the primary school adds a vehicle or the insurance policy or policies expire, the primary school shall cause the insuring company or carrier to issue a certificate on a form furnished by the commissioner, or its equivalent, certifying to the director that the insurance company or carrier has issued a policy or policies of insurance in the designated amounts for the vehicles

listed and any other such information requested. An insurance certificate or certificates shall accompany and account for each motor vehicle listed by the school on the vehicle fleet form provided by the director and filed with the agency. The school shall be notified by the director of all cars approved for use in behind-the-wheel instruction. Branch schools shall use cars approved from the fleet approved for use by the primary school. [Before filing an original, renewal, or reinstatement application for a license with the agency, each driver training school shall cause the insuring company or carrier to issue a certificate on forms furnished by the commissioner and certifying to the director that the insurance company or carrier has issued a policy or policies of insurance, in the designated amounts, for the vehicles listed and any other such information as requested. An insurance certificate or certificates shall accompany and account for each motor vehicle listed by each driver training school vehicle fleet schedule form as provided by the director and filed with the agency. In the event insurance coverage for any vehicle used for driver instruction or driver training purposes is not renewed, the driver training school shall give written notice to the agency at least 10 days prior to the expiration date of the insurance coverage.]

(c) If insurance coverage for any vehicle used for driver instruction or driver training purposes is not renewed or the school will discontinue use of the vehicle for such purposes, the school shall give written notice to the agency at least 10 days before insurance coverage expires or as soon as possible upon discontinuing use of the vehicle.

(d)[(c)] If [In the event] the motor vehicle insurance coverage is to be cancelled, a copy of the written notice of cancellation shall be furnished immediately upon receipt of notice to the division by registered or certified mail.

**§176.30. Student Complaints.**

(a) The primary school shall have a written grievance procedure approved by the director that is disclosed to all students. Branch schools shall follow the procedures approved for the primary school. The function of the procedure shall [will] be to attempt to resolve disputes between students, including terminations [drops] and graduates, and the school. Adequate records shall be maintained.

(b) The school shall make every effort to resolve complaints at the branch or primary school.

§176.31. Records.

(a) A school; course owner, or primary consignee shall furnish upon request any data pertaining to student enrollments and attendance, as well as [All schools shall make available the] records and necessary data required for licensure and to show compliance with the legal requirements for inspection by authorized representatives of the agency. A school shall maintain the records of the students who completed driver education classes at the school for the most current 18 months. All other records shall be maintained at a location accessible by the school owner. There may be unannounced compliance surveys at each school each year. Other compliance surveys may be announced at the discretion of the director.

(b) (No change.)

(c) A [All] driver training school [schools] licensed by the agency shall maintain a permanent record of instruction given to each student.

(1) Individual students.

(A) (No change.)

(B) The individual student record form shall include [, but not be limited to,] the following:

(i)-(ii) (No change.)

[(iii) applicable areas of instruction;

[(iv) date of enrollment;]

[(iii)][(v)] date instruction terminated, if applicable;

[(iv)][(vi)] type and number of license held by the student, including the expiration date and licensing state;

[(v)][(vii)] month, day, year, and time of instruction;

[(vi)][(viii)] each unit of instruction;

[(vii)][(ix)] grade earned for each unit;

[(viii)][(x)] instruction hours for classroom, simulators, behind-the-wheel, and observation;

[(ix)][(xi)] signature [printed name, signature,] and license number of [for] each instructor for each classroom session or behind-the-wheel lesson;

[(x)][(xii)] beginning and ending dates of the course;

[(xi)][(xiii)] statement of assurance signed by student and instructor that the record is true and correct; and

[(xii)][(xiv)] printed name and signature of the school director or acting [assistant] school director.

(C) (No change.)

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

(d) (No change.)

(e) A student who changes schools, or re-enters the same school, before completing the classroom or laboratory instruction for driver education shall receive credit for the hours completed, provided the student enters and completes within 90 days a course that [which] is at least comparable to that in which the student was first enrolled. The teacher of the course in which the student was originally enrolled shall execute the driver education certificate (Texas driver education certificate) and attach to it [, attaching thereto] a statement showing the specific lessons covered by the student as outlined in the state-approved curriculum guide and the number of hours completed. The [; the] teacher shall mail the certificate to the chief school official in the school to which the student is transferring.

(f) (No change.)

(g) A school must maintain a master record of attendance for each student that clearly indicates the number of scheduled hours each day and the hours of absence. The instructor's master record of attendance must indicate a record of each student's attendance. Entries in the master record of attendance shall be made in ink and shall be updated by the end of each hourly session on a daily basis.

§176.32. Names and Advertising.

(a) No primary school shall adopt, use, or conduct any business under a name that is like, or deceptively similar to, a name used by another school without written consent of that school. School names approved by the Department of Public Safety as of August 31, 1989, may be approved by the agency. No new certificate of approval or license will be issued to a school after August 31, 1989, with a name like, or deceptively similar to, a name used by another school. Further, the name used in advertising shall be as stated on the driver training school license.

(b) Branch schools shall adopt, use, and conduct business with the same name as the primary school.

(c) [(b)] A [No] school or extension shall not, by advertisement or otherwise, state or imply that a driver's license, permit, or certificate of completion is guaranteed or assured to any student or individual who will take or complete any instruction or

enroll or otherwise receive instruction in any driver training school.

(d)[(c)] A [No] school shall not advertise without including the school name or the school [license] number exactly as it appears on the school license. An [No] extension shall not advertise without including the extension registration number or the school name.

(e)[(d)] The director may require that a school furnish proof to the agency that [which] substantiates any advertising claims made by the school or extensions. Failure to provide acceptable proof may require that a retraction of such advertising claims be published by the school in the same manner as the disputed advertisement. Continuation [, and continuation] of such advertising shall constitute cause for suspension or revocation of the school license.

(f)[(e)] A [No] school shall not design, manufacture, or supply to any court of the state any written materials that [which] may be false, misleading, or deceptive.

§176.33. Application Fees and Other Charges.

(a) If a school changes ownership [In the event of a change in ownership of the school], the new owner shall pay the same fee as that charged for an initial fee for a school. In cases where the change of ownership is substantially similar according to §176.13(e) of this title (relating to School Licensure), the new owner shall pay the statutory fees allowed by Texas Civil Statutes, Article 4413(29c), §13(d)(3)(A).

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

(d) License, application, and registration fees shall be collected by the commissioner and deposited with the state treasurer according to [in accordance with] the following schedule. [:]

(1) The initial fee for a primary school is \$2,550. [:]

(2) The initial fee for a branch school is \$1,275.

(3)[(2)] The renewal fee for a primary or branch driver training school which offers [only] driver education courses is based on the number of students that completed a course during the previous licensing period as follows. [\$200:]

(A) For 0-200 students, the renewal fee is \$350.

(B) For 201-400 students, the renewal fee is \$400.

(C) For 401-600 students, the renewal fee is \$450.

(D) For 601-800 students, the renewal fee is \$500.

(E) For 801-1,000 students, the renewal fee is \$550.

(F) For more than 1,000 students, the renewal fee is \$600.

(4) [(3)] The fee for a change of address of a school is \$270. [;]

(5) [(4)] The fee for a change of name of a school or name of owner is \$150. [;]

(6) [(5)] The [the] application fee for each additional course is \$35. [;]

(7) The application fee for each director is \$45.

(8) [(6)] The [the] application fee for each [director,] assistant director [,] or administrative staff member is \$20. [;]

(9) [(7)] The [the] fee for each extension is \$52.50. [\$35;]

(10) [(8)] The [the] fee for a change in the name of the extension or extension owner is \$52.50. [\$35;]

(11) [(9)] The [the] fee for a change in the physical address of the extension is \$52.50. [\$35;]

(12) [(10)] Each [each] application for an original driver training instructor's license shall be accompanied by a processing fee of \$50. [;]

(13) [(11)] The annual instructor license fee is \$37. 50. [;]

(14) [(12)] The late instructor renewal fee is \$25. [;]

(15) [(13)] The duplicate driver training instructor license fee is \$8.00. [;]

(16) [(14)] The fee for an investigation at a school to resolve a complaint is \$1,000. [;]

(17) [(15)] The driver training school late renewal fee is \$200. [;]

(18) [(16)] The fee for a certificate of course completion is \$1.10.

*§176.34. Uniform Certificates of Course Completion for Driving Safety Course.*

(a) The owner or primary consignee of a driver safety course may request to purchase serially numbered uniform certificates of course completion by submitting an order form provided by the commissioner stating the number of certificates to be purchased and including payment of all appropriate fees. The form shall have the original signature of the course owner or primary consignee when submitted.

(b) (No change.)

(c) Course owners and primary consignees shall issue or sell uniform certificates of course completion only to persons offering an approved driving safety course taught by agency-approved instructors in agency-approved locations. All persons shall return or account for uniform certificates of completion upon request of the appropriate course owner or primary consignee. Failure to respond to a request or failure to provide adequate security may result in action against the instructor, extension, and/or school approvals.

(d)-(f) (No change.)

(g) If a course owner issues duplicate certificates, procedures [Procedures] for issuing duplicate certificates shall be developed by the [each] course owner or primary consignee and submitted to the agency for approval. The procedures shall ensure that the duplicate certificate is clearly identified as being a duplicate of a previously issued certificate and shall indicate the control number of the previously issued certificate. No more than one duplicate certificate shall be issued for each six-hour course taken by an individual student. If the course owner or primary consignee does not issue duplicate certificates, the course owner or primary consignee shall notify the agency in writing.

(h) The right to purchase uniform certificates of completion may be suspended by the agency until the course owner or primary consignee proves access to a school in good standing approved to offer the course through which the certificates can be issued. The course owner or primary consignee may be required to submit a list containing all licensed driver training schools authorized to issue uniform certificates of completion for the driving safety course.

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

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

TRD-9329096  
Crisis Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: October 25, 1993

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

◆ ◆ ◆  
• 19 TAC §176.21, §176.24

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Education Agency or in the Texas Register*

office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Texas Civil Statutes, Article 4413(29c), §4, which authorize the State Board of Education to adopt rules necessary to carry out the Texas Driver and Traffic Safety Education Act.

§176.21. Tuition and Fees.

§176.24. Leaves of Absence.

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 September 20, 1993.

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Crisis Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: October 25, 1993

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

◆ ◆ ◆  
TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource and Conservation Commission

Chapter 334. Underground and Aboveground Storage Tanks

Subchapter H. Interim Reimbursement Program

• 30 TAC §334.301

The Texas Natural Resource Conservation Commission ("commission") proposes an amendment to §334.301, concerning interim reimbursement provisions of the commission's petroleum storage tank program.

This amendment is proposed in order to implement recent legislative changes to the petroleum storage tank remediation (PSTR) fund which is administered by the commission pursuant to the Texas Water Code (Code), §26.3573. The 73rd Legislature of the State of Texas enacted Senate Bill 1243, which authorizes the temporary transfer of funds from the General Revenue Fund to the PSTR fund during the 1994-1995 biennium for the purpose of paying reimbursement claims against the fund. The bill also authorizes the commission to establish a priority system for payments and provisions for suspension of payments from the fund.

The fund functions as an environmental contamination insurance policy by providing reimbursement for eligible persons for costs incurred in conducting environmental remediation. Implementation of this legislation is vital

to the continued integrity of the fund and its ability to provide an effective mechanism for financial assurance for environmental contamination.

In order to carry out the mandate of Senate Bill 1243, the commission has developed a priority system that it believes will provide a fair and consistent process by which reimbursement applications currently pending at the commission may be evaluated. The objective of this priority mechanism is to ensure an expeditious reimbursement to tank owners and operators with a mechanism that would provide reimbursement first to small business and local government owners and operators with fewer numbers of tanks since they are generally the ones least able to finance the cost of cleanup of contaminated sites. The commission believes that by using the numbers of tanks as the primary prioritization criteria in conjunction with a simple certification procedure to identify small businesses, it will avoid a costly and time-consuming financial review in order to determine which tank owners and operators have the greatest financial need. The Environmental Protection Agency has utilized the same priority system based on numbers of tanks owned in its phased-in approach for third-party liability insurance requirements as well as the implementation schedule for upgrades of tank standards.

The rules also provide a fund payment suspension provision which authorizes the executive director to suspend payments in whole or in part from the fund in the event it is necessary to do so to protect the viability of the fund.

Stephen Minick, Division of Budget and Planning, has determined that for the first five years the section is in effect there will be fiscal implications as a result of enforcement and administration of the sections. There are no direct effects on state government from changes in revenues or administrative costs. There are effects anticipated for state government agencies operating leaking underground storage tanks which have been remediated and for which reimbursement from the commission is pending. These effects will be equivalent to those for any other owner/operator assigned to lowest priority for reimbursement. The effects on local governments will also be directly related to the number of tanks owned by a local jurisdiction and where in the proposed priority they fit. Smaller jurisdictions with fewer tanks are more likely to benefit while those with larger numbers of tanks will realize increased costs of carrying the expenses of remediation efforts for a continued period of time. The effect of the proposed sections will to establish the priority under which certain owners or operators of underground storage tanks will qualify for reimbursement from the state for cost incurred in remediation of leaking tank facilities. It is estimated that approximately \$145 million in claims are currently outstanding and potentially to be paid from the petroleum storage tank remediation fund. The commission is authorized to transfer up to \$120 million from general revenue to the Petroleum Storage Tank Remediation Fund for the purpose of making reimbursements. Less than the full amount of \$120 million will be available, however, due to the need to maintain reserves

sufficient to support emergency response and other priority activities to endure protection of human health and safety. The adoption of these rules will have a direct benefit on the smaller operators which will qualify for the higher priority. The benefit will be the recovery of capital, the ability to satisfy outstanding claims against the operator, and the reduction of debt service costs. The higher the priority of the owner/operator the greater the certainty of direct benefit from reimbursement.

For owner/operators in lower priority these sections will not affect or mitigate the direct costs of remediation of leaking tanks or the indirect costs associated with the inability to recover capital. Adoption of these sections will preclude the reimbursement of remediation costs for larger operators for a minimum of two years and longer in many cases. The actual effects on any class of operator cannot be determined but will vary based on the size of the operator, the number of tanks owned, unrecovered costs invested in remediation efforts, and the economic condition of the concern. It is estimated that the average claim reimbursed is approximately \$39,000, although amounts can vary significantly. The maximum reimbursement authorized is \$1 million. The benefit or cost of these sections, depending on priority, would vary accordingly. These sections will have significant implications for small businesses. Since small businesses are specifically intended to be placed in a higher priority for reimbursement, they will receive the most benefit from the proposal and the most financial gain relative to larger firms.

Mr. Minick has also determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the remediation of leaking underground storage tanks, the protection of the groundwater resources of the state, and the administration of the state's groundwater protection program. There are no other costs anticipated for any individual required to comply with these sections as proposed.

Comments on the proposal may be submitted to Dan Neal, Petroleum Storage Tank Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted until 5:00 p.m. for a period of 30 days following the date of this publication.

A public meeting has been scheduled for the receipt of public comment. The meeting will be held on October 18, 1993, in the offices of the Texas Natural Resource Conservation Commission, Building E, (formerly called Messenger Building A), located at 12118 North IH-35, Room 201S, Austin, at 9:00 a.m.

This amendment is proposed under the Texas Water Code, Chapter 26, which provides the Texas Natural Resource Conservation Commission with the authority to establish a program to regulate underground and aboveground storage tanks and to administer the petroleum storage tank remediation fund, and under the Texas Water Code, §5.103 and §5.105, which authorizes the commission to adopt any rules necessary to carry out its powers and duties under the

Texas Water Code and other laws of the State of Texas, and to establish and approve any general policy of the commission. It is also proposed under the Texas Water Code, §26.003, which provides that it is the policy of the state and purpose of the subchapter to maintain the quality of water in the state consistent with public health and enjoyment, the operation of existing industries, and the economic development of the state. The amended section is also proposed under the Texas Water Code, §26.3573(g), which mandates that the commission make the most efficient use possible of money in the fund and provide the most effective protection to the environment and public health and safety.

Section 334.301 has been amended to include a priority payment process and a fund payment suspension provision. The priority system is designed to structure the reimbursement program so that money will be disbursed in order of size of tank owners and operators, and within that category, prioritized based upon the date the application was received. The modifying factors to the system include: a provision placing state and federal entities in Priority 4, regardless of number of tanks owned or operated; and a provision which states that owners and operators, other than municipalities and local government entities, which do not qualify as small businesses or which can pass the financial test of self-insurance will be processed with Priority 4 applications, regardless of number of tanks owned or operated. In order to identify the smaller operations which have the greatest need for reimbursement, the commission has based its criteria on the small business definition which is utilized by the Texas Department of Commerce, and which is found in the Government Code, §481.101. The commission is also proposing to identify those entities by using the financial test of self-insurance which was established by the Environmental Protection Agency and is utilized by the commission in carrying out the federally mandated third-party liability insurance requirements. The commission believes that this is a reasonable approach in that EPA acknowledged in its 1988 preamble to its adopted rules that the phased-in schedule of compliance recognizes that the owners of larger numbers of tanks have greater financial strength and therefore, are able to implement technical standards sooner than the smaller owners and operators.

The sections are proposed under the Texas Water Code, Chapter 26, §5.103, and §5.105 which provide the Texas Natural Resource Conservation Commission with the authority to adopt any sections necessary to carry out its powers and duties under the Texas Water Code and other laws of the State of Texas, and to establish and approve all general policy of the commission.

*§334.301. Applicability of this Subchapter.*

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

(i) Priorities for reimbursement applications to be processed during the 1994-1995 biennium pursuant to Senate Bill 1243. The following provisions apply to the priority payment process for reim-

bursment applications which is set forth in §334.301(i)(4) of this title (relating to Applicability of the Subchapter):

(1) Applications within the priority system will be processed in accordance with the number of tanks owned or operated by the applicant, and further prioritized, as necessary, based upon the date the application is received by the executive director.

(2) Only those applications received prior to September 1, 1993, shall be eligible for payment under §334.301(i) of this title.

(3) Applications to be processed with Priority 4 applications.

(A) Regardless of the number of tanks owned or operated, applications from the following shall be processed with Priority 4 applications:

(i) Entities (other than municipalities and local government entities) which have in excess of \$1 million in annual gross receipts or annual gross revenues, as applicable, and more than 100 employees;

(ii) Entities (other than municipalities and local government entities) which have satisfied or can satisfy

the criteria set forth in §334.95 of this title (relating to the Financial Test of Self-Insurance) for owners and operators of underground storage tanks;

(iii) State and federal entities.

(B) Information on annual gross receipts, annual gross revenues, number of employees and satisfaction of self-insurance requirements shall be provided by authorized representatives of applicants by the deadline set forth in the executive director's letter requesting certification of same. The executive director may request additional information, as necessary, to support the certification. Failure to submit the certification form or any additional requested information by the stated deadline may result in an application losing its priority status.

(4) Priority system: Subject to the conditions set forth in §334.301(i)(1)-(3) of this title (relating to Applicability of this Subchapter), all applications received will be processed in accordance with the following:

(A) Priority 1-Applications received from applicants who own or operate less than 13 tanks;

(B) Priority 2-Applications submitted by applicants who own or operate between 13 and 99 tanks;

(C) Priority 3-Applications submitted by applicants who own or operate between 100 and 999 tanks; and

(D) Priority 4-Applications submitted by applicants who own or operate 1,000 tanks or more.

(j) Suspending payments from the PSTR fund. The executive director may suspend payments from the fund, in whole or in part, as necessary to preserve the viability of the fund.

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 September 20, 1993.

TRD-9329062

Mary Ruth Holder  
Director, Legal Services  
Division  
Texas Natural Resource  
Conservation  
Commission

Earliest possible date of adoption: October 25, 1993

For further information, please call: (512) 908-6087

## Texas Department of Insurance Exempt Filing

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 notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.)*

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin. )

The State Board of Insurance, of the Texas Department of Insurance, at a Board meeting scheduled for 9:00 a.m., October 6, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a forms filing by the Office of the Secretary of State for new surety bond forms entitled "Veterans Organization Solicitation Bond," "Veterans Organization Solicitor's Bond," "Public Safety Organization, Independent Promoter Or Public Safety Publi-

cation Solicitor's Bond," "Telephone Solicitation Bond," and "Third Party Debt Collector Bond." All of these bond forms are required by Acts of the 73rd Legislature.

1. The proposed new Veterans Organization Solicitation Bond and the Veterans Organization Solicitor's Bond forms are required by the provisions of Acts 1993, 73rd Legislature, Chapter 483, effective September 1, 1993. Before a veterans organization or their solicitor can operate, they must first file a registration statement with the Secretary of State and such statement must be accompanied by a surety bond.

2. The proposed new Public Safety Organization, Independent Promoter Or Public Safety Publication Solicitor's Bond form is required by the provisions of Acts 1993, 73rd Legislature, Chapter 920, effective September 1, 1993. A public safety organization, independent promoter or public safety publication may not solicit without first filing a registration statement with the Secretary of State and such statement must be accompanied by a surety bond.

3. The proposed new Telephone Solicitation Bond form is required by the provisions of Acts 1993, 73rd Legislature, Chapter 569,

effective September 1, 1993. Before a telephone seller can operate in this state, it is required that they file a registration statement with the Secretary of State and such statement must be accompanied by a surety bond. There are 20 exemptions in which a telephone seller is not required to file a registration statement.

4. Lastly, the proposed new Third Party Debt Collector Bond form is required by the addition of §7A to Texas Civil Statutes, Article 5069-11.01. A third-party debt collector may not engage in debt collection without first obtaining a surety bond in the amount of \$10,000.

All the above mentioned bonds are conditioned on the principal operating his/her business in accordance with the appropriate acts or statute.

Copies of the full text of the proposed bond forms for the Office of the Secretary of State 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 text, please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number O-0993-19).



The notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.

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

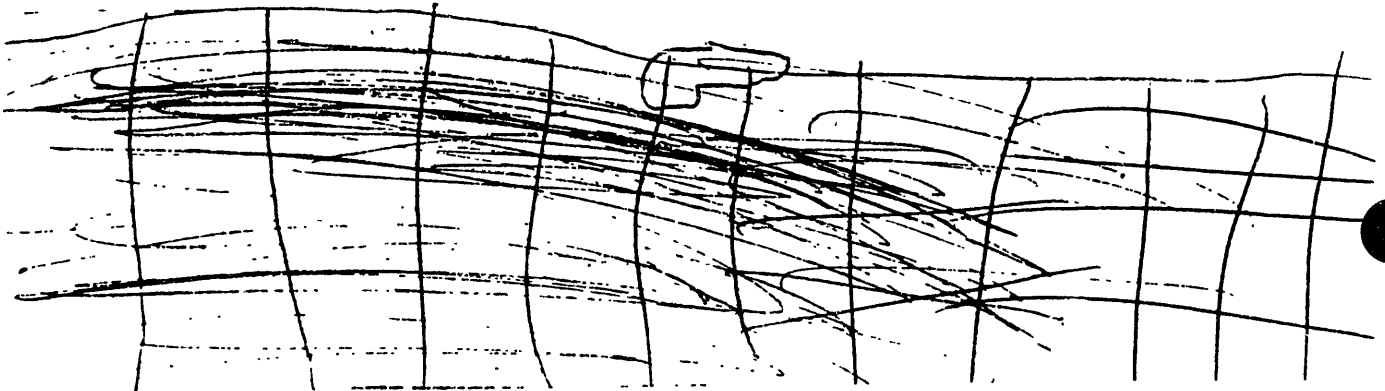
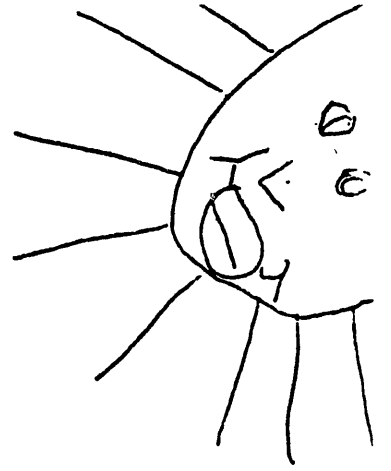
Issued in Austin, Texas, on September 17, 1993.

TRD-9329015

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

Filed: September 17, 1993





# Withdrawn Sections

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— 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*.

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## TITLE 37. PUBLIC SAFETY AND CORREC- TIONS

### Part VII. Texas Commission on Law Enforcement Officer Standards and Education

#### Chapter 211. Administrative Division

- 37 TAC §211.65

The Texas Commission on Law Enforcement Officer Standards and Education has withdrawn from consideration for permanent adoption a proposed amendment to §211.65 which appeared in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5197). The effective date of this withdrawal is September 17, 1993.

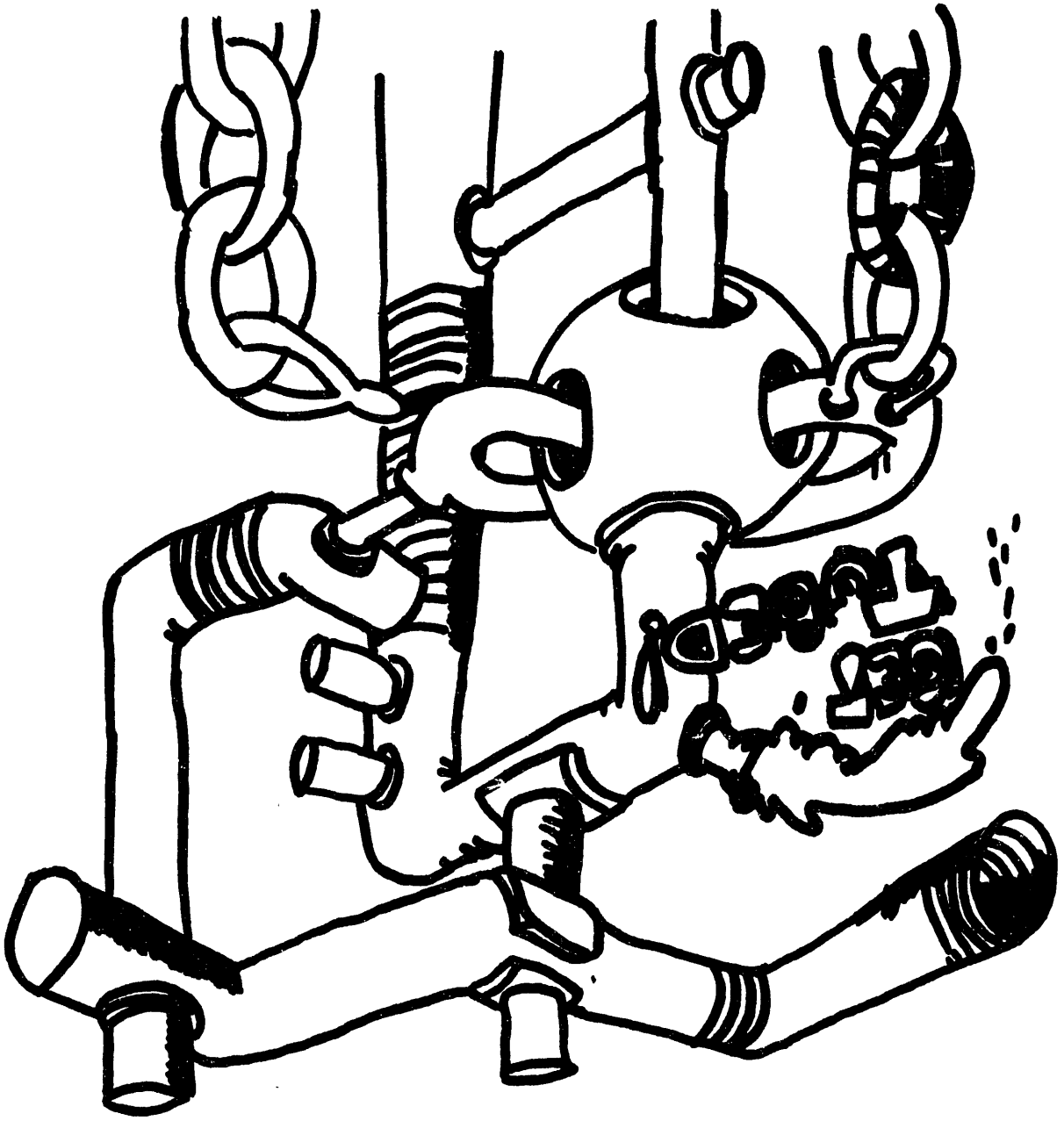
Issued in Austin, Texas, on September 17, 1993.

TRD-9329038      Fred Toler  
Executive Director  
Texas Commission on Law  
Enforcement Officer  
Standards and  
Education

Effective date: September 17, 1993

For further information, please call: (512)  
406-3613





# 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 16, ECONOMIC REGULATIONS

### Part I. Railroad Commission of Texas

#### Chapter 5. Transportation Division

##### • 16 TAC §5.33

*The August 31, 1993 edition of the Texas Register (18 TexReg 5838) printed the Railroad Commission of Texas' final adoption of 16 TAC §5.33. The rule's preamble, as well as the submission form, recited that the rule was being adopted without changes. This was an error, as there was one sentence of text added to the rule as adopted by the Commission. That additional sentence was added just prior to the certification sentence at the end of the adopted rule.*

The Railroad Commission of Texas adopts an amendment to §5.33, concerning regular contract carriers and truckload contract carriers, without changes to the proposed text published in the July 20, 1993, issue of the *Texas Register* (18 TexReg 4726).

The rule is adopted in order to conform the commission's regulations with enactment of Senate Bill 1313 by the 73rd Legislature, 1993, which amends the Texas Motor Carrier Act. The provisions of Senate Bill 1313 relating to this rule become effective January 1, 1994 and this rule will not become effective until January 1, 1994.

The amendment will clarify that a contract carrier permit may authorize transportation for no more than 10 shippers, while a truckload contract carrier permit may authorize transportation for an unlimited number of shippers.

Public comments regarding this rule generally suggested eliminating the portion of the rule stating that contract carriers may serve only 10 shippers, thus allowing regular contract carriers to serve an unlimited number of shippers.

The Texas Association for Competitive Transportation and the Shippers Oil Field Traffic Association made comments against the amendment.

The commission disagrees with the comments for the reason that the number of shippers a regular contract carrier may serve was not addressed by Senate Bill 1313 and is the subject of a separate petition for rulemaking. In addition, the absence of any limitation on the number of shippers that may be served by a contract carrier would effectively give

contract carriers the type of authority currently held by common carriers.

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

**§5.33. Contract Carriers.** A contract carrier permit shall not authorize the performance of transportation services for more than 10 shippers, unless it is issued to a truckload contract carrier as that term is defined in §5.46 of this subchapter. A truckload contract carrier permit cannot be limited as to the number of parties or eligible contracts to be served under such permit.

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 August 24, 1993.

TRD-9327815

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

Effective date: January 1, 1994

Proposal publication date: July 20, 1993

## TITLE 19. EDUCATION

### Part II. Texas Education Agency

#### Chapter 65. Technology

##### Subchapter A. Center for Educational Technology

##### • 19 TAC §§65.1-65.4

The Texas Education Agency (TEA) adopts new §§65.1-65.4, concerning the Texas Center for Educational Technology (TCET). Section 65.2 and §65.4 are adopted with changes to the proposed text as published in the June 18, 1993, issue of the *Texas Register* (18 TexReg 3914). Section 65.1 and §65.3 are adopted without changes and will not be published.

The new subchapter replaces old Subchapter A, which is being repealed in a separate submission. The new rules change membership categories, requirements for participation in TCET, and the governance structure of the center. The change to §65.2(e) adds a financial contribution requirement for institutional members of TCET. The change to §65.4(a)(5) distinguishes the permanent and institutional membership categories.

New TCET membership requirements will encourage the private sector, including small businesses and professional educational entities, to participate more in the center. Also, by deleting membership fees for school districts, all districts will receive research information and research-based products from TCET.

One comment was received from the TCET governing board recommending the change adopted in §65.2(e)

The new rules are adopted under the Texas Education Code, §14.044, which authorizes the State Board of Education to promulgate rules concerning the administration, operation, and management of TCET.

##### §65.2. In-State Membership Categories.

(a) Corporate members shall contribute a minimum of \$5,000 annually. This contribution shall be cash only.

(b) Supporting members shall contribute a minimum of \$2,500 annually. This contribution may be cash or in-kind services.

(c) School district members shall not be assessed membership fees.

(d) Individual members shall contribute a minimum of \$25 annually.

(e) Institutional members shall contribute a minimum of \$50,000 annually. This contribution may be cash or in-kind services.

##### §65.4. Governing Board.

(a) The State Board of Education (SBOE) shall appoint the governing board of the Texas Center for Educational Technology (TCET), which shall consist of the following:

(1) up to five corporate members;

(2) up to two supporting members;

- (3) up to four school district members;
- (4) one member-at-large; and
- (5) the following permanent representatives:

(A) a representative of each sponsoring institution of higher education, nominated by the president of each institution, respectively;

(B) a representative of the regional education service centers, nominated by the executive directors of the centers; and

(C) the commissioner of education or his or her designee.

(b) Members of the TCET governing board (except institutional representatives) shall serve three-year staggered terms. Institutional representatives shall serve one-year terms.

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 September 20, 1993.

TRD-9329075  
 Criss Cloudt  
 Director, Policy Planning  
 and Evaluation  
 Texas Education Agency

Effective date: October 11, 1993

Proposal publication date: June 18, 1993

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

◆ ◆ ◆  
 • 19 TAC §§65.10, 65.20, 65.25, 65.30, 65.35

The Texas Education Agency (TEA) adopts the repeal of §§65.10, 65.20, 65.25, 65.30, and 65.35, concerning the Texas Center for Educational Technology (TCET), without changes to the proposed text as published in the June 18, 1993, issue of the *Texas Register* (18 TexReg 3915). The rules establish membership rules and a governance structure for TCET. A new Subchapter A is being adopted in a separate submission that changes membership categories, requirements for participation in TCET, and the governance structure of the center.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Texas Education Code, §14.044, which authorizes the State Board of Education to promulgate rules concerning the administration, operation, and management of TCET.

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 September 20, 1993.

TRD-9329076  
 Criss Cloudt  
 Director, Policy Planning  
 and Evaluation  
 Texas Education Agency

Effective date: October 11, 1993

Proposal publication date: June 18, 1993

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

◆ ◆ ◆  
 Chapter 109. Budgeting,  
 Accounting, and Auditing

Subchapter D. Adoptions by  
 Reference

• 19 TAC §109.61

The Texas Education Agency (TEA) adopts an amendment to §109.61, concerning the adoption by reference of Change 28 to the financial accounting manual (Bulletin 679) for school districts and regional education service centers without changes to the proposed text as published in the July 20, 1993, issue of the *Texas Register* (18 TexReg 4740). Schools will have current reference that complies with state and federal laws and current accounting requirements.

Change 28 restructures fund, revenue, fiscal year, and fund equity codes, providing enhanced fiscal information for federal and state categorical fund sources, and fund balance designations and reserves. Change 28 also updates Appendix D, accounting transaction examples, in relation to the restructured codes; updates federal program rules and regulations for the child nutrition program; and corrects minor technical errors.

No comments were received regarding adoption of the amendment.

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

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 September 20, 1993.

TRD-9329077  
 Criss Cloudt  
 Director, Policy Planning  
 and Evaluation  
 Texas Education Agency

Effective date: October 11, 1993

Proposal publication date: July 20, 1993

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

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Chapter 137. Professional  
 Educator Preparation and  
 Certification

Subchapter G. 1987 Program  
 Requirements: Initial Certifi-  
 cates and Endorsements

• 19 TAC §137.194

The Texas Education Agency (TEA) adopts an amendment to §137.194, concerning the teacher certificate-all-level, without changes to the proposed text as published in the June 18, 1993, issue of the *Texas Register* (18 TexReg 3916). The rule lists the areas of academic specialization for this certificate. The amendment adds a new certificate for all-level theatre arts that will enable the theatre discipline to supply elementary schools with the theatre arts teachers necessary to teach the state-mandated elementary curriculum in addition to the secondary theatre arts curriculum.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §13.032, which authorizes the State Board of Education to promulgate rules concerning the issuance of teaching certificates.

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 September 20, 1993.

TRD-9329078  
 Criss Cloudt  
 Director, Policy Planning  
 and Evaluation  
 Texas Education Agency

Effective date: October 11, 1993

Proposal publication date: June 18, 1993

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

◆ ◆ ◆  
 TITLE 28. INSURANCE  
 Part I. Texas Department  
 of Insurance

Chapter 3. Life, Accident and  
 Health Insurance and  
 Annuities

Subchapter FF. Credit Life and  
 Health Insurance

• 28 TAC §3.6011

(Editor's Note: Due to an error, this rule was not published in the September 17, 1993 issue of the *Texas Register*.)

The State Board of Insurance of the Texas Department of Insurance adopts new §3.6011, concerning the responsibility and obligation of an insurer to provide a copy of a

TDI-promulgated form entitled Consumer Bill of Rights for Credit Life, Credit Disability and Involuntary Unemployment Insurance to consumers, without changes in the proposed text as published in the June 23, 1993, issue of the *Texas Register* (18 TexReg 4827). There are changes in the form filed with this proposed rule and incorporated by reference. The new form which is adopted under this rule and incorporated in the rule by reference is filed with the Office of the Secretary of State, Texas Register Section. The form can be obtained from the Texas Department of Insurance, Publications Department, MC 108-5A, P.O. Box 149104, Austin, Texas 78714-9104. A Spanish language version of the form will be promulgated at a later date.

The Texas Legislature has mandated that the Consumers Bill of Rights be proposed by the Office of Public Insurance Counsel and adopted by the State Board of Insurance in Insurance Code, Article 1.35A. Additionally, this bill of rights is needed in order to allow the insurance consumers to get as much information as possible when purchasing credit insurance in order to level the playing field in this increasingly complex area. Insurers are in desperate need of as much meaningful information as they can get about their rights and responsibilities in connection with credit insurance.

This section sets out the responsibilities and obligations of insurers to provide copies of the Consumer Bill of Rights for Credit Life, Credit Disability and Involuntary Unemployment Insurance to each insured. The section provides that all insurers must provide the Consumer Bill of Rights with each policy and certificate of credit life, credit disability and involuntary unemployment insurance. The Consumer Bill of Rights must also accompany each renewal notice for credit life, credit disability and involuntary unemployment insurance, unless the current version of that Consumer Bill of Rights has been previously provided to the insured by the insurer. Following the promulgation of a Spanish language version of the Consumer Bill of Rights, the Spanish language version will be provided to a consumer who requests one. A notice of the availability of the Spanish language version is included in the Consumer Bill of Rights.

The comments received, both written and oral, and the agency's response to the comments are summarized in the following paragraphs. The summaries of the comments and responses are listed for general comments relating to the form as a whole and for each section of the form to which the comments relate.

General Comments Relating to Printing and Distribution of the Rule. Comments were received stating that Article 1.35A(h)(7) does not require insurers to bear the expense of printing and distributing the bill of rights. A comment suggested that the syntax of the statute indicated that the insurer might be required to distribute the form, but there was nothing that indicated that the insurer was required to pay for the printing. Comments were made that the costs of printing would be substantial over a period of time. That commenter agreed, however, that the rule

requires the Consumer Bill of Rights to be distributed only once and not every time there was a renewal. Nevertheless, that commenter stated that the cost would be thousands of dollars for insurers. Other comments indicated that consumers would ultimately bear the cost of printing and distribution of these forms. One commenter noted that the cost of printing and distributing would be \$1.00 per page; however, this testimony was contradicted by estimates from another commenter who had contacted printers and found that the price would be substantially less than that. Comments were also received noting that Insurance Code, Article 1.35A(h)(7) did not refer to certificates and stating that the Consumer Bill of Rights published in the Register did not contain the word "certificates" although the rule referenced "certificate." These comments suggested that the bill of rights need not be distributed to certificate holders and that the board lacked authority to require distribution to holders of certificates. A comment was also made that the statute did not authorize a requirement for distribution of the Consumer Bill of Rights upon renewal. While there was initial confusion as to whether the Consumer Bill of Rights for credit required distribution upon all renewals, there was final agreement that the rule only requires distribution on renewal when insureds had not received a copy, and, therefore, only requires that the Consumer Bill of Rights be distributed once. Comments were made that the cost to the insurers would be greater than the anticipated costs stated in the *Texas Register*. One comment suggested there be a variable print size, so that the print could be merged in with the size print required for other forms of disclosure, and suggested that the type size be deemed readable or understandable.

The agency disagrees with these comments, except that the agency agrees with the comment that the printing costs would be less than \$1.00 per page. The agency understands the concern about the cost of printing and distribution; however, Insurance Code, Article 1.35A(h)(7) provides that insurers distribute the form. It is unreasonable to believe that the legislature did not intend for the insurers to bear the cost of such distribution, including printing. There was no mention in the statute that the Office of Public Insurance Counsel (OPIC) or the Texas Department of Insurance distribute or print the form. The statute provides that the policy is to be distributed upon the issuance of the policy by insurers. The statute also provides authority for the board to issue rules to clarify any issues remaining unclear. It is, therefore, within the board's authority to place the burden of printing and distribution on the insurers in accordance with legislative intent.

The agency has treated certificate holders as policyholders when consistent with legislative intent. The agency did so with respect to the rules regarding notice of a 1-800 number rule, for example. The legislature apparently acquiesced in that interpretation as it made no change in the statutory language to restrict it during the last session. The agency believes that the legislative intent in enacting Insurance Code, Article 1.35A(h)(7) was that the bill of rights be made available to all consumers of credit insurance.

The legislature's intent in Article 1.35A(h)(7) appears to have been that consumers be advised of their rights. It does not appear reasonable, therefore, that the legislature could have intended to leave the ultimate consumer without this information when the legislature mandated that a consumer bill of rights be distributed. In order for the appropriate consumer to receive the information in connection with credit insurance and involuntary unemployment insurance, it is necessary that the information be furnished upon the issuance of certificates and upon renewal, if the insured has not already received the form. The documents filed with the board indicate that the consumer bill of rights filed for proposal by OPIC contained a reference to certificates. The proposed rule and the form filed with the proposed rule and incorporated by reference in the rule, referenced certificates.

The anticipated costs listed in the *Texas Register* were based upon estimates by companies of various sizes as to what they believed would be their costs. The agency believes that the anticipated expenses listed in the proposal are the reasonably anticipated expenses to the insurers.

The agency sympathizes with the desire to have uniform print in documents, however, the use of words such as "readable" or "understandable" without further definition would be difficult. Ten point type appears to be the most reasonable print size that could be selected and since the document will be available from the department in that print size, this appears to be a reasonable requirement.

General comments relating to the issue of whether Credit Insurance is a Personal Line of Insurance. Comments were made that the Consumer Bill of Rights in this area was not authorized by Article 1.35A(h)(7) because credit insurance is not a "personal line." The comments indicated that "personal lines" were limited to property and casualty lines.

The agency disagrees with these comments. The comments were apparently made with reference to the credit insurance areas of this Consumer Bill of Rights and not the involuntary unemployment insurance area. Comments prior to proposal of this rule for comment were that involuntary unemployment insurance is a property and casualty line. With respect to the credit life and credit disability insurance, the agency responds that the legislature intended for consumers who buy insurance to have information about their rights. The legislature could have limited the bill of rights to property and casualty lines, but did not do so. The agency believes that the legislature intended to distinguish between personal and commercial policies in using the term "personal lines." This intent is supported by the fact that there are two Texas circuit court of appeals cases which have recognized that credit insurance is personal insurance. One court case has discussed the fact that the parties to that case recognized life insurance as a "personal line" of insurance. Prior to 1963, credit life, health and accident insurance was defined as "personal insurance." For these reasons, the agency is of the opinion that this Consumer Bill of Rights is authorized by Article 1.35A. The agency is

also of the opinion that this Consumer Bill of Rights is needed to guide consumers in the complex area of credit insurance, and provide them with a telephone number to which they can refer any questions raised in the Consumer Bill of Rights.

General comments relating to information concerning credit transactions. A number of comments indicated concern that the Consumer Bill of Rights contained information relating to the underlying credit transactions rather than credit insurance. Some of these comments indicated that the information was misleading, others believed that the bill of rights indicated that the Office of Consumer Credit Commission had jurisdiction over all these transactions although they did not, and many of the comments stated that the requirements relating to non-insurance rights were duplicative of other statutory requirements for disclosure, might conflict with them if not updated to reflect revisions in these laws, and would mislead the consumer. The comments also stated that the board did not have the jurisdiction to regulate in these areas. One comment requested that the references to the Office of Consumer Credit Commissioner be deleted as there was no directive to involve that office in the bill of rights and references to it would be confusing and distracting to the consumer. A comment was also made that the banking commissioner has jurisdiction over these matters when a bank is involved in the underlying credit transaction. One comment noted that the cost to the Office of Consumer Credit Commissioner to answer calls was not added to the fiscal note.

A comment stated that even after revisions were made eliminating references to the Office of Consumer Credit Commissioner and eliminating Items 2 and 22 of the form originally proposed, the rights listed in the Consumer Bill of Rights will be duplicative of state and federal mandatory disclosure requirements for creditors. A chart was received showing these duplicative requirements. That comment also noted that the references to the underlying credit transactions would be misleading and inaccurate as there are different exceptions to various rights listed in the form.

Agency response. The agency disagrees with all of these comments. Specific details of these general comments will be discussed in the following paragraphs related to specific paragraphs of the form. Generally, the agency is of the opinion that the Consumer Bill of Rights is intended to provide general information to consumers about their credit insurance. In order to do so, some information regarding the underlying transactions must be included. It is necessary to deal with this information in a summary fashion and give the consumers telephone numbers where more information can be obtained.

This bill of rights is not intended to and does not regulate the underlying credit transactions. It merely provides information to the consumer about them in order that the consumer may understand the credit insurance issues more clearly. In order to do so, the consumer needs to have some information regarding the underlying transaction. This in-

formation is needed whether the underlying rights are found in state or federal statutory or regulatory provisions. It is true that these rights and, in some cases, the explanation of these rights may duplicate information available elsewhere, but it is necessary to place the information in the context of the purchase of credit insurance and involuntary unemployment insurance and provide the consumer with the information in one form.

The form has been revised to eliminate the references to the Office of Consumer Credit Commissioner as a result of comments, which should eliminate any perceived confusion in that area. The cost of answering calls for that agency was included in the cost to the state listed in the proposal for comment in the *Texas Register*. That cost will be reduced by this change.

Comment relating to Need for Consumer Bill of Rights With Specific Information.

Comments were received that stated that consumers needed the information contained in the Consumer Bill of Rights so that the information contained in the form could help level the playing field for consumers in a very complex marketplace. A comment stated that the Consumer Bill of Rights would help reduce misunderstandings between consumers and their insurers. A comment noted that Texas consumers, directly or indirectly, spent over \$8,000 per family per year on various insurance products. Comments were made that the Consumer Bill of Rights should be as specific as possible and articulate all the rights so that the consumer would have those rights available when problems arose. This would be particularly true in the claims area. Comments were made that this form is within the legislative mandate of the legislature, is a comprehensive list of rights and should be particularly important in this area where consumers don't even understand that they are receiving an insurance product.

Response to comments relating to need for consumer Bill of Rights with specific information. The agency agrees that this Consumer Bill of Rights is needed because specific consumer education is necessary to level the playing field and give consumers fair access to the market in a very complex area and that it will provide assistance to consumers in purchasing credit and involuntary unemployment insurance. The agency believes this form balances the cost to insurers with the need for education of consumers. The legislature made the judgment that consumers needed as much meaningful information as they could get about their rights and responsibilities. The agency believes this is a sound document which achieves that end.

Comment relating to lack of authority to promulgate Consumer Bill of Rights under Article 5.96. One comment was received stating that there was a lack of authority to promulgate this rule under Article 5.96.

Agency response to comment relating to lack of authority to promulgate Consumer Bill of Rights under Article 5.96. The agency disagrees that this form is being proposed under Article 5.96. This rule is not being promulgated under Article 5.96. It was proposed and it is being adopted under the Administrative

Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

Comments relating to the general tone and coverage of the consumer Bill of Rights, perceived redundancy and perceived inaccuracies. A number of comments were received complaining that the tone of the document was inflammatory, implied that consumers should be suspicious of insurers or creditors, was too broad and was misleading because it did not include more specific information about exceptions to the general comments made in the Consumer Bill of Rights. At the hearing a comment was made modifying an initial comment about the form. The comment stated that the initial comment appeared to be anti-disclosure and it should not have been. After reviewing the revisions, comments were made that the changes would be very helpful and would eliminate confusing and misleading or inaccurate information. Comments were made that the form should be made still shorter. It was suggested that the form not be over one page, printed on both sides. Comments were made that the form should eliminate all references to required credit insurance as that was relatively rare and that this would allow for a shorter form. Comments were made that a form of over one page would not be read. Comments were made that this form should be a general statement of rights and avoid specifics, particularly in the claims area. Comments were made that there should be disclosure, but that it should not be this lengthy, should not be redundant of other disclosures already required and that the form should be more general in nature. Comments were made that the rights should refer back to the underlying policy.

Agency response to comments relating to the general tone and coverage of the consumer Bill of Rights and perceived inaccuracies. The agency disagrees with these comments. These rights obviously have to be read in light of the underlying policies. The form is not intended to repeat the recitations of those policies nor to repeat all of the provisions of every law or regulation which is the source of the rights described. It was intended to tell consumers that these rights exist and to give them access to a telephone number to ask questions and seek further information. The tone of this form is not adversarial, but is designed to make certain that consumers know some general information about their rights. Where provisions of the bill of rights are inapplicable, the reasons for the inapplicability can be explained to consumers through telephone calls. It is better that some information be given so that consumers can have a basic awareness of their rights and the ability to seek further information than to leave out whole portions of the rights or make the document so lengthy that it is useless. There is no need to specifically refer back to the policy provisions. The references to the policy in the rights are sufficient. The Consumer Bill of Rights is prefaced with the statement that these rights are not all inclusive and that there may be exceptions to some of them. This caveat should be sufficient to allow consumers to know that further information must be sought if they have a question about the rights listed in the form.



Comments relating to the timing of the rule. There were comments which suggested that additional time be given to work out the details of this form. One comment stated that the Office of Public Insurance Counsel had two years in which to propose the rule and that the board was not seeking to adopt it too fast.

Agency response to comments relating to the timing of the rule. The agency disagrees with these comments. There were some necessary delays in placing this form before the public. Once the rule was brought forward, however, all statutory requirements have been met. Further, the board has allowed for oral comments prior to publication for comment and changes were made in the form as a result of those comments before it was published in the *Texas Register*.

There have been further revisions made in the document as a result of the comment period. The agency believes that as a result of these changes, the form is now a useful vehicle for consumers and should be adopted and implemented without further delay.

Comments relating to notice of availability of Spanish language version. A comment was made that to be consistent with changes made to other consumer bills of rights, this form should contain a notice that the Spanish language version would be available from the insurance company upon request.

Agency response to comments relating to notice of availability of Spanish language version. The agency agrees that this notice should be included in Spanish on the form and the form will be adopted with this change.

Comments relating to the Inclusion of Involuntary Unemployment Insurance. A comment suggested that Involuntary Unemployment Insurance should be exempted from this form. The comment noted that Involuntary Unemployment Insurance is covered in a different chapter of the Insurance Code, is regulated under a different line and that rates are treated differently for it so that there is really not a maximum rate. The comment stated that it should be treated separately if there is a need to have a bill of rights for it.

Agency response to comments relating to the inclusion of involuntary unemployment insurance. The agency disagrees with this comment. The agency believes that involuntary unemployment insurance should be covered by this form because of its relationship to credit insurance.

Comments relating to specific portions of the Consumer Bill of Rights. Comments which appeared to relate to specific portions of the Consumer Bill of Rights are summarized and responded to in the following paragraphs dealing with the specific item numbers in the bill of rights form. The numbers relate to the item numbers on the form as originally proposed. Due to changes adopted as a result of comments, the item numbers in the adopted form are different.

Comments relating to Introduction. Comments were received stating that the form should be identified as being proposed by OPIC and/or adopted by the Texas Department of Insurance as the insurers might oth-

erwise be sued for the perceived inaccuracies and/or misleading information. Comments also suggested that it be made clear that the form is not a part of the policy, and that insurers were required to distribute it. One comment suggested that the insurer be allowed to make it clear to the policyholders where it disagreed with the document and express its opinions that the document may be misleading, inaccurately state the law and that the rights and obligations with its customers will be determined by the policy and applicable laws, although the comment noted that such conflicting communications should not be necessary.

Agency response. The agency agrees that there should be some identification of the adoption of the form by the agency, and acknowledgment that it is required to be distributed and that it is not a part of the policy, but disagrees with the comment that the insurer should be allowed to make comments in rebuttal to the form, within the form. The introductory paragraph will identify the bill of rights as having been adopted by the agency, will state that it is required to be provided when a policy is issued and will state that it does not become a part of the policy. The statute does not give the insurer the right to make comments in this bill of rights and in the opinion of the agency, this is not necessary.

Comments relating to item 1. Comments were received stating that this item of the form was incorrect because the agency could not determine the price as compared to the presumptive rate and that the state does not set a maximum rate. Comments noted that there was a long history of a desire on the part of industry for no control or approval of rates, including a test case on this issue. There is a statutory provision requiring that the rates must be reasonable in relationship of premium.

Agency response. The agency disagrees. Because the presumptive rate is approved by the agency and its approval includes approval of any downward deviations, and because upward deviations must be approved by the agency, the agency believes this item should remain as written.

Comments relating to item 2. Some of the comments relating to duplicative, misleading and inaccurate statements about credit transactions dealt with this item. Specifically, comments were received stating that the consumer credit commissioner should be the entity to decide whether the rights enumerated in this item should be disclosed, that these rights related to credit transactions, not credit insurance, and were outside the jurisdiction of the board and that there was more than one "consumer credit commissioner" depending upon the lending entities and only one was mentioned.

Agency response. The agency agrees that some confusion may be caused by item 2. This item has been omitted from the form as adopted and this should resolve any confusion that might have been caused by this item as originally proposed.

Comments relating to item 3. Comments expressed concern about item 3 because the word "law" might have been confusing as

consumers would not know the relevant statute. Comments also suggested that consumers would not know the meaning of "small insurance companies."

Agency response. The agency agrees with the comment concerning the word "law," but disagrees with the comment regarding "small insurance companies." In order to avoid any confusion, the word "law" has been changed to "requirement." The phrase "small insurance companies" has been retained because if a consumer has a question about this, the consumer can receive the information through the use of the listed telephone numbers. The use of the phrase will alert the consumer to the possible exception.

Comments relating to items 4 and 5. Comments were received suggesting that the explanation of the cost of credit in item 5 was confusing. One comment suggested that the phrase "total cost of credit" sounded like a down payment and might be confusing. One comment was made that if the information relating to required coverage was deleted, this item and item 4 would be more clear.

Agency response. The agency agrees with the comment concerning cost of credit, but disagrees with the remainder of the comments. Item 5 has been changed to provide a definition of total cost of credit which should clarify the statement. The agency believes that information regarding required coverage is very important to the consumers and should be included and there should be no deletion for required coverage.

Comments relating to item 6. Comments were received that this item implied that creditors were prone to making false statements and was inappropriate. One comment stated that this item should relate only to voluntary insurance.

Agency response. The agency disagrees with this comment. This item does not make any implications. It identifies prohibited activities about which the consumer should be advised. The agency believes this item should relate to required as well as voluntary insurance.

Comments relating to item 7. Comments were received that a consumer did not have the right to purchase other insurance policies unless credit insurance was required and that the item should not suggest that consumers consider purchasing term life insurance rather than credit life insurance. A comment was made that this item should be prefaced with a statement concerning its applicability if credit insurance was required. A comment suggests that this item does not list all the kinds of policies which could be obtained.

Agency response. The agency agrees that part of this item relates to mandatory coverage, but disagrees with the balance of the comments. The item has been changed to indicate that the last sentence regarding a notification of the right by the creditor relates only to instances where credit insurance is required. The right to purchase other insurance rather than credit insurance is not limited to that circumstance. The consumer is not told to purchase any kind of insurance by this item. He or she is merely advised of the right to do so which is the purpose of this

Consumer Bill of Rights. It is not inappropriate, therefore, to advise the consumer of this right. The agency does not believe that all the kinds of substitute insurance that could be obtained need be listed.

Comments relating to item 8. Comments were received that this item repeated Item 5, did not apply to monthly outstanding balance insurance and that the word "before" should be changed to "contemporaneously" to more accurately describe the credit insurance transaction.

Agency response. The agency disagrees with this comment. Item 5 is the requirement to disclose the cost of credit and applies only when credit insurance is required. Item 8 is the requirement that a creditor disclose the cost of credit insurance and applies even if credit insurance is optional. Creditors are required to identify the method of computation for credit insurance on open end accounts. The disclosure would be of the rate as expressed as a percentage of the outstanding balance. On open end accounts disclosure is required before opening the account. On closed end accounts, disclosure must be made at the time of the contract. The consumer should be given the contract documents and the disclosure of the cost of the insurance before the consumer signs the contract documents.

Comments relating to item 9. Comments were received that these were creditor and not insurer requirements, that 45 days was not long enough, that the time limits were misleading, that people would not get the Bill of Rights until the policy is issued and therefore this right would not be useful and should be deleted, and that 45 days applies from the inception date of the loan and not when the consumer is given the application form.

Agency response. The agency disagrees with these comments, but one change has been made for clarification. The Consumer Bill of Rights is intended to give information to the consumer about the complete transactions relating to the purchase of the credit insurance. The transactions involve more than just the insurance. The 45 days is the maximum time allowed by the applicable statutes. While consumers will get the Consumer Bill of Rights at the time the policy is issued, the item needs to be listed in order to let the consumer know to check to see if they have all the relevant documents. The information will also be useful to the consumer in making the next insurance purchase. The agency is of the opinion that the language provides that the 45 days period begins when "you buy credit insurance." That will never be later than the purchase of the insurance since the insurance cannot be purchased until the loan is made. The agency does not believe this language is misleading. Of necessity, the information must be produced in a summary form and not all of the nuances involved in the purchase can be mentioned in the form. One change in the form was made for clarification as a result of a result of comment to indicate the policy or certificate will be sent if not received when the loan was made.

Comments relating to item 10. Comments were received that this item was misleading, that rates were not approved by the depart-

ment, that this item did not accurately describe the scope of Article 3.53, and that forms were not approved by the department.

Agency response. The agency disagrees with these comments. This item lists a summary of the relevant rights. Forms are approved by the department. Presumptive rates are approved by the department and upward deviations from those rates must also be approved by the department. In that sense, rates are approved by the department, and item is not misleading.

Comments relating to item 11. Comments were received that premiums are not "fixed or approved" by the department, that this item does not pertain to any article in the Insurance Code, and should be omitted.

Agency response. The agency disagrees with this comment. Rates are approved by the department. Presumptive rates and any rates lower than presumptive rates are approved by the board and upward deviations from those rates must be approved by the agency prior to use. In this sense, Item 11 is correct. The technicalities of this statement must necessarily be left out of a summary statement such as the Consumer Bill of Rights and can be explained to the consumer through the use of the telephone numbers referenced in the form.

Comments relating to item 12. Comments were received that the rights listed in this item did not apply to mandatory coverage, that the refund may not be in cash and may be made as a credit on the debt, that the word "averaged" was incorrect in the final bullet and that the words "unless the insurance charge is billed in arrears" should be added after the last word. A comment was also made that credit card information and information regarding required insurance should be deleted to eliminate confusion.

Agency response. The agency disagrees with these comments, except for the comments that the refund may be made as a credit. The rights in this item do apply to mandatory coverage if the debtor acquires substitute coverage which the consumer always has the right to do. The reference to the refund has been changed as a result of this comment to indicate that the refund may be credited to the account immediately or when the loan is paid off. The board disagrees with the comment regarding the last bullet as it does not use the word "averaged". The board disagrees with the suggestion that the additional wording be added after the last word of the item as the suggested wording implies an absolute exception to the right. There is no such absolute exception. The agency is of the opinion that consumers know that amounts they already owe will still be owed and that the additional language is, therefore, unnecessary. The agency believes that mandated or required coverage should not be deleted.

Comments relating to Item 13. Comments were received suggesting that this item encouraged a breach of contract on the part of the insured, and that the right of cancellation did not exist. Comments also stated that no one has the right to breach a contract.

Agency response. The agency disagrees with

these comments. Federal law provides that creditors can cancel insurance if the creditor changes insurance companies. The item lists the responsibility of the insurance companies and thus gives the consumer the information necessary to determine whether or not to acquiesce in the change or cancel the insurance. Exercising this right is not a breach of contract.

Comments relating to item 14. A comment was made that the beneficiary is always he creditor and this probably meant a second beneficiary, but that mention of this would probably be too confusing.

Agency response to comments relating to item 14. The agency believes this item should remain as written.

Comments relating to item 15. A number of comments were received suggesting that the timelines with respect to claims were not correctly stated and pointing out a number of contingencies that could occur to change these timelines. Comments suggested that there be a general statement of the right to have claims settled fairly and that no specifics be listed as they were too confusing.

Agency response. The agency disagrees with these comments. The complex deadlines of the prompt payment of claims statute cannot be completely set out in a summary document. The form's introduction states that the rights generally apply and that there may be exceptions. This item also prefaces the approval or denial of the claim with the word "generally." This item is sufficient to alert the consumer to the rights involved and provide sufficient information for the consumer to call to determine the specifics of the consumer's particular situation and how these rights apply to that situation. The agency believes the degree of specificity in this item is necessary to adequately inform the consumer of this right.

Comments relating to item 16. Comments suggested that the timelines were not accurate and were misleading and that in this item payment was not due two months after the date of death and that the claimant must prove entitlement to the proceeds. Comments were made that only general references be made about claims settlement without specifics.

Agency response. The agency disagrees with these comments. This is a summary document which sets forth the general rights. This item specifically references that the company must settle the claim within two months from the date it receives proof of death and proof that the claimant has the right to the proceeds. The agency believes that the degree of specificity in this item is needed.

Comments relating to item 17. Comments were received that this right is inapplicable to credit claims because the amount of claim is fixed. Comments were received that suggested that the item would be misleading and would not take all circumstances of settlement into account. Comments were made that this provision be merged into a general description of the right to claims settlement that is fair and just. This approach would avoid changes when specifics of claims set-

tlement, etc. were changed by the legislature.

**Agency response.** The agency disagrees with these comments. This item sets forth in summary fashion the rights applicable to settlement and does not cover all contingencies. It is not necessary that it do so as the form itself explains that these rights are stated in general terms and that exceptions may apply. There are situations in which this right would be applicable to credit claims because there are many disputes that arise about coverage in which the parties will attempt to settle the claim for less than the "fixed" amount. The agency believes the degree of specificity in this item is appropriate.

Comments relating to item 20. Comments were received that this item was inflammatory, that it encourages fraud, that it was misleading and eliminated some elements of fraud which were expressed in case law and that it was inaccurate. A comment was made that this should be worded not in terms of denial of a claim because a company can deny the claim, but in terms which indicate that the company cannot use these items as a defense. A comment was made that the statute states 90 days is a reasonable time for notification, however, that will be a fact question for the court.

**Agency response.** The agency disagrees with these comments. This item tracks the language of the applicable statutes. It is not an expression of the common law definition of fraud, but rather informs the consumer of the rights granted by statute. It does not encourage fraud by doing so. The agency believes the item correctly states the law and should not be reworded as suggested.

Comments relating to item 22. Comments were received that this item related to matters outside the jurisdiction of the board and that the board could not require that the Office of Consumer Credit Commissioner respond to complaints, and that there was more than one office which dealt with consumer credit.

**Agency response.** The agency agrees that this item might cause confusion as to which agency deals with consumer credit issues, but believes that the agency can set forth general rights for the consumer in this document. Because the reference to the Office of Consumer Credit Commissioner might be confusing, this, item has been omitted from the adopted form.

Comments relating to item 23. Comments were received that this section was inflammatory, did not explore other options to lawsuits which would save money for consumers and insurers, encouraged lawsuits and implied that insurers had a propensity to violate consumer's rights.

**Agency response.** The agency disagrees with these comments. The item does not imply that insurers have a propensity to violate consumer's rights. It merely states that if such rights are violated, consumers may enforce those rights through lawsuits. It is true that this item does not list all alternatives to lawsuits. This could not be done in a summary document intended to give general information. The item does allow the consumer to know about the ability to protect consumer

rights through litigation and provides a telephone number where consumers can obtain additional information.

A total of 11 written comments were received after the rule was published for comment. Additional comments were received at the public hearing on this section. The following organizations testified for and against the section.

**FOR:**

Consumers Union;  
Office of Public Insurance Counsel.

**AGAINST:**

American Finance Life Insurance Company;  
Transport Insurance Company and Affiliates;  
Texas Legal Reserve Officials Association;  
Independent Bankers Association of Texas;  
Central National Life Insurance Company of Omaha;  
American National Insurance Company;  
Allstate Life Insurance Company;  
Central States Health and Life Company of Omaha;  
Consumer Credit Insurance Association;  
American Health and Life Insurance Company;  
Texas Life Insurance Association;  
CUNA Mutual Insurance Company,  
Texas Financial Services Association.

The new section is adopted under the Insurance Code, Articles 1.35A, 3.53, 21.79E, and 1.04, and Texas Civil Statutes, Article 67252-13a, §4 and §5. The Insurance Code, Article 1.35A(h)(7) requires the Office of Public Insurance Counsel to submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the board to be distributed upon the issuance of a policy by insurers to each policyholder under rules adopted by the department. Insurance Code, Article 3.53 authorizes the board to issue such rules and regulations as it deems appropriate for the regulation of credit life insurance and credit accident and health insurance. Insurance Code, Article 21.79E authorizes the writing of involuntary unemployment insurance. Insurance Code, Article 1.04(b) provides the board with authority to determine rules in accordance with the laws of this state. Because this section involves personal lines of insurance and is mandated by Insurance Code, Article 1.35A(h)(7), and because that statute was enacted in recognition of the need for information by consumers in this complex field, this board is authorized and required to adopt a Consumer Bill of Rights for credit life, credit disability and involuntary unemployment insurance.

Texas Civil Statutes, Article 6252-13a, §§4 and 5 authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures, and prescribe the procedures for adoption of rules by a state administrative agency.

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 September 10, 1993.

TRD-9328680

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

Effective date: October 1, 1993

Proposal publication date: July 23, 1993

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

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**TITLE 37. PUBLIC  
SAFETY AND CORREC-  
TIONS**

**Part VII. Texas  
Commission on Law  
Enforcement Officer  
Standards and Education**

**Chapter 211. Administrative  
Division**

**• 37 TAC § 211.85**

The Texas Commission on Law Enforcement Officer Standards and Education adopts an amendment to §211.85, concerning proficiency certificates, without changes to the proposed text as published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5199)

The amendment provides for the creation of a Master Peace Officer Certificate. The amendment to this section was adopted at the June 15, 1993, regular meeting of the Commission. Section 211.85 was adopted as Final Order 93-6.

Comments were received in support of the proposed amendment from the Texas Association of Police Personnel and the Chateau Woods Police Department

The amendment is adopted under the Texas Government Code, Chapter 415, §§415.010(1), 415.010(10), 415.031, 415.032, 415.034, 415.035, 415.062, which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to pass rules for the administration of Chapter 415, and Texas Civil Statutes, Article 6252-13a, which taken together establish the procedures for the rulemaking requirements for 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 September 17, 1993

TRD-9329037

Fred Toler  
Executive Director  
Texas Commission on Law  
Enforcement Officer  
Standards and  
Education

Effective date: December 1, 1993

Proposal publication date: August 6, 1993

For further information please call: (512) 406-3613

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**Chapter 217. Licensing Requirements**

• **37 TAC §217.10**

The Texas Commission on Law Enforcement Officer Standards and Education adopts an amendment to §217.10, concerning the procedures and filing requirements for the psychological declaration, with changes to the proposed text as published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5201).

The amendment provides for the elimination of the requirement for a new psychological examination when a department employee is transferred to another position within the same department. The amendment to this section was adopted at the June 15, 1993, regular meeting of the Commission. Section 217.10 was adopted as Final Order 93-3. The changes are the deletion in §217.10(b) of "a declaration expires one year after its effective date, unless withdrawn by the professional," and a change of the effective date for §217.10(a), (b), (f), and (g), as amended to October 15, 1993.

The following are comments received regarding adoption of the proposal. An individual comment was received requesting that the Commission omit the one year requirement to apply for a different license, after receiving an acceptable psychological declaration, if the applicant currently holds another type of TCLEOSE license and has been in continuous employment with the applying agency since receiving the acceptable psychological declaration. An individual comment was received recommending that the Commission omit the requirement in the rule that an employee changing assignments within the agency must undergo a new psychological examination; however, if the person changes agencies, he must be tested.

An individual comment was received requesting that the Commissioners consider changing or amending the rule to omit the requirement that an applicant going from one classification to another, i.e., jailer to deputy must take another psychological.

Written comments were received from the Young County Sheriff's Department and the Jefferson County Sheriff's Department, and an oral comment was received from the Montgomery County Sheriff's Department.

The amendment is adopted under the Texas Government Code, Chapter 415,

§§415.010(1), 415.051 and 415.057, which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to pass rules for the administration of Chapter 415.

**§217.10. Psychological Declaration.**

(a) An initial license applicant, a licensed officer, or county jailer who has had a 180-day break in service must undergo a psychological examination conducted pursuant to professionally recognized standards and methods. Neither the Government Code, Chapter 415, nor the rules of the commission require this examination to be conducted prior to a conditional offer of employment. This examination must be administered by an experienced professional who is a:

- (1) licensed psychologist or psychiatrist, selected by the requesting agency;
- (2) licensed physician recognized under exceptional circumstances; or
- (3) qualified psychologist exempt from licensure by the Psychologist Certification and Licensing Act, §22, who is recognized under exceptional circumstances.

(b) The declaration required by the commission is completed by the requesting agency and forwarded to the professional for completion, with information regarding the duties, responsibilities, and qualifications for the type of license and appointment sought. The chief administrator sends a copy of the current declaration to the commission.

(c) The chief administrator shall require the applicant or licensee to sign a waiver of confidentiality prior to sending the declaration to the commission. The chief administrator shall retain the waiver on file, pursuant to the agency's record retention program, or for as long as the individual is carrying a current appointment with the agency.

(d) The chief administrator shall notify the commission in writing within 10 days of its receipt from the professional of a withdrawal of a declaration based on false, misleading, or incorrect information, by forwarding a copy of same to the commission.

(e) The commission may require an initial license applicant or licensee to submit to another examination by a professional appointed by the commission within

one year of the effective date of the declaration, or invalidate an existing declaration if it has cause to believe that:

(1) the agency failed to follow commission rules relating to the declaration; or

(2) the examinee, or the agency, has submitted a false or incorrect declaration.

(f) The chief administrator requesting approval from the executive director to be allowed to use a licensed qualified physician or a qualified exempt psychologist shall submit the declaration with written certification to the commission that the individual signing the declaration is qualified to administer the examination and that the agency is utilizing the physician or psychologist under allowable exceptional circumstances. The chief administrator shall be notified in writing if the request is not approved.

(g) For the purposes of this section, the licensing types and capacities referenced in this section may be reported in the declaration using one or more of the following capacities:

- (1) peace officer, reserve law enforcement officer, and county jailer;
- (2) peace officer and reserve law enforcement officer;
- (3) county jailer; or
- (4) armed public security officer.

(h) The effective date of this section is March 1, 1993. The effective date of subsections (a), (b), (f), and (g) as amended is October 15, 1993.

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 September 17, 1993.

TRD-9329036

Fred Toler  
Executive Director  
Texas Commission on Law  
Enforcement Officer  
Standards and  
Education

Effective date: October 15, 1993

Proposal publication date: August 6, 1993

For further information please call: (512) 406-3613

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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-Tuesday, September 27-28, 1993, 10:30 a.m. and 8:00 a.m. respectively. The Texas Boll Weevil Eradication Foundation of the Texas Department of Agriculture will meet at the Sheraton Mockingbird Hotel, 1893 West Mockingbird, Dallas. According to the agenda summary, the department will make opening remarks and introductions; review and discuss approval of the minutes of previous meeting; report of interim coordinator; discuss and act on proposed bylaws; election of foundation officers; job description for program manager; and discuss other business.

Contact: David Oefinger, 1700 North Congress Avenue, Austin, Texas 78701, (512) 476-3913.

Filed: September 16, 1993, 2:55 p.m.

TRD-9328951

Tuesday, September 28, 1993, 8:00 a.m. The Schleicher County Cotton Producers Board of the Texas Department of Agriculture will meet at the Schleicher County Courthouse Annex, Eldorado. According to the complete agenda, the board will discuss approval of the minutes of previous meeting; discuss and act on 1993 operating budget; resolution approving letter of employment of Webb, Stokes & Sparks, L.L.P., discuss and act on spray policy for 1993; other business; and adjourn.

Contact: Mitch Jurecek, Route 1, Eldorado, Texas 76936, (915) 853-2231.

Filed: September 17, 1993, 9:59 a.m.

TRD-9328991

## Texas Alcoholic Beverage Commission

Tuesday, September 28, 1993, 9:30 a.m. The Texas Alcoholic Beverage Commission will meet at 5806 Mesa Drive, Suite 180, Austin. According to the agenda summary, the commission will discuss approval of the minutes; hear administrator's report; recognition of TABC employees with 20 and above years of service; presentation of Certificates of Merit to Bell County Officers; presentation of Certificates of Merit to TABC Agents Bammert and Steele; consider petition submitted by the City of Dallas, possible action; discuss the effect of the amendment of §102.52, Alcoholic Beverage Code; meet in executive session to discuss and review personnel actions, including the position of administrator, possible action.

Contact: Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: September 20, 1993, 3:28 p.m.

TRD-9329118

## Texas Animal Health Commission

Thursday, September 30, 1993, 8:30 a.m. The Texas Animal Health Commission will meet at 210 Barton Springs Road, Austin. According to the agenda summary, the commission will discuss approval of the minutes of August 20, 1993; actions of the executive director; Brucellosis Program update; consider adopting amendments to: Brucellosis, Chapter 35; Tuberculosis, Chapter 43; consider proposing amendments to Swine, Chapter 55 and Exotic Livestock and Exotic Fowl, Chapter 36; survey results and explanation of John's

Disease; discuss EIA regulations and directions to commission staff; set date for next commission meeting; and meet in executive session.

Contact: Jo Anne Conner, P.O. Box 12966, Austin, Texas 78711, (512) 479-6697.

Filed: September 21, 1993, 8:55 a.m.

TRD-9329127

## State Banking Board

Monday, September 27, 1993, 2:00 p.m. The State Banking Board will meet at 2601 North Lamar Boulevard, Austin. According to the agenda summary, the board will review and discuss approval of the minutes of previous meeting; resolution of the State Banking Board honoring William F. Aldridge; consider proposed rule relating to substitute members of the State Banking Board; proposed rule relating to non-exclusive delegation of board authority to propose rules; charter applications for First State Bank Brazoria, Brazoria and Boatmen's Trust Company of Texas, El Paso; interim charter applications; change of domicile applications; review of the status of other pending applications; discontinuance of unmanned teller machines; and the board may convene into executive session for consideration of matters pertaining to applications as required by Articles 342-115(6)(a) of Texas Banking Code.

Contact: William F. Aldridge, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Filed: September 17, 1993, 12:51 p.m.

TRD-9329024

## **Texas Commission for the Blind**

**Thursday, September 23, 1993, 1:00 p.m.** The Board Ad Hoc Committee of the Texas Commission for the Blind held an emergency meeting at the Houston Hobby Airport, the Cloud Room, 7800 Airport Boulevard, Houston. According to the complete agenda, the committee reviewed and discussed decisions on awarding establishment grants. The emergency status was necessary as awards of establishment needed to be made prior to the end of the fiscal year, and the amount of funds available for grants was not available until this date. Grantees needed to be notified and projects started.

Contact: Jean Wakefield, P.O. Box 12866, Austin, Texas 78711, (512) 459-2600.

Filed: September 21, 1993, 9:32 a.m.

TRD-9329144

## **Texas School for the Blind and Visually Impaired (TSBVI)**

**Friday, September 24, 1993, at 10:00** The Board of Trustees of the Texas School for the Blind and Visually Impaired (TSBVI) will meet at 1100 West 45th Street, Room 116, Austin. According to the agenda summary, the board will call the meeting to order; hear public comments/open forum; discuss new business (including): approval of recording for the blind lease, award of certificate of appreciation; possible transition from Teachers Retirement System to Employees Retirement System; superintendent's job description; report of finance/audit committee; report of personnel/policy committee; policy changes; report of curriculum committee; consultation with school attorney regarding litigation; superintendent's evaluation; presentation of superintendent's long-range plan; dorm tour; approval of May 27, 1993, minutes; adoption of fiscal year 1993 operating budget; status report of fiscal year 1992 operating budget; approval of appropriations transfers; approval of Nolan County farm contracts; superintendent's report; board confirmation of appointment of assistant principal; sister school relationship with Monterrey, Mexico; presentation of district planning model; update on technology use at TSBVI; sexuality training at TSBVI; announcement of task forces for the coming year; approval of TSBVI organizational chart; report of TAAS results; approval of consultants' contracts over \$5,000, summary of consultant's contracts approved at administrative level; approval of new contract staff; approval of appointments of textbook committee and textbook coordinator for 1993-1994; No-

member board retreat; scheduled dates for future meetings; and election of interim board officers; hear comments from board members; and adjourn.

Contact: Marjorie L. Heaton, 1100 West 45th Street, Austin, Texas 78756-3494, (512) 454-8631, Ext. 133.

Filed: September 16, 1993, 12:43 p.m.

TRD-9328949

## **Texas Council on Workforce and Economic Competitiveness**

**Wednesday-Thursday, September 29, October 1, 1993, 7:30 p.m., and 8: 30 a.m. (respectively).** The Governing Council of the Texas Council on Workforce and Economic Competitiveness will meet at the Austin Marriott at the Capitol, 701 East 11th Street, Austin. According to the agenda summary, the council will hear opening remarks; overview of Senate Bill 642; workforce environmental scan; luncheon keynote address on national perspectives and trends; and strategic plan small group brainstorming sessions. On Thursday, the council will hear public comment; briefing item-executive director's agency update and budget review; action item-council by-laws presentation; proposal for designation of workforce development areas; policy briefing item-waiver policy; early applications for workforce development boards; strategic plan discussion and report from group sessions; and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 1 (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, P.O. Box 4421, Austin, Texas 78748, (512) 305-7007.

Filed: September 20, 1993, 4:32 p.m.

TRD-9329124

## **Interagency Council on Early Childhood Intervention**

**Monday-Tuesday, September 27-28, 1993, 10:00 a.m. and 8:30 a.m. respectively.** The Advisory Committee of the Interagency Council on Early Childhood Intervention will meet at the Spicewood Business Center, Suite 600, 4412 Spicewood Springs Road, Austin. According to the complete agenda, on Monday, the committee will discuss approval of the minutes from the previous meeting; hear public

comments; discuss and possibly act on update on membership (request for home phone numbers, governor's appointment; and introduce Cindy Morris); changes in travel; status of budget; council membership; bills requested by members; interim studies; executive committee report (by-laws; and professional annual publication); and directors forum update. At 1:45 p.m., Tammy Tiner, Ph.D. will give the council report. From 2: 15 p.m.-4:00 p.m., the following subcommittees will meet: Program Services, Interagency Coordination, Early Identification, and Personnel Preparation. There will be an optional Parent Caucus meeting in the evening at the Stouffer Hotel. On Tuesday, the committee will hear morning announcements; and will discuss and possibly act on the executive director's report. From 9:00 a.m.-11: 30 a.m., subcommittee meetings will continue. At 12:45 p.m., the committee will discuss and possibly act on subcommittee reports; and new business not requiring action.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 502-4900. 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: September 16, 1993, 2:55 p.m.

TRD-9328952

## **Texas Education Agency**

**Friday, September 24, 1993, 2:30 p.m.** The State Board of Education (SBOE) of the Texas Education Agency will meet in the Post Oak Room, Harvey Hotel, Dallas/Fort Worth Airport, 4545 West John Carpenter Freeway, Irving. According to the complete agenda, the SBOE will hold a work session to discuss the work of the board; priorities for the next two years, meeting schedule; and budget and travel.

Contact: Criss Cloudt, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701.

Filed: September 16, 1993, 4:04 p.m.

TRD-9328966

## **Texas Employment Commission**

**Tuesday, September 28, 1993, 9:00 a.m.** The Texas Employment Commission will meet in Room 644, TEC Building, 101 East 15th Street, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to consider relocation of agency headquarters; actions, if any, resulting from executive session; hear staff reports; con-

sider and possibly approve TEC biennial operating plan; bid for interior and exterior renovation at the Houston, San Jacinto Street, agency-owned building; internal procedures of commission appeals; consider and act on higher level appeals in unemployment compensation cases listed on Commission Docket 39; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: September 20, 1993, 4:07 p.m.

TRD-9329120

## Texas Ethics Commission

Thursday, September 30, 1993, 9:30 a.m. The Texas Ethics Commission will meet in Room 235, 1101 Camino La Costa, Austin. According to the agenda summary, the commission will take roll call; hear comments by the commissioners and the executive director; communications from the public; discuss approval of the minutes of the September 2, 1993, meeting; discussion and possible action to repeal all or a part of 1 TAC, Part II, Chapters 6-40 (all adopted rules), and replace same in whole or in part with a substantive recodification of Ethics Commission rules; repeal of the following rules, 1 TAC §§10.211-10.219; and action concerning the repeal of rules 1 TAC §§40.17, 40.34, and 40.35.

Contact: John Steiner, 1101 Camino La Costa, Austin, Texas 78752, (512) 463-5800.

Filed: September 17, 1993, 4:00 p.m.

TRD-9329039

## General Services Commission

Tuesday, September 28, 1993, 9:30 a.m. The General Services Commission will meet at the Central Services Building, Room 402, 1711 San Jacinto, Austin. According to the complete agenda, the commission will consider final adoption of §§111.11-111.19, concerning Historically Underutilized Business (HUB) Certification Program for minority and women owned businesses; new §113.19, concerning the Catalogue Purchase Procedure for Automated Information Systems; proposed amendment to §125.19, concerning the State Travel Management Program; proposed amendment to §117.31, and repeal of §§117.32-117.34, concerning mail and messenger services; amendment of rule §113.11, concerning delegated purchases; construction contract change policy variance relating to Project Number 90-022-303 install fire sprinkler system in Lyndon B. Johnson state office building; construction

contract change policy variance relating to Project Number 90-034-303 interior finish-out of the William P. Clements state office building; establishment of policy for petty cash accounts at the Surplus Property Warehouses; monthly division issues reports; meet in executive session to consider personnel matters; receive a report from counsel concerning the status of pending litigation; and to consider the status of the purchase of real property pursuant to the provisions of Texas Civil Statutes, Article 601b.

Contact: Judith Porras, 1711 San Jacinto, #401, Austin, Texas 78701, (512) 463-3583.

Filed: September 20, 1993, 9:29 a.m.

TRD-9329067

## Texas Department of Housing and Community Affairs

Friday, September 24, 1993, at 8:00 a.m. The Programs Committee of the Texas Department of Housing and Community Affairs will meet at the Texas Law Center, 1414 Colorado, Austin. According to the complete emergency agenda, the committee will consider and possibly act upon the following: HOME Program-funding recommendation second CHDO Application Cycle; authorization to announce NOFA for CHDO applications; CHAS policy issues; purchase of RTC multi-family properties; Texas Housing Opportunity Fund; Single Family Series 1983 a refunding structure and selection of underwriters; single family new money bond issue; and adjourn. The emergency meeting is necessary because the agency could not get through on fax machine. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3934.

Filed: September 16, 1993, 5:02 p.m.

TRD-9328976

Friday, September 24, 1993, at 9:30 a.m. The Finance Committee of the Board of the Texas Department of Housing and Community Affairs will meet at the Texas Law Center, 1414 Colorado, Austin. According to the complete emergency agenda, the committee will consider and possibly act upon the following: Single Family Series 1983 a refunding structure and selection of underwriters; single family new money

bond issue; multi-family final resolution for National Center for Housing Management; and adjourn. The emergency meeting is necessary because the agency could not get through on fax machine. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3934.

Filed: September 16, 1993, 5:01 p.m.

TRD-9328975

Friday, September 24, 1993, at 9:30 a.m. The Board of Directors of the Texas Department of Housing and Community Affairs will meet at the Texas Law Center, 1414 Colorado, Austin. According to the complete emergency agenda, the board will conduct a working session for the following: Single Family Series 1983 a refunding structure and selection of underwriters; single family new money bond issue; and adjourn. The emergency meeting is necessary because the agency could not get through on fax machine. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3934.

Filed: September 16, 1993, 5:01 p.m.

TRD-9328974

Friday, September 24, 1993, at 1:00 p.m. The Low Income Tax Housing Credit Committee of the Texas Department of Housing and Community Affairs will meet at the Texas Law Center, 1414 Colorado, Austin. According to the complete emergency agenda, the committee will consider and possibly act upon the following: update and status of LIHTC Program and commitments for LIHTC applications; and adjourn. The emergency meeting is necessary because the agency could not get through on fax machine. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA Responsible Employee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: Henry Flores, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3934.

Filed: September 16, 1993, 5:02 p.m.

TRD-9328977

**Monday, September 27, 1993, 9:30 a.m.** The Board of Directors of the Texas Department of Housing and Community Affairs will meet at the Texas Law Center, 1414 Colorado Street, Austin. According to the complete agenda, the board will consider and possibly act on the minutes of the following meetings: April 29-30, 1993, July 8-10, 1993, and August 24, 1993; review and discuss single family series 1983A re-funding structure and selection of underwriters; new money bond issue; final resolution for National Center of Housing Management; HOME Program-funding recommendation and authorization to announce notice of funds availability; low-income tax credit update and commitment purchase of RTC Properties; CHAS policy; 1993 audit plan; Texas Housing Opportunity Fund; meet in executive session to discuss the THA MF Housing Revenue Bonds; hear reports from executive director; and audit. Individuals who require auxiliary aids or services for this meeting should contact Aurora Caravajal, 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.

Contact: Henry Flores, 811 Barton Springs Road, Austin, Texas 78704, (512) 475-3934.

Filed: September 17, 1993, 4:06 p.m.

TRD-9329048

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**Texas Department of Human Services**

**Friday, October 1, 1993, 10:00 a.m.** The Advisory Committee on Nursing Facility Affairs of the Texas Department of Human Services will meet at 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the committee will call the meeting to order; take roll call; make introduction of visitors; discuss approval of committee minutes; long term care regulatory update; transition and organizational charts; advisory committee's role; investigations update; subcommittee reports; requirement coordination subcommittee; resident advocacy and nursing subcommittee; miscellaneous rule changes; other items of interest; next meeting and agenda items January 1994; and adjourn.

Contact: Mary Sidelnik, P.O. Box 149030, Austin, Texas 78714-9030, (512) 834-6770.

Filed: September 17, 1993, 9:59 a.m.

TRD-9328995

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**Texas Department of Insurance**

**Friday, September 24, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, 13th Floor, Room 13501, Austin. According to the complete agenda, the board will consider personnel matter; solvency; pending and contemplated litigation; and litigation update.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: September 16, 1993, 4:59 p.m.

TRD-9328973

**Monday, September 27, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken against Trans-National Life Insurance Company, Houston, who holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:06 p.m.

TRD-9329047

**Tuesday, September 28, 1993, 10:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether a Group I, Legal Reserve Life Insurance Agent's license should be issued to Angela Dawn Johnson, Arlington.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:06 p.m.

TRD-9329046

**Tuesday, September 28, 1993, 1:00 p.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken against Randy M. Presson, Edinburg, who holds a Group I, Legal Reserve Life Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:06 p.m.

TRD-9329045

**Wednesday, September 29, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken against American Service Life Insurance Company, Fort Worth, which holds a Certificate of Authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:05 p.m.

TRD-9329044

**Wednesday, September 29, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider a request by L. H. Chaney Materials, Inc. for a hearing regarding additional premiums owed applicable to Workers' Compensation Insurance Facility.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:05 p.m.

TRD-9329043

**Thursday, September 30, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken against Walter H. Kilgo III, Houston, who holds a Group I, Legal Reserve Life Insurance Agent's license, Group II, Insurance Agent's License, and a Local Recording Agent's License; Kilgo and Kilgo, Inc., Houston, which holds a Local Recording Agent's License; and Walter H. Kilgo and Associates Agency, Inc., Houston, which holds a Local Recording Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: September 17, 1993, 4:05 p.m.

TRD-9329042

**Thursday, September 30, 1993, 3:30 p.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken



against Cecil Burns Eubanks, Jr., San Antonio, who holds a Local Recording Agent's license.

**Contact:** Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** September 17, 1993, 4:05 p.m.

TRD-9329041

**Friday, October 1, 1993, 9:00 a.m.** The State Board of Insurance of the Texas Department of Insurance will meet at 333 Guadalupe Street, Tower II, Fourth Floor, Austin. According to the complete agenda, the Commissioner's Hearing Section will conduct a public hearing to consider whether disciplinary action should be taken against Bobby Lynn DeFee, New Caney, who holds a Local Recording Agent's License.

**Contact:** Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** September 17, 1993, 4:05 p.m.

TRD-9329040

### Texas State Library and Archives Commission

**Friday, October 1, 1993, 10:00 a.m.** The Texas State Library and Archives Commission will meet at 413 East Fourth Street, Amarillo Public Library Meeting Room, Amarillo. According to the complete agenda, the commission will discuss approval of the minutes of the July 29, 1993, meeting; consider sale price of 3.626 acres of land located on Shoal Creek Boulevard, Austin; findings of the Internal Auditor for the Talking Book, Automated Information Systems, and Statewide Library Development programs; internal audit contract for fiscal year 1994; hear presentation by Texas Panhandle Library System members; and committee reports.

**Contact:** Raymond Hitt, P.O. Box 12927, Austin, Texas 78711, (512) 463-5440.

**Filed:** September 17, 1993, 3:09 p.m.

TRD-9329035

### Texas Council on Offenders with Mental Impairments

**Tuesday, September 28, 1993, 8:30 a.m.** The Planning Committee of the Texas Council on Offenders with Mental Impairments will meet at the Texas Department of Criminal Justice, Board of Pardons and Paroles, 8610 Shoal Creek Boulevard, Austin. According to the complete agenda, the committee will call the meeting to order; hear introductions; public comments; discuss ap-

proval of the minutes; Senate Bill 252 strategies; set the next meeting date and agenda; and adjourn.

**Contact:** Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406

**Filed:** September 20, 1993, 9:10 a.m.

TRD-9329063

### Texas Natural Resource Conservation Commission

**Wednesday, September 22, 1993, 9:00 a.m.** The Texas Natural Resource Conservation Commission met at 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered an emergency order requiring certain actions of Gibraltar Chemical Resources, Inc. The emergency status was necessary due to an immediate threat to human health and the environment exist as a result of certain actual or threatened releases.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** September 20, 1993, 10:15 a.m.

TRD-9329099

**Monday, September 27, 1993, 9:00 a.m.** The Texas Natural Resource Conservation Commission will meet at 1200 Stadium Drive East, Arlington Convention Center Exhibit Hall, Arlington. According to the agenda summary, the commission will hold a public meeting to discuss regulatory issues associated with the burning of hazardous waste in cement kilns. Matters of discussion will include: regulatory standards for burning of hazardous waste in cement kilns compared to the regulatory standards for the burning of hazardous waste in commercial incinerators; comparison of interim status standards and permitting standards for cement kilns which burn hazardous waste; management of residues generated by the burning of hazardous waste in cement kilns; and consideration of the existing standards governing the burning of hazardous waste in cement kilns, and their adequacy to protect public health and the environment.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** September 16, 1993, 2:55 p.m.

TRD-9328950

**Wednesday, September 29, 1993, 9:00 a.m.** The Texas Natural Resource Conservation Commission will meet at 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: hazardous waste permit; compliance plan; new

water quality permits; renewal of water quality permits; district matters; water utility matter; contract; settled hearings; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** September 20, 1993, 4:23 p.m.

TRD-9329122

**Wednesday, September 29, 1993, 9:00 a.m.** The Texas Natural Resource Conservation Commission will meet at 1700 North Congress Avenue, Austin. According to the agenda summary, the commission will consider approving the following matters: water quality enforcement; solid waste enforcement; rules; proposal for decision; meet in executive session; in addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** September 20, 1993, 4:23 p.m.

TRD-9329123

**Thursday, September 30, 1993, 2:00 p.m.** The Texas Natural Resource Conservation Commission will meet at 101 South El Paso Street, Camino Real Paso Del Norte Hotel, El Paso. According to the agenda summary, the commission will address the conference participants on environmental concerns on the Texas/Mexico Border and on the management of solid waste and will participate in open discussion on these and related topics within the jurisdiction of the Texas Natural Resource Conservation Commission.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** September 20, 1993, 4:22 p.m.

TRD-9329121

**Monday, October 4, 1993, 9:30 a.m.** The Task Force 21 of the Texas Natural Resource Conservation Commission will meet at the Reagan Building, 105 West 15th Street, Austin. According to the complete agenda, the task force will give update on draft spill rules; upcoming rulemaking; status of permit processing; coastal zone management activities; update on needs assessment rule; update on comparative risk

project; and updates on agency activities.

**Contact:** Leslie Bell, 1700 North Congress Avenue, Austin, Texas 78711, (512) 908-6611.

**Filed:** September 21, 1993, 9:50 a.m.

TRD-9329147

**Friday, October 8, 1993, 9:00 a.m.** The Waste Reduction Advisory Committee of the Texas Natural Resource Conservation Commission will meet at the John H. Reagan Building, 105 West 15th Street, Austin. According to the complete agenda, the committee will have presentation by the Texas Natural Resource Conservation Commission staff on the Clean Industries 2000 program, the Texas Clean Air Act and future pollution prevention programs; and an open public comment period is available at the beginning of each meeting. Sign up for the open comment period begins at 8:30 a.m.

**Contact:** Selma D'Mello, 1700 North Congress Avenue, Suite 237-1, Austin, Texas 78701, (512) 463-8794.

**Filed:** September 21, 1993, 9:50 a.m.

TRD-9329148

**Wednesday, October 20, 1993, 9:00 a.m.** The Office of Hearings Examiner of the Texas Natural Resource Conservation Commission will meet at the Texas A&M Research and Extension Service Auditorium, Highway 44, Corpus Christi. According to the complete agenda, the examiner will hold a preliminary public hearing on application made by Texas Ecologists, Inc. (TECO) for proposed modification to Permit Number HW50052-001 to allow for the construction of an above grade continuous cell in the western one-third of the property covered by this permit.

**Contact:** Elizabeth Bourbon, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** September 17, 1993, 9:28 a.m.

TRD-9328983

**Wednesday, October 20, 1993, 11:00 a.m.** The Texas Natural Resource Conservation Commission will meet at the Austin County Courthouse, Basement Meeting Room, On the Square, Bellville. According to the agenda summary, the commission will hold a public hearing on an application for waste discharge permit amendment by Knox Oil of Texas, Inc. for Permit Number 13381-01. The proposed amendment would authorize an increase in flow and change the method of disposal from evaporation to discharge. The effluent is to be discharged through a 4-inch pipe into an unnamed tributary; thence to Allens Creek; thence to the Brazos River below Navasota River in Segment Number 1202 of the Brazos River Basin.

**Contact:** Pat Robards, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

**Filed:** September 17, 1993, 9:27 a.m.

TRD-9328981

**Thursday, October 28, 1993, 1:00 p.m.** (Rescheduled from Thursday, April 8, 1993). The Office of Hearings Examiner of the Texas Natural Resource Conservation Commission will meet at the Erath County Courthouse, On the Square, Stephenville. According to the agenda summary, the examiner will hold a public hearing on application made by Phil Bradbury for proposed Permit Number 03460 to authorize disposal of wastes and wastewater from a dairy into three storage ponds.

**Contact:** Elizabeth Todd, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** September 17, 1993, 9:28 a.m.

TRD-9328982

**Wednesday, November 3, 1993, 9:00 a.m.** The Texas Natural Resource Conservation Commission will meet at the Tyler County Courthouse, Commissioners Courtroom, On the Square, Woodville. According to the agenda summary, the commission will hold a public hearing on an application for waste disposal permit by E&L Lumber Company, Inc. (Proposed Permit Number 03545). The plant site is adjacent to the west side of U.S. Highway 69, approximately 2.6 miles south of the intersection of U.S. Highway 69 and U.S. Highway 190 near the City of Woodville, Tyler County.

**Contact:** James Bateman, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

**Filed:** September 17, 1993, 9:26 a.m.

TRD-9328980

## Board of Nurse Examiners

**Tuesday and Wednesday, September 21-22, 1993, 8:00 a.m.** The Board of Nurse Examiners met at the University of Texas at El Paso, College of Nursing, Morgan-Roderick Auditorium, 1101 North Campbell, El Paso. According to the emergency revised agenda summary, the examiners considered additional proposed board orders: 12 consent orders; four ALJ proposals for decisions; one agreed judgment; and two voluntary surrenders. The emergency status was necessary because action on these proposals are required prior to the next regularly scheduled meeting in November.

**Contact:** Erlene Fisher, Box 140466, Austin, Texas 78714, (512) 835-8675.

**Filed:** September 16, 1993, 12:04 p.m.

TRD-9328948

## Texas Board of Pardons and Paroles

**Monday-Friday, September 27-October 1, 1993, 1:30 p.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 2503 Lake Road, Suite 2, Huntsville. According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

**Filed:** September 16, 1993, 3:52 p.m.

TRD-9328962

**Monday-Wednesday, September 27-29, 1993, 1:30 p.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

**Filed:** September 16, 1993, 3:52 p.m.

TRD-9328960

**Thursday, September 30, 1993, 9:30 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1212 North Velasco, Suite 201, Angleton. According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78758, (512) 406-5407.

**Filed:** September 16, 1993, 3:51 p.m.

TRD-9328959

**Thursday-Friday, September 30-October 1, 1993, 9:00 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at 1550 East Palestine, Suite 100, Palestine. According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

**Filed:** September 16, 1993, 3:52 p.m.

TRD-9328961

**Thursday-Friday, September 30-October 1, 1993, 9:00 a.m.** The Parole Board Panel(s) of the Texas Board of Pardons and Paroles will meet at Route 5, Box 258-A, Gatesville. According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releases subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

**Contact:** Juanita Llamas, 8610 Shoal Creek Boulevard, Austin, Texas 78759, (512) 406-5407.

**Filed:** September 16, 1993, 3:52 p.m.

TRD-9328963

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**Public Utility Commission of Texas**

**Tuesday, September 28, 1993, 10:00 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 12085-application of South Texas Electric Cooperative, Inc. for Certificate of Convenience and Necessity for a proposed transmission line within Brazoria County.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** September 17, 1993, 4:31 p.m.

TRD-9329049

**Wednesday, September 29, 1993, 9:00 a.m.** The Hearings Division of the Public

Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 12289-application of TEX-LA Electric Cooperative, Inc. for authority to change rates.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** September 16, 1993, 11:01 a.m.

TRD-9328946

**Thursday, September 30, 1993, 9:00 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 12288-application of Stamford Electric Cooperative, Inc. for authority to change rates.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** September 17, 1993, 9:59 a.m.

TRD-9328993

**Wednesday, October 6, 1993, 9:00 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 12298-complaint of Destec Energy, Inc. against Houston Lighting and Power Company.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** September 17, 1993, 3:09 p.m.

TRD-9329034

**Thursday, October 21, 1993, 9:00 a.m.** The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Austin. According to the complete agenda, the division will hold a second joint prehearing conference in Docket Numbers 12126 and 12127-consolidated applications of Bluebonnet and Central Texas Electric Cooperatives, Inc. for approval of new industrial and large power time of use rates, respectively.

**Contact:** John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** September 17, 1993, 9:59 a.m.

TRD-9328992

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**Railroad Commission of Texas**

**Monday, September 27, 1993, 9:30 a.m.** The Railroad Commission of Texas will

meet in the First Floor Conference Room 1-111, William B. Travis Building, 1701 North Congress Avenue, Austin. Agendas follow.

The commission will consider and act on the Administrative Services Division Director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7257.

**Filed:** September 17, 1993, 10:52 a.m.

TRD-9329011

The commission will consider and act on the Personnel Division Director's report on division administration, budget, procedures, and personnel matters. The commission will meet in executive session to consider the appointment, employment, evaluation, re-assignment, duties, discipline and/or dismissal of personnel.

**Contact:** Mark Bogan, P.O. Box 12967, Austin, Texas 78711, (512) 463-6981.

**Filed:** September 17, 1993, 10:52 a.m.

TRD-9329006

The commission will consider and act on the Automatic Data Processing Division Director's report on division administration, budget, procedures, equipment acquisitions, and personnel matters.

**Contact:** Bob Kmetz, P.O. Box 12967, Austin, Texas 78701, (512) 463-7251.

**Filed:** September 17, 1993, 10:52 a.m.

TRD-9329007

The commission will meet in consideration of category determinations under §§102(c), (1), (B), 102(c)(1)(C), 103, 107, and 108 of the Natural Gas Policy Act of 1978.

**Contact:** Margie Osborn, P.O. Drawer 12967, Austin, Texas 78711, (512) 463-6755.

**Filed:** September 17, 1993, 10:52 a.m.

TRD-9329004

The commission will consider and act on the Office of Information Services Director's report on division administration, budget, procedures, and personnel matters.

**Contact:** Brian W. Schaible, P.O. Box 12967, Austin, Texas 78701, (512) 463-6710

**Filed:** September 17, 1993, 10:52 a.m.

TRD-9329005

The commission will consider and act on the Investigation Division Director's report on division administration, investigations, budget, and personnel matters.

**Contact:** Marcelo R. Montemayor, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6828.

Filed: September 17, 1993, 10:53 a.m.

TRD-9329012

The commission will consider various matters and other matters within the jurisdiction of the agency including oral arguments at the time specified on the agenda. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: September 17, 1993, 10:53 a.m.

TRD-9329013

The commission will consider and act on the Surface Mining and Reclamation Division Director's report on division administration, budget, procedures, and personnel matters.

Contact: Melvin Hodgkiss, P.O. Box 12967, Austin, Texas 78701, (512) 463-6901.

Filed: September 17, 1993, 10:52 a.m.

TRD-9329008

The commission will consider and act on the Division Director's report on budget, personnel, and policy matters related to operation of the Alternative Fuels Research and Education Division.

Contact: Dan Kelly, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7110.

Filed: September 17, 1993, 10:52 a.m.

TRD-9329009

The commission will consider and/or make decision on budget, fiscal, administrative or procedural matters, strategic planning; personnel and staffing, including restructuring or transferring the Oil Field Theft Division; contracts and grants; may discuss comionetas operations; the State of Texas Emergency management Plan, Annex GG, Emergency Recovery Plan; and may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Walter H. Washington, Jr., P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: September 17, 1993, 10:52 a.m.

TRD-9329010

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**Texas Southern University**

Thursday, September 30, 1993, 3:00 p.m. The Finance Committee, Board of Regents of the Texas Southern University will meet

at the Texas Southern University, College of Education Building, Conference Room 207, Houston. According to the complete agenda, the committee will consider matters relating to financial reporting systems, and budgets; fiscal reports from the administration; investments; and informational items.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: September 20, 1993, 9:38 a.m.

TRD-9329069

Thursday, September 30, 1993, 5:00 p.m. The Personnel and Academic Affairs Committee, Board of Regents of the Texas Southern University will meet at the Texas Southern University, College of Education Building, Conference Room 207, Houston. According to the complete agenda, the committee will consider report on progress of academic activities and programs; and personnel actions.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: September 20, 1993, 9:37 a.m.

TRD-9329068

Friday, October 1, 1993, 8:30 a.m. The Board of Regents of the Texas Southern University will meet at the Texas Southern University, University Library, Fifth Floor, Houston. According to the complete agenda, the board will consider minutes; report of the President; report from standing committees; and meet in executive session.

Contact: Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

Filed: September 20, 1993, 9:38 a.m.

TRD-9329070

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**Texas State Technical College**

Friday, September 24, 1993, 8:00 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Sweetwater Lance Sears Building, Sweetwater. According to the agenda summary, the board will discuss and review the following TSTC Policy Committee minute orders and reports: Committee of the Whole; Policy Committee for Instruction and Student Services; Policy Committee for Human Resource and Development; Policy Committee for Fiscal Affairs; Policy Committee for Facilities; and Committee of the Whole.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 17, 1993, 10:31 a.m.

TRD-9329000

Saturday, September 25, 1993, 7:30 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Sweetwater Lance Sears Building, Sweetwater. According to the agenda summary, the board will discuss and act on the following minute orders: ratify grant application-Waco Foundation; classes meeting with less than ten students; policy-student Right-to-Know Act; biennial operating plan for DIR; contract-Ranger Jr. College; out of state tuition budget change request; tuition and fees; emoluments; signature authorizations; audit plan; CTAS lease sale of excess property; Lease-A and K foam; Highland Park Village; Village Park Church; naming of building-consider naming building James A. Bird; EDA grant applications; easement to construct drainage system; plans for student center; bids for student center; lease-Brownwood; resolution-James A. Bird; appoint vice-president administration services; family and medical leave; Jerry Drummond appeal; policy for requirements for compliance with State and Federal laws; statutes; and regulations.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 17, 1993, 10:30 a.m.

TRD-9328999

Saturday, September 25, 1993, 7:30 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Sweetwater Lance Sears Building, Sweetwater. According to the revised agenda summary, the board will implement House Bill 1165, amending §51.306 of the Education Code as it relates to Conditions for Admissions and Enrollment-Yuri Calderon, Assistant Attorney General; organization of a PAC for the benefit of Texas State Technical College; and pass a resolution in memory of Dr. E. A. Aguilar.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 20, 1993, 11:57 a.m.

TRD-9329101

Saturday, September 25, 1993, 7:30 a.m. The Board of Regents of the Texas State Technical College will meet at the TSTC Sweetwater Lance Sears Building, Sweetwater. According to the revised agenda summary, the board will discuss in executive session, Article 6252-17, Section 2, Subsection (e), Aurora Ortega versus Texas State Technical College, et al.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 20, 1993, 11:57 a.m.

TRD-9329102

**Saturday, September 25, 1993, 7:35 a.m.**  
The Board of Regents, Executive Session of the Texas State Technical College will meet at the TSTC Sweetwater Lance Sears Building, Sweetwater. According to the agenda summary, the board will convene into executive session in accordance with Texas Civil Statutes, Article 6252-17, §2(e), Thomas J. Blankenship's pending litigation, and Texas Civil Statutes, Article 6252-17, §2(f), discussion concerning Airport Ground Lease at TSTC Waco.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: September 17, 1993, 10:31 a.m.

TRD-9329001

### Texas Department of Transportation

**Tuesday, September 28, 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 hold a public hearing on aviation projects; delegation appearance from Williamson County; discuss approval of minutes; execute contract awards/rejections/defaults/assignment; settlement including professional services and private consultants; routine minute orders; authorize: removal of land from system; participation in performance-related specifications for hot mix asphalt construction; environmental project; IH, US, SH and FM Road projects; Statewide Transportation Improvement Program; allocations to various Metropolitan Planning Organizations; Metropolitan area boundaries; consider: aviation projects; previous delegation and special appearances; rulemaking: 43 TAC Part 1, Chapter 1 and 31; awards/recognitions/resolutions; hear staff reports including report on transportation projects in Cameron County by local officials; meet in executive session to discuss §§551.071 and 551.072; and hold open comment period.

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

Filed: September 20, 1993, 2:48 p.m.

TRD-9329112

### Texas Turnpike Authority

**Monday-Monday, September 27-October 18, 1993, 10:00 a.m.** The Finance Commit-

tee of the Texas Turnpike Authority will meet at 3015 Raleigh Street, Dallas. According to the agenda summary, the committee will consider and act upon a resolution establishing the terms of the Texas Turnpike Authority Dallas North Tollway Revenue Refunding Bonds, Series 1993, authorizing a Bond Purchase Agreement relating to the bonds and taking other actions related thereto and to consider and act upon the reports of the Authority's financial advisor relating to the refunding of other outstanding bonds of the Authority.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: September 17, 1993, 3:09 p.m.

TRD-9329033

### Texas Workers' Compensation Commission

**Thursday, September 30, 1993, 9:30 a.m.**  
The Texas Workers' Compensation Commission will meet at the Wyndam Austin Hotel at Southpark, 4140 Governor's Row, Austin. According to the agenda summary, the commission will call the meeting to order; discuss, consider, and possibly act on temporary income benefits and related rules for possible proposal and/or amendment: Chapters 124, 126, 129, 130, and 141; meet in executive session; act on matters in executive session; discussion and possible staff direction on any issues regarding policy or rules including spinal surgery second opinion process; and public entity contractor/subcontractor coverage; hear general reports; and adjourn.

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-3690.

Filed: September 20, 10:49 a.m.

TRD-9329100

### Regional Meetings

#### Meetings Filed September 16, 1993

The Aqua Water Supply Corporation Board of Directors met at 305 Eskew (Aqua Office), Bastrop, September 20, 1993, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P. Bastrop, Texas 78602, (512) 321-3943. TRD-9328958.

The Coastal Bend Council of Governments Membership will meet in the Central Jury Room, Nueces County Courthouse, Fourth Floor, 901 Leopard Street, Corpus Christi, September 24, 1993, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-

9328953.

The Comal Appraisal District Board of Directors met at 178 East Mill Street, Suite 102, New Braunfels, September 20, 1993, at 5:30 p.m. Information may be obtained from Lynn E. Rodgers, P.O. Box 311222, New Braunfels, Texas 78131-1222, (210) 625-8597. TRD-9328954.

The Gulf Bend Mental Health and Mental Retardation Center Board of Trustees met at 1404 Village Drive, Victoria, September 23, 1993, at noon. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9328968.

The Johnson County Rural Water Supply Corporation Regular Board met at the JCRWSC Office, Highway 171 South, Cleburne, September 21, 1993, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9328965.

The Mental Health and Mental Retardation Authority of Brazos Valley Board of Trustees met at Washington County MHMR, 305 North Park, Brenham, September 23, 1993, at 1:00 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9328972.

The North Central Texas Council of Governments Executive Board met at Centerpoint Two, Second Floor, 616 Six Flags Drive, Arlington, September 23, 1993, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9328964.

The Panhandle Regional Planning Commission Board of Directors met at the Amarillo Civic Center, Third and Buchanan Streets, Amarillo, September 23, 1993, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9328969.

The Pecan Valley Mental Health Mental Retardation Region Board of Trustees met at the J. T. Jones Life Skills Center, 1811 Tin Top Road, Weatherford, September 22, 1993, at 8:30 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9328970.

The Region One Education Service Center Board of Directors met at the Region One Education Service Center, 1900 West Schunior, Edinburg, September 21, 1993, at 7:00 p.m. Information may be obtained from Lauro R. Guerra, 1900 West Schunior, Edinburg, Texas 78539, (512) 383-5611, Ext. 110. TRD-9328971.

The Tarrant Appraisal District Board of Directors will meet at 2301 Gravel Road,

Fort Worth, September 24, 1993, at 9:00 a.m. Information may be obtained from Mary McCoy, 2315 Gravel Road, Fort Worth, Texas 76118, (817) 595-6005. TRD-9328945.

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**Meetings Filed September 17,  
1993**

The Atascosa County Appraisal District Appraisal Review Board met at the Atascosa County Appraisal District Office, Fourth and Avenue J, Poteet, September 23, 1993, at 8:30 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (512) 742-3591. TRD-9329025.

The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees met at 1430 Collier Street, Board Room, Austin, September 23, 1993, at 8:00 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9329055.

The Capital Area Rural Transportation System CARTS Board of Directors met at 2010 East Sixth Street, Austin, September 23, 1993, at 9:00 a. m. Information may be obtained from Edna Burroughs, 2010 East Sixth Street, Austin, Texas 78702, (512) 478-7433. TRD-9328990.

The Dallas Area Rapid Transit Audit Committee met at 1401 Pacific Avenue, Conference Room "B", First Floor, Dallas, September 21, 1993, at noon. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9328979.

The Dallas Area Rapid Transit Committee-of-the-Whole met at 1401 Pacific Avenue, Conference Room "C", First Floor, Dallas, September 21, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9328978.

The Golden Crescent Private Industry Council Executive Committee met at 2401 Houston Highway, Victoria, September 20, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9329003.

The Golden Crescent Private Industry Council met at 2401 Houston Highway, Victoria, September 22, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9329002.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, September 23, 1993, at

6:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9329056.

The Liberty County Central Appraisal District Board of Directors met at 315 Main Street, Liberty, September 22, 1993, at 9:30 a.m. Information may be obtained from Sherry Greak, 315 Main Street, Liberty, Texas 77575, (409) 336-5722. TRD-9328996.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329017.

The Lower Colorado River Authority Natural Resources Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329018.

The Lower Colorado River Authority Conservation and Environmental Protection Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329019.

The Lower Colorado River Authority Energy Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329020.

The Lower Colorado River Authority Finance and Administration Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329021.

The Lower Colorado River Authority Audit Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329022.

The Lower Colorado River Authority Board of Directors met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 22-23, 1993, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin,

Texas 78767, (512) 473-3283. TRD-9329016.

The Lower Colorado River Authority Retirement Benefits Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, September 23, 1993, at 1:30 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9329023.

The Lower Neches Valley Authority (Revised agenda.) Board of Directors met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, September 21, 1993, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9329028.

The North Texas Private Industry Council Nortex Regional Planning Commission will meet at 4309 Jacksboro Highway, Suite 200, Wichita Falls, September 29, 1993, at 12:15 p.m. Information may be obtained from Earl Nunneley, 601 West Cedar, Nocona, Texas 76255, (817) 825-3222. TRD-9328984.

The South Texas Development Corporation Board of Trustees met in the Commissioners Courtroom, Courthouse Annex, Zapata, September 23, 1993, at 9:30 a.m. Information may be obtained from Robert Mendiola, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9329026.

The South Texas Development Council Board of Directors met in the Commissioners Courtroom, Courthouse Annex, Zapata, September 23, 1993, at 11:00 a.m. Information may be obtained from Julie Saldana, P.O. Box 2187, Laredo, Texas 78044-2187, (210) 722-3995. TRD-9329027.

The Texas Association of Regional Councils Annual Business will meet at the Camino Real Paso Del Norte Hotel, Ballroom, El Paso, October 1, 1993, at 2:00 p.m. Information may be obtained from Sheila Jennings, 508 West 12th Street, Austin, Texas 78701, (512) 478-4715. TRD-9328989.

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**Meetings Filed September 20,  
1993**

The Austin Transportation Study Policy Advisory Committee met at the Stokes Building, Fifth Floor, Room 515, 314 West 11th Street, Austin, September 23, 1993, at 5:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441 or 499-2275. TRD-9329111.

The Bosque County Central Appraisal District Board of Directors met at 104 West Morgan Street, Meridian, September 23,

1993, at 10:00 a.m. Information may be obtained from Don Whitney, P.O. Box 393, Meridian, Texas 76665-0393, (817) 435-2304. TRD-9329062.

The Galveston Bay National Estuary Program (TNRCC) Policy Committee will meet at the Houston-Galveston Area Council, 3555 Timmons Lane, Second Floor, Conference Room B, Houston, October 1, 1993, at 9:30 a.m. Information may be obtained from Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937. TRD-9329073.

The Galveston Bay National Estuary Program Scientific/Technical Advisory Committee will meet at the University of Houston/Clear Lake, 2700 Bay Area Boulevard, Forest Room-Bayou Building, Houston, October 7, 1993, at 9:00 a.m. Information may be obtained from Judy Eernisse, 711 West Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937. TRD-9329072.

The Gulf Bend Mental Health and Mental Retardation Center Board of Trustees met at 1404 Village Drive, Victoria, September 23, 1993, at noon. The emergency status was necessary as addition of two items required immediate action because of staff turnover. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9329105.

The Northeast Texas Municipal Water District Board of Directors will meet at Highway 250 South, Hughes Springs, September 27, 1993, at 10:00 a. m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9329074.

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**Meetings Filed September 21,  
1993**

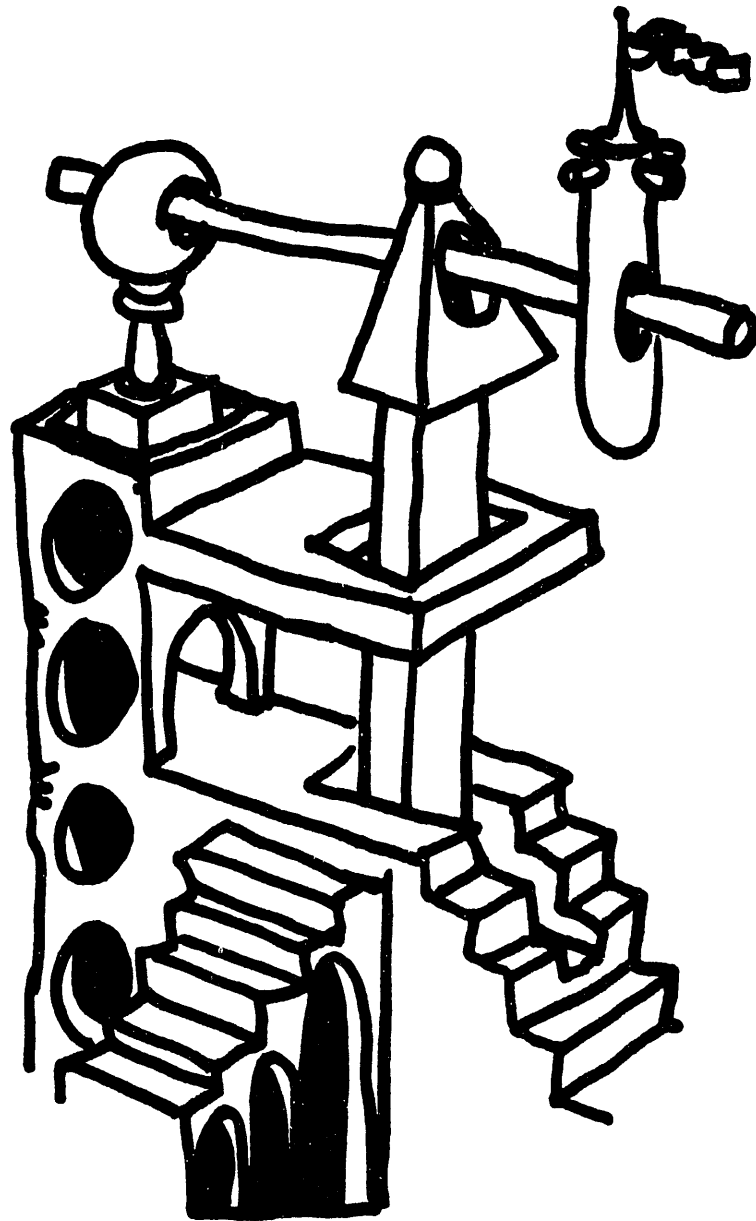
The Lee County Appraisal District Board of Directors will meet at 218 East Rich-

mond Street, Giddings, September 29, 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-9329145.

The Southwest Milam Water Supply Corporation Board will meet at 114 East Cameron Street, Rockdale, September 27, 1993, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9329125.

The Upper Leon River Municipal Water District Board of Directors held an emergency meeting at the General Office of the Filter Plant, Lake Proctor, Comanche County, Comanche, September 23, 1993, at 6:30 p.m. The emergency status was necessary as notice failed to be sent in 72 hours prior to the meeting. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9329126.

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# In Addition

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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.

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## State Banking Board

### Notice of Hearing

The Hearing Office of State Banking Board will conduct a hearing on November 4, 1993, at 9:00 a.m., at 2601 North Lamar Boulevard, on the charter application for Heritage Bank, Red Oak. The application is a conversion from the First National Bank of Red Oak, Red Oak, to a state-chartered bank. The banking services currently provided by the First National Bank of Red Oak will continue to be provided by the Heritage Bank.

Anyone desiring to appear at the hearing must file a written notice of intent to appear, including a brief statement of position, with this office at least ten days prior to the hearing. A copy of this notice, and all other pleadings, must be sent to each party to the hearing. If no protest is filed at least ten days prior to the date set for the hearing, the Commissioner may cancel the hearing and the State Banking Board shall vote to determine whether the necessary conditions have been established, based on the application. All parties appearing at the hearing are requested to provide the State Banking Board with three copies of all exhibits received as evidence, excepting poster size exhibits and photographs.

Additional information may be obtained from William F. Aldridge, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1317.

Issued in Austin, Texas, on September 15, 1993.

TRD-9328942

William F. Aldridge  
Director of Corporate Activities  
Texas Department of Banking

Filed: September 16, 1993

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## Texas Department of Health

### Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

**NEW LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
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Amarillo	Panhandle Nuclear Rx, Ltd.	L04683	Amarillo	0	09/02/93
Amarillo	Panhandle Cardiovascular Clinics, P.A.	L04697	Amarillo	0	09/08/93
El Paso	Dicon Systems, Inc.	L04704	El Paso	0	08/31/93
Granbury	Terra Analytics Laboratory	L04714	Granbury	0	09/13/93
Houston	Houston Advanced Research Center	L04706	Houston	0	09/10/93
Palestine	National Scientific Balloon Facility	L04717	Palestine	0	09/03/93
Throughout Texas	Texas Department of Health	L04712	Austin	0	09/02/93
Throughout Texas	Denton Construction Company	L04699	DFW Airport	0	09/03/93
Throughout Texas	Selective Tools, Inc.	L04669	Houston	0	09/03/93
Throughout Texas	Wren Oilfield Services, Inc.	L04690	White Oak	0	09/08/93
Throughout Texas	East Texas Asphalt Company	L04710	Lufkin	0	09/10/93
Throughout Texas	Southern Ecology Management, Inc.	L04711	Corpus Christi	0	09/14/93

**AMENDMENTS TO EXISTING LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
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Amarillo	High Plains Baptist Hospital	L01259	Amarillo	42	09/02/93
Austin	Austin Diagnostic Clinic	L00868	Austin	44	09/01/93
Beaumont	Outpatient Diagnostic Center	L03888	Beaumont	17	09/01/93
Bryan	St. Joseph Hospital and Health Center	L00573	Bryan	37	09/01/93
Carrollton	GE Lighting	L03819	Carrollton	8	09/09/93
Conroe	Doctors Hospital	L02515	Conroe	12	08/25/93
Dallas	Methodist Hospitals of Dallas	L00659	Dallas	27	08/25/93
Dallas	Presbyterian Hospital of Dallas	L01586	Dallas	59	09/02/93
Dallas	Humana Hospital Medical City Dallas	L01976	Dallas	78	09/02/93
Dallas	Baylor University Medical Center	L01290	Dallas	29	09/09/93
Deer Park	Quantum Chemical Corporation	L00204	Deer Park	35	09/03/93
El Paso	Providence Memorial Hospital	L02353	El Paso	44	08/30/93
El Paso	Johnson & Johnson Medical Inc.	L04178	El Paso	5	09/08/93
Fort Worth	Cook-Fort Worth Children's Medical Center	L04587	Fort Worth	1	09/03/93
Fort Worth	Trans-America International, Inc.	L04634	Fort Worth	5	09/08/93
Fort Worth	Jaime H. Castro, M.D.	L03751	Fort Worth	4	09/09/93

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Houston	HCA Medical Center Hospital	L02073	Houston	29	08/26/93
Houston	Houston Northwest Medical Center	L02253	Houston	36	08/26/93
Houston	M.B.A. Laboratories	L02571	Houston	9	09/02/93
Houston	Ben Taub General Hospital	L01303	Houston	34	09/03/93
Houston	Sam Houston Memorial Hospital	L01878	Houston	24	09/03/93
Kaufman	Presbyterian Hospital of Kaufman	L03337	Kaufman	10	09/03/93
Panna Maria	Chevron Resources Company	L02402	Hobson	21	08/24/93
Paris	Babcock and Wilcox Company	L00157	Paris	42	09/09/93
Pasadena	Phillips Petroleum Company	L00230	Pasadena	56	09/14/93
San Antonio	Lipitek, Inc.	L04547	San Antonio	2	09/03/93
Throughout Texas	Petroleum Industry Inspectors	L04081	Houston	29	09/02/93
Throughout Texas	Koch Engineering Company Inc.	L03913	La Porte	35	09/02/93
Throughout Texas	Tru-Tag Systems, Inc.	L03783	Houston	17	09/02/93
Throughout Texas	Hercules Engineering & Testing Services, Inc.	L03642	Houston	8	09/02/93
Throughout Texas	Ebasco Services Inc.	L02662	Houston	36	09/08/93
Throughout Texas	Southern Services, Inc.	L02683	Lake Jackson	40	09/08/93
Throughout Texas	Texas Department of Health	L04712	Austin	1	09/08/93
Throughout Texas	Eagle X-Ray	L03246	Mont Belvieu	41	09/09/93
Throughout Texas	Southwestern Laboratories Inc.	L00299	Houston	82	09/08/93
Throughout Texas	Phoenix Non-Destructive Testing Co., Inc.	L04454	Channelview	14	09/09/93
Throughout Texas	Technical Welding Laboratory, Inc.	L02187	Pasadena	84	09/09/93
Throughout Texas	SGS Industrial Services	L04460	Seabrook	12	09/09/93
Throughout Texas	METCO	L03018	Houston	27	09/14/93
Throughout Texas	Walzel & Associates, Inc.	L04523	Aransas Pass	5	09/14/93
Throughout Texas	Global X-Ray & Testing Corp.	L03663	Aransas Pass	29	09/14/93
Throughout Texas	Hercules Engineering & Testing Services, Inc.	L03642	Houston	9	09/14/93
Waco	Hillcrest Baptist Medical Center	L00845	Waco	55	09/02/93

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Anson	Anson General Hospital	L03417	Anson	6	09/09/93
Beasley	Hudson Products Corporation	L02370	Beasley	34	09/03/93
Dallas	GeneScreen, Inc.	L04183	Dallas	1	09/03/93
El Paso	PathLab, Inc.	L02267	El Paso	14	08/31/93
Houston	National K Works, Inc.	L02866	Houston	8	09/09/93
Longview	Mary Uffelman Andrews, M.D.	L01946	Longview	6	09/10/93
Nacogdoches	Lyle Thorstenson, M.D.	L03420	Nacogdoches	4	09/09/93
Plano	ARCO Exploration and Production Technology Company	L00134	Plano	53	09/08/93
Throughout Texas	Gilvin-Terrill, Inc.	L04196	Amarillo	3	09/03/93
Throughout Texas	Trinity Engineering Testing Corporation	L01351	Corpus Christi	32	09/08/93
Throughout Texas	Richardson Associates	L02889	Eules	12	09/14/93
Throughout Texas	Geo-Technique, Inc.	L04197	Southlake	4	09/14/93

**TERMINATIONS OF LICENSES ISSUED:**

Location	Name	License#	City	Amend- ment #	Date of Action
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Dallas	Carrington Laboratories, Inc.	L03842	Dallas	5	09/09/93
El Paso	Ansell Incorporated	L02214	El Paso	5	09/08/93
Houston	Graver Tank & Manufacturing Company, Inc.	L02176	Houston	28	09/09/93
Houston	Engineers and Fabricators Company	L00981	Houston	42	09/14/93
New Carney	Barry G. Willens, M.D.	L04579	New Carney	1	09/09/93
Odessa	Smith Energy Services	L03667	Chicago, Illinois	7	09/08/93
Port Neches	Texaco Chemical Company	L04227	Port Neches	5	09/14/93
Throughout Texas	Brown & Root, Inc.	L03371	Houston	11	09/08/93

Filed: September 20, 1993

◆ ◆ ◆  
**Texas Department of Human Services  
 Public Notice**

The Texas Department of Human Services (DHS) has published a report outlining its intended use of federal block grant funds during fiscal year 1994 for Title XX social services programs. The report describes department services funded through this federal source and includes a distribution-of-funds section which provides financial information on the allocation of funds to all department social services. Public comment was sought in the development of the Intended Use Report. On July 2, the proposed Intended Use Report was made available to the public for review and comment. No comments were received. The department received and responded to requests for copies of the report. On July 16, 1993, the Board of Human Services approved the fiscal year 1994 Operating Plan, including the use of block grant funds.

To obtain free copies of the report, send a written request to Nancy Murphy, Section Manager, Policy and Document Support, Mail Code W-402, Texas Department of Human Services, P.O. Box 149030, Austin, Texas 78714-9030.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329098 Nancy Murphy  
 Section Manager, Policy and Document  
 Support  
 Texas Department of Human Services

Filed: September 20, 1993

◆ ◆ ◆  
**Texas Department of Insurance  
 Correction of Error**

The Texas Department of Insurance submitted a miscellaneous document, "Company License Application." The document was published in the September 17, 1993 issue of the *Texas Register* (18 *TexReg* 6365). Due to a typographical error by the *Texas Register*, the filed date was incorrectly printed. The filed date should read "September 10, 1993."

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on September 17, 1993.

TRD-9329071 Susan K. Steeg  
 General Counsel, Office of General  
 Counsel  
 Texas Department of Health

## Texas State Library and Archives Commission

### Nominations for Vacancy on Local Government Records Committee

Notice is hereby given, pursuant to the Texas Government Code, §441.163, for the purpose of accepting nominations to fill a vacancy on the Local Government Records Committee.

Nominations will be accepted through November 1, 1993, to fill the position of a police chief from a municipality with a population of 5,000 to 49,999.

A nomination may be made by an organization representing officers of the type to be appointed and that has 50 such officers as members. In choosing between two or more nominees, the director and librarian are required by law to give preference to a nomination or nominations received from organizations whose membership consists primarily of the type of officer to be appointed.

Nominations should be sent to William D. Gooch, Director and Librarian, Texas State Library, P.O. Box 12927, Austin, Texas 78711.

Issued in Austin, Texas, on September 17, 1993.

TRD-9328029      Raymond Hitt  
Assistant State Librarian  
Texas State Library

Filed: September 17, 1993

## Texas Natural Resource Conservation Commission

### Correction of Errors

The Texas Natural Resource Conservation Commission submitted a Request for Proposals in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5798).

The RFP states that proposals are due to the Commission on October 1, 1993 and on October 29, 1993. In the third sentence in the final paragraph the correct date for the submission of proposals should be October 29, 1993.

The Texas Natural Resource Conservation Commission submitted a submission form regarding a Notice of Open Meeting on an application for BFI Medical Waste Systems, Inc. for a permit (Proposed Permit Number MSW2222). It was incorrectly posted the public hearing is to take place on: "Tuesday, September 28, 1993 at 1:00 p.m., New Administration Building, City Commissioners Office, Second Floor, 301 North Thompson, Conroe, Texas 77301".

The Texas Water Commission submitted the adopted sections on Chapter 312 on July 29, 1993. These sections were published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5216). The following are corrections to the published sections:

Section 312.3(k)(2) was published as: "The metal ceilings established in §312.43 (Table 3) of the title (relating to

Pollutant Limits) shall be met;". It should read: "The metal ceilings established in §312.43 (Table 3) of the title (relating to Metal Limits) shall be met;".

Section 312.4(d) was published as referring to "...metal concentration limits in §312.43(b)(3) (Table 3), of this title (relating to Pollutant Limits), and it should read "(relating to Metal Limits)".

Section 312.49(1) refers to the annual metal loading rate (AMLR) in equation 1. The abbreviation should read "AMLR" instead of "APLR" throughout this section.

In §312.65(d) there should be a period at the end of "Vector attraction reduction-Domestic septage."

## Notices of Applications

Attached are notices of application for permits to appropriate Public Waters of the State of Texas, which were issued during the period of September 13-17, 1993.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of publication of notice concerning the application(s).

No public hearing will be held on these applications unless an affected person has requested a public hearing. Requests for a public hearing or questions concerning procedures should be submitted in writing to Claire P. Arenson, Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Any such request must state your name, mailing address and daytime phone number; the application number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application which would satisfy your concerns and cause you to withdraw your request for hearing.

If the Commission determines that the request sets out an issue which is relevant to the permitting decision, or that a public hearing would serve the public interest, the Commission shall conduct a public hearing, after issuance of proper and timely notice of the hearing.

G. H. Bingham doing business as 4-B Farms; Brazos River Basin; Comanche County; Application Number 12-3573-B to amend Certificate of Adjudication.

William D. Carroll and Wife, Mary L. Carroll; Brazos River Basin; Comanche County; approximately nine miles northwest of Comanche; Application Number 5161-A to amend permit.

Curtis D. Lesley and Royce G. Lesley; Brazos River Basin; Comanche, County; approximately four miles northeast of Comanche; Application Number 12-3622-B to amend Certificate of Adjudication.

Donald K. Setzler; Brazos River Basin; Comanche County; approximately seven miles north of DeLeon; Ap-

Application Number 12-3502-B to amend Certificate of Adjudication.

Thomas Randolph Simpson; Brazos River Basin; Comanche County; approximately 11 miles north of Comanche; Application Number 5073-A amend permit.

Troyat Underwood; Brazos River Basin; Comanche County; approximately 20 miles north-northwest of Comanche; Application Number 12-3526-B to amend Certificate of Adjudication.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329054 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993



Sojo Treatment-Lubbock, L.C., 24 Smith Road, Suite 200, Midland, Texas 79705 has applied for a municipal solid waste permit (Proposed Permit Number MSW2231) to authorize a Type V municipal solid waste management facility. The facility will store and process non-hazardous, non-industrial municipal grease and grit trap waste. The permittee is authorized to receive the above authorized waste at a rate not to exceed 213 tons in a 24-hour period over the total life of the site. The permittee is authorized to store municipal grease and grit trap waste for a maximum of 72 hours. The permittee is also authorized to store processed light oils in sealed 55-gallon drums within the fenced area for a period of 180 calendar days.

The facility is to be on a 3.45-acre site located at 801 North Avenue P in the City of Lubbock, Lubbock County (33 degrees 36.35 minutes north, 101 degrees 51.40 west).

The Executive Director of the Texas Natural Resource Conservation Commission (Commission) has prepared a draft permit which, if approved, will authorize the operation of this facility. A copy of the draft permit is available for inspection in the Office of the Texas Natural Resource Conservation Commission, Park 35, 12118 North Interstate Highway 35, at Yager Lane, Building B, Room 190, Austin. The Executive Director has also prepared a summary of the applicant's compliance history at the facility, copies of which are available upon request.

**Legal Authority:** Section 5.103 of the Texas Water Code, as amended, the Texas Health and Safety Code, Chapter 361; the rules of the Texas Natural Resource Conservation Commission, Chapters 305, 330, and 335.

This application is subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue this permit unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns

and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearings are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Cynthia Hayes, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908. Information concerning any technical aspect of this application can be obtained by writing Bhasker Reddi, Municipal Solid Waste Permits Section, at the same address or by telephone at (512) 908-6781.

Waste Management of Texas, Inc., 1320 Greenway Drive, Suite 1000, Irving, Texas 75038, has applied for an amendment to municipal solid waste Permit Number MSW1307-A, which authorizes a Type I (landfill) municipal solid waste management facility. This application, designated Application Number MSW1307-B, authorizes waste to be received at a rate ranging between 1,500 and 3,000 tons per day and increasing the size of the site from 120.89 acres to 325.53 acres. The facility stores, processes, and disposes of municipal solid waste, special waste, and various types of nonhazardous industrial waste.

The site is to be on a 325.53-acre site located north of Houston, approximately three miles southeast of Humble and 2.4 miles east of Highway 59 at 2020 Atascocita Road, in Harris County (29 Degrees 57.50 minutes north, 95 Degrees 14.30 minutes west).

The Executive Director of the Texas Natural Resource Conservation Commission (Commission) has prepared a draft permit which, if approved, will authorize the operation of this facility. A copy of the draft permit is available for inspection in the Office of the Texas Natural Resource Conservation Commission, Park 35, 12118 North Interstate Highway 35, at Yager Lane, Building B, Room 190, Austin. The Executive Director has also prepared a summary of the applicant's compliance history at the facility, copies of which available upon request.

**Legal Authority.** Section 5.103 of the Texas Water Code, as amended; the Texas Health and Safety Code, Chapter 361, the Rules of the Texas Natural Resource Conservation Commission, Chapters 305, 330, and 335.

This application is subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue this permit unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state you name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing;" a brief description of how you, or the persons you represent, would be adversely

affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued submit a recommendation to the Commission for final decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this not or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Cynthia Hayes, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908. Information concerning any technical aspect of this application can be obtained by writing Bhasker Reddi, Municipal Solid Waste Permits, Section, at the same address or by telephone at (512) 908-6781.

Issued in Austin, Texas, on September 8, 1993.

TRD-9329053      Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

Attached are Notices of Applications for waste disposal permits issued during the period of August 16-September 17, 1993.

These applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after publication of this notice.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final decision. If no protests or requests for hearings are filed, the Executive

Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7906.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Associated Milk Producers, Inc.; a specialty dairy food products manufacturing facility; adjacent to Smith Springs Road, approximately 2,000 feet northeast of the intersection of Smith Springs Road and U.S. Highway 281, north of the City of Stephenville, Erath County; amendment; 03074.

City of Alvin; wastewater treatment plant; approximately 3,000 feet west of the intersection of County Roads 160 and 158, and approximately 3.5 miles northeast of the intersection of State Highway 35 and FM Road 2917, south of the City of Alvin in Brazoria County; renewal; 10005-01.

Atchison, Topeka and Santa Fe Railway; the Somerville Centralized Tie Plant; in the City of Somerville, Burleson County; renewal; 00746.

Boise Cascade Corporation; wastewater treatment facilities; adjacent to FM Road 529 (Spencer Road), approximately one mile west of the intersection of FM Road 529 and U.S. Highway 290 in Harris County; renewal; 12466-01.

Doug Bryan doing business as Bryan Dairy; a dairy; on the west side of Doug Bryan Road, approximately one mile south of Doug Bryan Road and FM Road 2264 in Wise County; new; 03589.

Chilton Water Supply and Sewer Service Corporation; wastewater treatment plant; approximately 500 feet north of the FM Road bridge over Deer Creek, approximately one mile south of the City of Chilton in Falls County; amendment; 10811-01.

George W. Cobb; wastewater treatment facilities; approximately 2,000 feet east of State Highway 288 and approximately 1,000 feet south of Fellows Road in Harris County; renewal; 12669-01.

Dar Anderson doing business as Dar Anderson Dairy; a dairy; on the south side of an unnamed County Road approximately four miles southeast of the intersection of FM Road 2823 and FM Road 1702 in Comanche and Erath Counties; amendment; 03279.

City of Deer Park; wastewater treatment facilities; immediately south and west of the crossing of La Porte Road (State Highway 225) over Patrick Bayou in the City of Deer Park in Harris County; amendment; 10519-02.

Elysian Fields Independent School District; wastewater treatment facilities; approximately 0.1 mile south of FM Road 451 on school property which is adjacent to FM Road 451 at a point approximately 2.3 miles east of the intersection of State Highway 31 and FM Road 451 in Harrison County; renewal; 12663-01.

Harris County Municipal Utility District Number 49; the Timberhills permanent Wastewater Treatment Facilities; approximately 700 feet north of the North Belt (Beltway 8), adjacent to and east of Garners Bayou in Harris County; renewal; 11919-02.

Harris County Municipal Utility District Number 229; Wastewater treatment facilities; east of and adjacent to Willowbrook Lane, approximately 150 feet north of Mills Road and 3,000 feet west of the intersection of Mills Road and FM Road 149 in Harris County; renewal; 12559-01.

Marathon Letourneau Company, Longview facility; The wastes formerly managed in the landfill were Class I hazardous and non-hazardous industrial solid wastes generated on-site from the manufacture of heavy equipment; the Marathon Lonview facility is on 2,134-acres of land approximately 0.25 mile northwest of the Estes Parkway and FM Road 1845 intersection and approximately 0.75 mile north of Interstate Highway 20 in the southwestern portion of the City of Longview, Gregg County; new; HW50263; 45-days.

City of O'Brien; wastewater treatment plant; approximately 0.8 miles north of the intersection of State Highway 6 and FM Road 2229, north of the City of O'Brien on the west side of State Highway 6 in Haskell County; amendment; 13616-01.

City of Temple; the Doshier Farm Wastewater Treatment Facilities; on the west side of State Highway Loop 363, approximately one mile south of the intersection of State Highway 53 and State Highway 363 in Bell County; amendment; 10470-02.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329052 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

### Notices of Award

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for the Comprehensive Conservation and Management Plan (CCMP) Funding Strategy.

The notice for request for proposals was published in the May 4, 1993, issue of the *Texas Register*.

**Description of Services.** The contractor will provide information regarding development and preparation of a CCMP Funding Strategy. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1994.

**Effective Date and Value of Contract.** The contract will be effective from September 1, 1993, until August 31, 1994. The total cost of the contract is \$40,000.

**Name of the Contractor.** The contract has been awarded to Resource Analytics Inc., 304 Glenwood Avenue, Raleigh, North Carolina 27603.

Persons who have questions concerning this award may contact Karen A. Prince, Galveston Bay National Estuary Program, 711 Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937.

Issued in Austin, Texas, on September 1, 1993.

TRD-9328986

Frank S. Shipley  
Program Director, Galveston Bay National  
Estuary Program  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for the Comprehensive Conservation and Management Plan (CCMP) Federal Consistency Survey.

The notice for request for proposals was published in the May 4, 1993, issue of the *Texas Register*.

**Description of Services.** The contractor will provide information regarding the development and preparation of the CCMP Federal Consistency Survey. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1994.

**Effective Date and Value of Contract.** The contract will be effective from September 1, 1993, until August 31, 1994. The total cost of the contract is \$30,000.

**Name of the Contractor.** The contract has been awarded to Shiner, Moseley and Associates, 2828 South Padre Island Drive, Suite 210, Corpus Christi, Texas 78415.

Persons who have questions concerning this award may contact Karen A. Prince, Galveston Bay National Estuary Program, 711 Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937.

Issued in Austin, Texas, on September 1, 1993.

TRD-9328987 Frank S. Shipley  
Program Director, Galveston Bay National  
Estuary Program  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for the Comprehensive Conservation and Management Plan (CCMP) Final Draft Contract Support.

The notice for request for proposals was published in the May 4, 1993, issue of the *Texas Register*.

**Description of Services.** The contractor will provide information regarding the development and preparation of the CCMP. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1994.

**Effective Date and Value of Contract.** The contract will be effective from September 1, 1993, until August 31, 1994. The total cost of the contract is \$140,000.

**Name of the Contractor.** The contract has been awarded to Groundwater Services, Inc., 5252 Westchester, Suite 270, Houston, Texas 77005.

Persons who have questions concerning this award may contact Karen A. Prince, Galveston Bay National Estuary Program, 711 Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937.

Issued in Austin, Texas, on September 1, 1993.

TRD-9328988 Frank S. Shipley  
Program Director, Galveston Bay National



Estuary Program  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award for the Regional Monitoring Methods Standardization.

The notice for request for proposals was published in the May 4, 1993, issue of the *Texas Register*.

**Description of Services.** The contractor will provide information regarding development and preparation of a Regional Monitoring Program. The following major products will be produced: Quarterly Reports; Final Report, August 31, 1994.

**Effective Date and Value of Contract.** The contract will be effective from September 1, 1993, until August 31, 1994. The total cost of the contract is \$65,000.

**Name of the Contractor.** The contract has been awarded to Tetra Tech Inc., 3746 Mt. Diablo Boulevard, Suite 300, Lafayette, California 94549.

Persons who have questions concerning this award may contact Karen A. Prince, Galveston Bay National Estuary Program, 711 Bay Area Boulevard, Suite 210, Webster, Texas 77598, (713) 332-9937.

Issued in Austin, Texas, on September 1, 1993.

TRD-9328985 Frank S. Shipley  
Program Director, Galveston Bay National  
Estuary Program  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

### Notices of Receipt of Applications for Municipal Solid Waste Permits for the Week Ending September 17, 1993

American Medical Waste Authority, Inc.; Dallas; Type V; 11221 Goodnight Lane, Dallas, Dallas County; new MSW2233.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329051 Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: September 17, 1993

### Public Meeting Notice

The Texas Natural Resource Conservation Commission (TNRCC) is in the process of developing a Vehicle Inspection and Maintenance (I/M) Program as required by the 1990 Federal Clean Air Act and the U.S. Environmental Protection Agency I/M program requirements. The major focus of the Texas Vehicle I/M Program will be to increase the overall effectiveness of the vehicle emissions repair process.

In order to receive preliminary comments from the general

public, the TNRCC will host a Vehicle Maintenance Workshop for Emissions Repair Effectiveness and Emissions Repair Research/Outreach in the State of Texas. The workshop will be held on Saturday, October 16, 1993, and will include discussions of emissions repair technician training, certification and evaluation of emissions repair technicians and emissions repair facilities, and research programs to improve the overall effectiveness of the emissions I/M process.

The workshop will be held from 9:00 a.m.-4:00 p.m. in the Auditorium (Room 201S) of the TNRCC, Building E, located at 12118 North IH-35, Park Technology Center, Austin. The purpose of the workshop is to general a discussion of comments and ideas in response to draft proposals of the TNRCC's program designs. For further information, please contact Lois Wilson at (512) 908-1484.

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

Issued in Austin, Texas, on September 16, 1993.

TRD-9328967 Mary Ruth Holder  
Director, Legal Services  
Texas Natural Resource Conservation  
Commission

Filed: September 16, 1993.

### Texas State Board of Pharmacy Correction of Error

The Texas State Board of Pharmacy submitted an emergency amendment to 22 TAC §281.73, concerning general provisions. The rules appeared in the September 7, 1993, *Texas Register* (18 TexReg 5936).

Due to an error on the part of the *Texas Register* in 22 TAC §281.73(4), the text published does not include open parenthesis. It should read "(4) Name and description of drug(s) involved, if any; and"

The Texas State Board of Pharmacy submitted an emergency amendment to 22 TAC §283.9, §283.10, concerning licensing requirements for pharmacists. The rules appeared in the September 7, 1993, *Texas Register* (18 TexReg 5936-5937).

Due to errors on the part of the *Texas Register* and the agency's submission text was omitted.

Section 283.10(a) should read "(a) Expired less than 90 days. If a person's license has been expired for [for more than] 90 days or less, the person may renew the license by:"

Section 283.10(c) should read "(c) Expired for one year [2 years] or more. If a person's license to practice pharmacy in Texas has been expired for one year [2 years] or more, the person may not renew the license and shall apply for a new license."

Section 283.10(e) should read "(e) Alternatives to re-examination. In lieu of re-examination as specified in subsection (d) of this section, the board may issue a



**Community Connections Monograph.** The monograph is to feature up to 20 relationships/stories, including at least one or two relationships from each of the seven Community Connections projects, as well as an introduction/overview. The grantee selected will be responsible for all creative and production functions necessary to create a camera-ready, high quality compendium with statewide impact.

**Community Connections Video.** This project is to produce a documentary-style video program lasting about 15 minutes which focuses on three or four individuals with developmental disabilities, the people they have been connected with, and the relationships that have developed. The grantee selected will be responsible for all creative and production functions necessary to develop a high quality video program. Videotaping will be done on-location within Texas.

**Terms for both RFPs.** One grant will be awarded for a term of 12 months for each of the requests for proposals. The Council reserves final approval rights for all aspects of production of the monograph and video. The DD Council retains all rights for the completed monograph and video and all materials created in producing them. The DD Council expects the start-up in January, 1994. The monograph video are to be completed by June 30, 1994.

For the application packet containing the two full requests for proposals, application forms and instructions, please submit a written or fax request to: Director of Grants Management, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4099, or (512) 483-4097 FAX Deadline. Proposals will be accepted at the Texas Planning Council Office, 4900 North Lamar Boulevard, Office #4141, Fourth Floor, Austin until 4:00 p.m. on November 10, 1993. No fax copies of proposals will be accepted. Copies of application kit may not be faxed to applicants.

Issued in Austin, Texas, on September 10, 1993.

TRD-9329057 Charles W. Schiesser  
Associate Commissioner for Legal Services  
Texas Rehabilitation Commission

Filed: September 20, 1993

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**South Texas Community College  
Public Announcement**

The South Texas Community College was created on September 1, 1993, by an act of the Texas Legislature, Senate Bill 251. This educational institution serves the communities of Hidalgo and Starr counties. Senate Bill 251 established a temporary governance structure and will set in motion process by which residents of those counties can confirm the creation of the college, elect trustees, and established a taxing authority.

An initial board of seven members, duly appointed by Governor Ann Richards was sworn in by U.S. District Judge Ricardo Hinojosa on the evening of September 1, 1993, in Edinburg. The Board of Trustees of the South Texas Community College held its first meeting on September 8, 1993, thereby abolishing the Texas State Technical College Extension Center in McAllen.

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

TRD-9329058

Carmen Villalobos  
Recording Board Secretary/Certifying Officer  
South Texas Community College

Filed: September 20, 1993

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**Teacher Retirement System of Texas  
Consultant Contract**

This consultant contract information is filed in compliance with the notice requirement under Texas Civil Statutes, Article 6252-11c, §2(a)(6) and §6.

The Teacher Retirement System of Texas ("TRS") has contracted with a private consultant to provide ongoing advice and assistance for design and implementation of the TRS 2000 project which includes reengineering the agency business process as a result of the conversion of TRS recordkeeping to an electronic imaging system.

On September 9, 1993, TRS executed a contract with Raymond T. Clarke and Associates, 9764 Derby Way, Parker, Colorado 80134 to provide the above services.

The agreed compensation set forth in the contract is \$100 per hour, not to exceed \$48,800.

The contract beginning date is September 9, 1993, and there is no specific contract ending date, but the work must be performed in a timely manner to accommodate TRS needs. The contract may be terminated by TRS at any time.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329050 Wayne Blevins  
Executive Director  
Teacher Retirement System of Texas

Filed: September 17, 1993

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**System Human Resources, The Texas  
A&M University System  
Consultant Proposal Request**

This request for consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The Texas A&M University System Administrative and General Offices (SAGO) plans to award a contract for the purpose of developing and implementing a comprehensive job evaluation and compensation plan. The selected firm will be expected to perform the following services: implementing a job evaluation system for all position, developing and implement a pay plan(s) and evaluate all positions.

Firms wishing to respond to this request should be able to demonstrate the experience and qualifications necessary to produce excellent outcomes in the above areas. Of interest are relevant credentials of project personnel and experience in designing and implementing job evaluation and compensation plans.

The RFP instructions which detail information regarding the project are available upon request.

The deadline for receipt of the proposals in response to this request will be 4:00 p.m. on October 18, 1993.

SAGO reserves the right to accept or reject any or all proposals submitted. SAGO is no under legal requirement to execute a resulting contract on the basis of this advertisement.

SAGO intends to use responses as a basis for further negotiations of specific project details. Final selection will be based on cost, demonstrated competence, superior qualifications, and evidence of conformance with the RFP criteria.

This RFP does not commit SAGO to pay costs incurred prior to execution of a contract. Issuance of this material in no way obligates SAGO to award a contract or to pay any costs incurred in the preparation of a response. SAGO specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where it is deemed to be in the best interested of SAGO.

To obtain copies of the RFP instructions, please submit a written request to Patricia Couger, Executive Director, System Human Resources, The Texas A&M University System, State Headquarters Building, 301 Tarrow Drive, College Station, Texas 77840, FAX (409) 845-5281. For questions or further information regarding this notice, contact Patricia Couger at (409) 845-2026.

Issued in College Station, Texas on September 15, 1993.

TRD-9328955 Patricia L. Couger  
Executive Director, System Human  
Resources  
The Texas A&M University System

Filed: September 16, 1993

## Texas Department of Transportation Public Hearing Notice

Pursuant to Texas Civil Statutes, Article 6673k, the Texas Transportation Commission will conduct a public hearing to receive data, comments, views, and/or testimony concerning the Commission's highway project selection process and the relative importance of the various criteria on which the Commission bases its project selection decisions.

The public hearing will be held on Thursday, October 28, 1993, at 1:30 p.m., in the first-floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, Texas. The hearing will be conducted in accordance with the procedures specified in 43 TAC §1.5. Any interested person may appear and offer comments, either orally or in writing; however, questioning of those making presentations will be reserved exclusively to the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserve the right to restrict testimony in terms of time and repetitive comment.

Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member here possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearing may contact Al Zucha, public information

officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Written comments may be submitted to the Texas Department of Transportation, Attention Robert Wilson, P.E. 125 East 11th Street, Austin, Texas 78701. Copies of the criteria/information are available at the department's Riverside Annex, Building 150, Room 115N, Austin, (512) 416-2601. The deadline for submitting comments is 5:00 p.m. on November 8, 1993.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329031 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: September 17, 1993

## Request for Proposals

The following requests for proposals for providing professional engineering services are filed under the provision of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional services as described in the project scope for each individual project listed below:

TxDOT Project Number: 94-28-013; Airport Sponsor: County of Bandera; Project Scope: Feasibility Study, Site Selection, Environmental Assessment, and Airport Master Plan; Estimated Cost: \$60,000; Project Manager: Michelle Hannah.

TxDOT Project Number: 94-36-013; Airport Sponsor: County of Crockett; Project Scope: Airport Layout Plan Report; Estimated Cost: \$10,000; Project Manager: Charles Riordan.

TxDOT Project Number: 94-40-053; Airport Sponsor: City of Pleasanton; Project Scope: Airport Layout Plan Report; Estimated Cost: \$10,000; Project Manager: Michelle Hannah.

TxDOT Project Number: 94-41-023; Airport Sponsor: County of Refugio; Project Scope: Airport Feasibility Study; Estimated Cost: \$10,000; Project Manager: Linda Howard.

TxDOT Project Number: 95-17-041; Airport Sponsor: City of Pleasanton; Project Scope: Environmental Assessment; Estimated Cost: \$10,000; Project Manager: Michelle Hannah.

Those interested consultants should submit five copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information for each individual project to: Texas Department of Transportation, Division of Aviation, Attention: Grant Administration, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262; or Texas Department of Transportation, Division of Aviation, Attention: Grant Administration, 410 East Fifth Street, Austin, Texas 78701, (512) 476-9262.

Proposals must be received in this office by 4:00 p.m. (CST), October 14, 1993.

Procedure for award will be in accordance with FAA Advisory Circular AC 150/5100-14C.

The sponsor reserves the right to reject any or all proposals received and to conduct new consultant selection procedures for future projects.

**The Proposal Shall Include:**

1. Firm name, address, phone number and person to contact regarding the proposal.
2. Proposed project management structure identifying key personnel and subconsultants (if any).
3. Qualifications and recent experience of the firm, key personnel and subconsultants relative to the performance of similar services for FAA or TxDOT Aviation projects.
4. Proposed project schedule, including major tasks and target completion dates.
5. Technical approach—a brief discussion of the tasks or steps to accomplish the project.
6. List of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance.
7. Statement regarding an Affirmative Action Program.
8. Certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.
9. Certification of Child Support payments as now required by Senate Bill 84, 73rd Legislature. Forms are available by calling TxDOT, Grant Administration, at (512) 476-9262.

For the above projects, with the exception of Bandera, proposals will be reviewed by a consultant selection committee in order to select the consultant.

For the Bandera project, proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection for Bandera will be made following completion of interviews.

If there are any questions, please contact the project manager, Division of Aviation, Texas Department of Transportation, (512) 476-9262.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329032 Diane L. Northam  
Legal Administrative Assistant  
Texas Department of Transportation

Filed: September 17, 1993

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**The University of Texas System  
Consulting Services Request for Proposal**

The University of Texas Medical Branch at Galveston (UTMB), in accordance with provision of the Texas Civil Statutes, Article 622-11c, solicits to contract with a consultant to assist with the development of a technology plan to support the institutional Information Resources Strategic Plan.

**Project Description.** The contractor selected will assist UTMB in creating an information resources (IR) technology plan to support the current UTMB Information Re-

sources Strategic Plan 1993-1997. Activities to be performed will include: Developing a detailed project plan and schedule; conducting a review of the currently install IR technology base and identifying the current IR environment through interviews with UTMB staff and reviews of current documentation; performing a comparison with agreed upon similar institutions to identify similarities, "best of breed" implementations, and IR technologies being utilized; developing an assessment of emerging IR technology applicable to the UTMB environment; creating a vision of the IR environment required to support institutional strategic requirements in the 1998 time period; identifying bridging actions needed to deliver the technology and services identified for the 1998 period; and creating a detailed report summarizing the above findings and presenting these findings in the form of a Technology Plan for UTMB.

This contract will be for approximately three to six months, depending upon the project plan presented by the selected firm.

**Contact.** The complete consultant services request for proposal may be obtained from Jeffrey Bonnardel, Director of Purchasing, Room 3.02, Administration Annex Building, The University of Texas Medical Branch at Galveston, Texas 77550-0105, (409) 772-2567, FAX (409) 772-2286.

**Due Date.** Proposals will be opened in the offices of the Director of Purchasing, Room 3.202, Administration Annex Building, UTMB, Galveston, at the time and date specified in the request for proposal. It is the responsibility of the consultant to have proposals in the above stated offices at that time. Proposals received late for any reason will be returned unopened.

**Procedure for Selection of Consultant.** Proposals will be evaluated by UTMB, and selection will be based on experience, cost considerations, and other qualifications as further described in the complete consultant request for proposal. The entity selected must be thoroughly familiar with information resources strategic planning and current information resources technology; must submit a resume which fully describes the type of business organization, provides a description of qualifying experience in technology planning, including project description, associated costs, and timeframes of projects successfully completed; provides a client list for implemented technology assessment and planning programs; provides names, titles, qualification, and experience of specific personnel to be assigned to provide the services to UTMB; provides an outline of the proposed work plan for the project; and provides a fixed price schedule for the project including travel, lodging, and other related expenses.

Issued in Austin, Texas, on September 17, 1993.

TRD-9329030 Arthur H. Dilly  
Certifying Official  
The University of Texas System

Filed: September 17, 1993  
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