

Texas Register

Volume 18, Number 78, October 15, 1993

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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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

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

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

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

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

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

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

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TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 5. Transportation Division

Subchapter B. Operating Certificates, Permits, and Licenses

• 16 TAC §5.33

The Railroad Commission of Texas proposes an amendment to §5.33, concerning Contract Carriers. The amendment as proposed would increase the maximum number of contracts a single contract carrier permit holder could operate to 15 contracts from the current limit of ten contracts.

On September 24, 1993, the *Texas Register* published for final adoption an amendment to §5.33, effective January 1, 1994, clarifying that the section does not apply to truckload contract carriers. The rule, if amended as proposed here, will read as follows, effective January 1, 1994:

§5.33. Contract Carriers. A contract carrier permit shall not authorize the performance of transportation services for more than 15 shippers, unless it is issued to a truckload contract carrier as that term is defined in §5.46 of this title (relating to Truckload Contract Carriers). A truckload contract carrier permit cannot be limited as to the number of parties or eligible contracts to be served under such permit.

Jackye Greenlee, assistant director—Central Operations, has determined that for the first five-year period the proposed amendment will be in effect, there will be no fiscal implications for state or local governments as a result of the proposed amendment.

Gary W. Elkins, hearings examiner, has determined that for the first five-year period the amendment is in effect the public benefit anticipated as a result of enforcing the section is to increase the ability of contract carriers to serve shippers. There will be no effect on small businesses. There is no an-

tipated economic cost to persons who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Gary W. Elkins, Hearings Examiner, Legal Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967. Comments will be accepted for 30 days after publication in the *Texas Register*.

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, which vests the commission with the power and authority to prescribe all rules and regulations necessary for the government of motor carriers, and to supervise and regulate such carriers in all matters affecting the relationship between carriers and the shipping public.

The following is the article that is affected by this rule: Texas Civil Statutes, Article 911(b).

§5.33. Contract Carriers. A contract carrier permit shall not authorize the performance of transportation services for more than 15 [10] shippers.

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

Issued in Austin, Texas, on July 26, 1993.

TRD-9330083

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

Earliest possible date of adoption: November 15, 1993

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

Part VIII. Texas Racing Commission

Chapter 305. Licenses for Pari-mutuel Wagering

Subchapter B. Individual Licenses

• 16 TAC §305.35

The Texas Racing Commission proposes an amendment to §305.35, concerning license fees. The amendment establishes new licensing categories for Association Management Personnel and Racing Industry Representative and alphabetizes the category list.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section. Although the implementation of the new licensing categories will result in the payment of license fees, it is anticipated that the persons being licensed in the new categories have previously been licensed in other categories and there will be no net gain in the number of licenses issued or fees received.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's occupational licensing program will be more efficient and effective. There will be no effect on small businesses. For a person obtaining a license as association management personnel or racing industry representative, the economic cost will be \$75 per year.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §5.01, which authorizes the commission to prescribe reasonable license fees for each category of license; §7.02, which authorizes the commission to adopt categories of licenses for the various occupations licensed by the commission; and §7.05, which authorizes the commission to adopt by rule a fee schedule for occupational licenses. The proposed amendment implements Texas Civil Statutes, Article 179e, §7.05.

§305.35. License Fees. Effective January 1, 1992, the annual fee for an individual license is as follows:

<u>TYPE OF LICENSE</u>	<u>FEE</u>
<u>Admissions person</u>	<u>\$ 20</u>
<u>Announcer</u>	<u>\$ 20</u>
<u>Apprentice Jockey</u>	<u>\$ 65</u>
<u>Association - Office Staff</u>	<u>\$ 20</u>
<u>Association - Other</u>	<u>\$ 50</u>
<u>Association Chaplain</u>	<u>\$ 20</u>
<u>Association Management Personnel</u>	<u>\$ 75</u>
<u>Association Judge</u>	<u>\$ 65</u>
<u>Association Officer/Director</u>	<u>\$ 75</u>
<u>Asst. Starter</u>	<u>\$ 20</u>
<u>Asst. Trainer</u>	<u>\$ 75</u>
<u>Asst. Trainer/Owner</u>	<u>\$ 75</u>
<u>Authorized Agent (Add Principals only)</u>	<u>\$ 10</u>
<u>Authorized Agent (New License)</u>	<u>\$ 75</u>
<u>Box Person</u>	<u>\$ 20</u>
<u>Chart-writer</u>	<u>\$ 20</u>
<u>Cool-out</u>	<u>\$ 20</u>
<u>Duplicate Badge</u>	<u>\$ 15</u>
<u>Entry Clerk</u>	<u>\$ 20</u>
<u>Exercise Rider</u>	<u>\$ 20</u>
<u>Farrier/Plater/Blacksmith</u>	<u>\$ 65</u>
<u>Food Service</u>	<u>\$ 20</u>
<u>Groom</u>	<u>\$ 20</u>
<u>Jockey</u>	<u>\$ 75</u>
<u>Jockey Agent</u>	<u>\$ 75</u>
<u>Kennel helper</u>	<u>\$ 20</u>

<u>Kennel Owner</u>	<u>\$ 75</u>
<u>Kennel Owner/Owner</u>	<u>\$ 75</u>
<u>Kennel Owner/Trainer</u>	<u>\$ 75</u>
<u>Leadout</u>	<u>\$ 20</u>
<u>Maintenance</u>	<u>\$ 20</u>
<u>Medical Staff</u>	<u>\$ 20</u>
<u>Miscellaneous</u>	<u>\$ 20</u>
<u>Multiple Owner</u>	<u>\$ 20</u>
<u>Mutuel - Other</u>	<u>\$ 20</u>
<u>Mutuel Clerk</u>	<u>\$ 20</u>
<u>Official</u>	<u>\$ 75</u>
<u>Outriders</u>	<u>\$ 20</u>
<u>Owner</u>	<u>\$ 75</u>
<u>Owner/Trainer</u>	<u>\$ 75</u>
<u>Parking attendant</u>	<u>\$ 20</u>
<u>Pony Person</u>	<u>\$ 20</u>
<u>Racing Industry Representative</u>	<u>\$ 75</u>
<u>Security Officer</u>	<u>\$ 20</u>
<u>Stable Foreman</u>	<u>\$ 50</u>
<u>Stable/Kennel Registration</u>	<u>\$ 50</u>
<u>Tattooer</u>	<u>\$ 75</u>
<u>Test Technician</u>	<u>\$ 20</u>
<u>Tooth Floater</u>	<u>\$ 75</u>
<u>Tote Technician</u>	<u>\$ 20</u>
<u>Trainer</u>	<u>\$ 75</u>
<u>Valet</u>	<u>\$ 20</u>
<u>Vendor/concessionaire</u>	<u>\$ 75</u>

<u>Vendor/concessionaire employee</u>	\$ 20
<u>Veterinarian</u>	\$ 75
<u>Veterinarian Asst.</u>	\$ 20
[Owner	\$ 75
[Kennel Owner	\$ 75
[Kennel Owner/Owner	\$ 75
[Kennel Owner/Trainer	\$ 75
[Trainer	\$ 75
[Asst. Trainer	\$ 75
[Asst. Trainer/Owner	\$ 75
[Jockey	\$ 75
[Apprentice Jockey	\$ 65
[Exercise Rider	\$ 20
[Groom	\$ 20
[Stable Foreman	\$ 50
[Veterinarian	\$ 75
[Veterinarian Asst.	\$ 20
[Jockey Agent	\$ 75
[Farrier/Plater/Blacksmith	\$ 65
[Tattooer	\$ 75
[Cool-out	\$ 20
[Pony Person	\$ 20
[Valet	\$ 20
[Kennel helper	\$ 20
[Owner/Trainer	\$ 75
[Official	\$ 75
[Asst. Starter	\$ 20

[Association - Other	\$ 50
[Admission's person	\$ 20
[Entry Clerk	\$ 20
[Parking attendant	\$ 20
[Maintenance	\$ 20
[Leadout	\$ 20
[Food Service	\$ 20
[Chart-writer	\$ 20
[Announcer	\$ 20
[Outriders	\$ 20
[Security Officer	\$ 20
[Test Technician	\$ 20
[Mutuel Clerk	\$ 20
[Mutuel - Other	\$ 20
[Vendor/concessionaire	\$ 75
[Vendor/concessionaire employee	\$ 20
[Association Officer/Director	\$ 75
[Association - Office Staff	\$ 20
[Multiple Owner	\$ 20
[Authorized Agent (New License)	\$ 75
[Authorized Agent (Add Principals only)	\$ 10
[Duplicate Badge	\$ 15
[Stable/Kennel Registration	\$ 50
[Medical Staff	\$ 20
[Association Chaplain	\$ 20
[Tooth Floater	\$ 75
[Association Judge	\$ 65

[Tote Technician	\$ 20
[Box Person	\$ 20
[Miscellaneous	\$ 20]

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 October 8, 1993.

TRD-9320042 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 794-8461

Subchapter C. Racetrack Li- censes

Application Procedure

• 16 TAC §305.82

The Texas Racing Commission proposes an amendment to §305.82, concerning application process. The amendment deletes the requirement that the commission establish a period for accepting racetrack applications at least once a year.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's racetrack licensing program will be more efficient and effective. There will be no effect on small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and Texas Government Code, §2001.004, which requires the commission to adopt rules of practice and procedure. The proposed amendment implements Texas Civil Statutes, Article 179e, §6.03.

§305.82. Application Process.

(a) From time to time, [but at least once a year,] the commission shall designate an application period not to exceed 60 days, during which the commission shall accept application documents.

(b)-(d) (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 October 8, 1993.

TRD-9320041 Paula Cochran Carter
General Counsel
Texas Racing Commission

◆ ◆ ◆
Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 794-8461

◆ ◆ ◆ Chapter 309. Operation of Racetracks

Subchapter A. General Provi- sions

Facilities and Equipment

• 16 TAC §309.25

The Texas Racing Commission proposes an amendment to §309.25, concerning external communication. The amendment removes the prohibition against having operational telephones during live racing.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the commission's rules for racetrack operations are consistent with other racing jurisdictions. There will be no effect on small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks. The proposed amendment implements Texas Civil Statutes, Article 179e, §3.02.

§309.25. External Communication.

(a) (No change.)

(b)[(c)] The telephone or telegraph systems may not be used to transmit money or other things of value, or to direct the placing of an illegal [(a)] wager on the

result of a race.

[(b)] Information regarding the results of any race may not be transmitted out of the racetrack before 15 minutes after the results are official except for races that are broadcast or televised live. For races broadcast or televised live, the results and payoffs may be announced as soon as the race is official.]

[(c)][(e)] A telephone on a private line shall be provided in the offices of the commission. All costs of the telephone service shall be paid by the association and the service may not be interrupted at any time.

[(d)][(g)] A portable telephone, transmitter, or other instrument of communication that can be used for transmitting messages off association grounds is subject to confiscation by security personnel or by an employee of the commission.

[(d)] The association may not accept a telephone call, telegram, or message for any person attending or participating in the conduct of a race meeting nor give notice of such a telephone call, telegram, or message during the hours designated in subsection (f) of this section without prior permission of the stewards, racing judges, or the authorized representative of the commission.]

[(f)] All telephone or other instruments of communication, other than those designated for the sole use of the commission or those approved by the commission for use during racing, must be rendered inoperable between the hours starting 30 minutes before post time for the first race and the flashing of the "official" sign following the last race.]

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 October 8, 1993.

TRD-9330040 Paula Cochran Carter
General Counsel
Texas Racing Commission

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For further information, please call: (512) 794-8461

Chapter 311. Conduct and Duties of Individual Licensees.

Subchapter B. Specific Licensees.

Licensees for Horse Racing

• 16 TAC §311.153

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

The Texas Racing Commission proposes the repeal of §311.153, concerning workers' compensation. The repeal will eliminate the requirement that trainers provide workers' compensation insurance for their employees.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing the repeal.

Ms. Carter also has determined that for each of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that the commission's rules are consistent with applicable state law. There will be no effect on small businesses. There is no economic cost to persons required to comply with the repeal as proposed.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The repeal is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act.

§311.153. Workers' Compensation.

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 October 8, 1993.

TRD-9330039 Paula Cochran Carter
General Counsel
Texas Racing Commission

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For further information, please call: (512) 794-8461

Chapter 313. Officials and Rules of Horse Racing

Subchapter D. Running of the Race

Jockeys

• 16 TAC §313.409

The Texas Racing Commission proposes an amendment to §313.409, concerning jockey mount fees. The amendment requires the losing jockey mount fee to be on deposit with the horsemen's bookkeeper before a horse is eligible to start in a race.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that jockeys will be assured of payment for their services before the services are rendered. There will be no effect on small businesses. There is no economic cost to persons required to comply with the section as proposed because the amendment changes only the time by which jockey mount fee must be paid, not the amount of the fee or the obligation to pay the fee.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks. The proposed amendment implements Texas Civil Statutes, Article 179e, §3.02.

§313.409. Jockey Mount Fees.

(a)-(e) (No change.)

(f) A horse may not start in a race unless the horse's owner has on deposit with the horseman's bookkeeper sufficient funds to pay the losing jockey mount fee prescribed by this rule or by a written agreement filed under subsection (a) of this section.

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

Issued in Austin, Texas, on October 8, 1993.

TRD-9330038 Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 794-8461

Subchapter E. Training Facilities

• 16 TAC §313.501-313.507

The Texas Racing Commission proposes new §313.501-313.507, concerning training facilities. The new sections establish the licensing procedures and operational requirements for training facilities and their employees.

Paula Cochran Carter, general counsel for the Texas Racing Commission, has determined that for the first five-year period the section is in effect there will be no fiscal implications for local government as a result of enforcing the section. Ms. Carter has also determined that for each of the first five years the sections are in effect, the commission will expend approximately \$1,500 for each licensed training facility in salaries and travel for regulation and enforcement. This cost will be offset, however, by the \$1,500 annual fee for a licensed training facility.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the sections will be the assurance that wagerers will have accurate workout information on horses on which they are wagering and that race horses participating in pari-mutuel racing are fit and ready to compete. Each licensed training facility will be required to pay an annual fee of \$1,500 to cover the costs of regulation and enforcement. An individual employed at a licensed training facility will be required to obtain an occupational license at a cost of \$20 per year.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The new sections are proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §3.021, which authorizes the commission to adopt rules for the licensing and regulation of training facilities and to charge an annual fee for training facility licenses; §7.02, which authorizes the commission to adopt categories of occupational licenses; and §7.05, which authorizes the commission to set the amount of occupational license fees by rule. The proposed new sections implement Texas Civil Statutes, Article 179e, §3.021.

§313.501. Training Facility License.

(a) A training facility must be licensed by the commission in accordance with this section to provide official workouts. Except as otherwise provided by this subchapter, an official workout obtained at a training facility licensed under this section satisfies the workout requirements of §313.103 of this title (relating to Eligibility Requirements).

(b) A training facility license expires on December 31 of the year in which

the license was issued. The annual fee for a training facility license is \$1,500, which is due and payable to the commission on receipt of the license certificate.

(c) A training facility license is personal to the licensee and may not be transferred.

§313.502. Application For License.

(a) To apply for a training facility license, a person must file an application form prescribed by the commission at the commission office in Austin.

(b) The executive secretary shall review each application that is filed. The executive secretary may request additional information from the applicant if the executive secretary determines the additional information is necessary for a complete analysis of the application. If after the review the executive secretary is of the opinion that a training facility license should be granted to the applicant, the executive secretary shall grant the license and issue a license certificate. If after the review the executive secretary is of the opinion that a training facility license should not be granted to the applicant, the executive secretary shall notify the applicant and arrange a hearing on the proposed denial. A hearing on a proposed denial is a contested case proceeding and shall be conducted in accordance with Chapter 307 of this title (relating to Practice and Procedure).

(c) A training facility license may be denied, suspended, or revoked for any of the grounds listed in the Act, §7.04.

§313.503. Physical Plant.

(a) To be eligible for a training facility license, the facility must provide the equipment and facilities prescribed by this section.

(b) The racetrack at a training facility must have a chute at least 250 yards long from the back of the chute to the finish line. The racetrack must be an oval that is at least:

- (1) five-eighths mile in length;
- (2) 45 feet wide on each straightaway; and
- (3) 45 feet wide on each turn.

(c) The dimensions of the racetrack at the training facility must be surveyed by a certified land surveyor, including the distances from each distance pole to the finish line. The results of the survey must be submitted in writing with the application for a training facility license. If neither the track dimensions nor the distance poles have been altered since the date an original training facility license was granted, the general manager or chief executive officer

of the training facility may submit a sworn affidavit stating that fact in lieu of a new survey. If the track dimensions or distance poles have been altered since the date the original training facility license was granted, the racetrack must be surveyed by a certified land surveyor and the results submitted to the commission in writing with the application for license renewal.

(c) A training facility shall provide an inside contour rail and an outside rail, both of which must be approved by the commission or the commission staff. The turns on the racetrack must be banked to a degree approved by the commission or the commission staff. A training facility shall provide a padded starting gate approved by the commission or the commission staff. The training facility shall provide timing equipment that is capable of recording the time of a horse in at least hundredths of a second. The timing equipment is subject to testing and approval by the commission or the commission staff.

(d) The racetrack at a training facility must have distance poles indicating the distance from the pole to the finish line as follows:

- (1) 1/16 poles with black and white stripes;
- (2) 1/8 poles with green and white stripes; and
- (3) 1/4 poles with red and white stripes.

(e) A training facility is not required to have:

- (1) facilities for the public to observe the workouts; or
- (2) concessions.

§313.504. Operational Requirements.

(a) The primary business of a training facility must be the training of race horses. The training facility must be available to provide official workouts on a schedule approved by the commission, but at least three days per week.

(b) A training facility licensee shall prohibit any wagering at the facility and shall promptly eject any person who is found to be wagering.

(c) A training facility licensee shall ensure that veterinary services and facilities are available to the training facility in close enough proximity to permit a response time of one hour or less. The veterinary services and facilities are subject to the approval of the commission.

(d) A training facility licensee shall maintain records regarding the management and operation of the training facility and the records are subject to inspection by the

commission or the commission staff. A training facility licensee shall cooperate fully with the commission, the commission staff, and the Department of Public Safety in the regulation of training facilities and shall promptly provide any information requested by the commission, the commission staff, or the Department of Public Safety.

(e) A training facility licensee shall post in a prominent place a list of the dates and times that official workouts may be obtained.

(f) A training facility licensee shall comply with all the requirements of this subchapter and failure to continuously comply with those requirements is grounds for disciplinary action by the commission, including suspension or revocation of the training facility license.

(g) The facilities and operations of a licensed training facility are subject to inspection and verification by the commission or its staff at any time. If the executive secretary determines that the integrity of workouts obtained at the facility are in question, the executive secretary may immediately notify the pari-mutuel racetracks in this state that workouts obtained at the facility may not be accepted as official workouts. The executive secretary shall notify the general manager or chief executive officer of the licensed training facility of the executive secretary's findings and specifically describe the corrective action necessary to make the facility's workouts official. The training facility may take the necessary corrective action or request a hearing on the executive secretary's findings.

§313.505. Workout Requirements.

(a) All official workouts must be supervised by the following officials, who must be licensed and approved by the commission:

- (1) a timer/clocker;
- (2) a horse identifier; and
- (3) a starter.

(b) The person riding a horse in an official workout and the person bringing a horse to a licensed training facility for an official workout must hold a valid commission license in the appropriate category.

(c) The horse identifier shall identify each horse before each official workout. The original registration papers for each horse that is to work, or a copy that satisfies the horse identifier, must be submitted to the horse identifier before the horse's initial workout at the facility to permit the identifier to record the horse's color, gender, markings, and tattoo number, if applicable. The horse identifier shall inspect all documents of ownership, registration, or breeding necessary to ensure the proper

identification of the horse. The identification procedures used at the training facility are subject to the approval of the executive secretary. The individual serving as the horse identifier may serve as timer or starter also, with the approval of the executive secretary.

(c) A training race may be used as an official workout. The distance of an official workout must be at least:

(1) 220 yards for a quarter horse;

(2) two furlongs, for a two-year old thoroughbred; and

(3) three furlongs, for a thoroughbred three years of age or older.

(d) A workout must be timed on a stopwatch that is accurate to within .01 of a second. Times for quarter horses shall be rounded to tenths of one second and times for thoroughbred horses shall be rounded to fifths of one second.

(e) An individual may not ride a horse in an official workout unless the individual is wearing a properly fastened helmet of a type approved by the commission.

(f) Each official workout must be recorded on a form prescribed by the commission. Not later than 24 hours after the day of an official workout, a training facility shall transmit the results of the workout to:

(1) the official past performance publisher;

(2) the commission; and

(3) each pari-mutuel horse race-track in this state that is:

(A) conducting a live race meeting for the same breed of horse as the horse that was worked; or

(B) will, in 45 days or less after the date of the workout, commence a live race meeting for the same breed of horse as the horse that was worked.

(g) A horse may not have more than one official workout on a calendar day.

§313.506. Discretion of Officials.

(a) The officials at an association's race meeting may reject a workout conducted at a licensed training facility if the officials determine the time of the workout indicates the horse may not be fit to compete with the other horses entered in the race.

(b) The starter at an association's race meeting may reject a gate approval obtained at a licensed training facility if:

(1) the starter knows the gate approval does not ensure the safety of the horse or jockey; or

(2) the starter has reason to believe the horse would not break from the gate in a manner that would safeguard the interests of the public.

§313.507. Employees of Training Facilities.

(a) The general manager and chief executive officer of a licensed training facility must obtain a training facility employee license from the commission. The license fee for a training facility employee license is \$20. A training facility employee license may be denied, suspended, or revoked for any of the grounds listed in the Act, §7.04.

(b) A training facility employee license does not entitle the licensee to participate in pari-mutuel racing in this state but, except as provided by the Act or applicable commission rule, the licensee is not prohibited from obtaining a license to participate in pari-mutuel racing. A person who holds a commission license to participate in pari-mutuel racing may work at a licensed training facility in the appropriate capacity.

(c) A person holding a training facility employee license is subject to all commission rules that regulate the behavior and privileges of individual licensees of the commission. By accepting a license issued by the commission, the licensee consents to:

(1) a search by the commission of the person and the person's possessions at the training facility to check for violations of the Act or the commission's rules;

(2) seizure of contraband prohibited by §311.16 of this title (relating to Contraband); and

(3) testing for alcohol and controlled substances in accordance with Chapter 311 of this title (relating to Conduct and Duties of Individual Licensees).

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 October 8, 1993.

TRD-9330037

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter A. Regulation and Totalisator Operations

Regulation of Wagering

• 16 TAC §321.66

The Texas Racing Commission proposes an amendment to §321.66, concerning minimum wager. The amendment reduces the minimum amount of a pari-mutuel wager on all pools from \$2 to \$1.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that patrons will be better able to understand pari-mutuel wagering, such as the calculation of odds and the distribution of pools. Increased understanding by patrons will encourage pari-mutuel wagering and its attendant benefits, such as increased purses and state revenue. There will be no effect on small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01, which authorizes the commission to adopt rules regulating pari-mutuel wagering. The proposed amendment implements Texas Civil Statutes, Article 179e, §11.01.

§321.66. Minimum Wager.

(a) The minimum wager [on win, place, show, exacta, and quinella wagers is \$2.00. The minimum wager on all other wagers] is \$1.00.

(b) (No change.)

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

Issued in Austin, Texas, on October 8, 1993.

TRD-9330336

Paula Cochran Carter
General Counsel
Texas Racing Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 794-8461

Subchapter B. Distribution of Pari-mutuel Pools

• 16 TAC §321.110

The Texas Racing Commission proposes an amendment to §321.110, concerning trifecta. The amendment permits coupled entries and mutuel fields to participate in a race with trifecta wagering provided the race is a stakes race with a purse of at least \$100,000 and there are at least seven wagering interests.

Paula Cochran Carter, general counsel for the Texas Racing Commission, 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 the section.

Ms. Carter also has determined that for each of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the availability of trifecta wagering will be expanded, thereby encouraging pari-mutuel wagering generally. There will be no effect on small businesses. There is no economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted on or before November 12, 1993, to Paula Cochran Carter, General Counsel for the Texas Racing Commission, P.O. Box 12080, Austin, Texas 78711.

The amendment is proposed under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §11.01, which authorizes the commission to adopt rules regulating pari-mutuel wagering. The proposed amendment implements Texas Civil Statutes, Article 179e, §11.01.

§321.110. *Trifecta.*

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

(c) A coupled entry or mutuel field may not start in a race with [on which there is] trifecta wagering unless the race is a stakes race with a purse of at least \$100,000 and there are seven or more wagering interests.

(d)-(m) (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 October 8, 1993.

TRD-9330035

Paula Cochran Carter
General Counsel
Texas Racing Commission

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For further information, please call: (512) 794-8461

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 501. Professional Conduct

Client Records

• 22 TAC §501.38

The Texas State Board of Public Accountancy proposes new §501.38 concerning ownership in a passive interest. The new rule allows licensees to have a passive interest in a business that is not registered with the board and is providing accounting services.

William Treacy, executive director, 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. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be rules that are clear as to when a licensee may own an interest in a non-registered entity providing accounting services and the extent of that ownership. 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 J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3942.

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

§501.38. *Ownership in a Passive Interest.* A certificate or registration holder is permitted to own a passive interest in an entity not registered with the Board, even though the entity provides accounting services to the public, when the entity is publicly held (registered under the Securities Act of 1933), or the interest of the certificate or registration holder is not material in relation to the net worth of the entity. A passive interest does not exist when the certificate or registration holder has a significant influence on the management of the entity. It is presumed not to be a passive interest when any owner or manager of the entity is a close family member or someone in the same household as the certificate or registration holder. It is also presumed not to be a passive interest when the relationships described in §501.11(e) of this title (relating to Independence) of these rules exist.

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 October 4, 1993.

TRD-9329766

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

Chapter 511. Certification as CPA

Certification

• 22 TAC §511.167

The Texas State Board of Public Accountancy proposes an amendment to §511.167, concerning revoking or relinquishing a certificate or registration. The proposed amendment allows the board to destroy registrations and certificates which have been returned to the board pursuant to a revocation or relinquishment.

William Treacy, executive director, 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.

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a reduction in space and effort previously expended in storing and securing certificates and registrations. 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 J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3942.

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

§511.167. *Revoking or Relinquishing a Certificate or Registration.*

(a) Any individual holding a certificate or registration issued by the board may, at any time and for any reason, subject to the approval of the board, relinquish that certificate or registration to the board. An individual relinquishing the certificate or registration may not apply for reinstatement, but may apply for the issuance of a new certificate upon completion of all requirements for the issuance of such certificate. If an individual relinquishes the

certificate or registration during the course of a disciplinary investigation or proceeding conducted by the board, this fact shall be disclosed in any later application for a new certificate, and shall be considered before the issuance of a new certificate.

(b) The board may revoke the certificate or registration issued by the board after notice and hearing as provided in the Act, §21, for any of the following causes:

(1) fraud or deceit in obtaining a certificate as certified public accountant or in obtaining a registration under this or any prior Acts or in obtaining a license to practice public accountancy under this Act;

(2) dishonesty, fraud, or gross negligence in the practice of public accountancy;

(3) violation of any of the provisions of the Act, §8 or §20A, as they may apply to a person certified or registered by the board;

(4) violation of the rules of professional conduct promulgated by the board under the authority granted by the law;

(5) final conviction of a felony or imposition of deferred adjudication in connection with a criminal prosecution of a felony under the laws of any state or of the United States;

(6) final conviction of a felony or imposition of deferred adjudication in connection with a criminal prosecution, an element of which is dishonesty or fraud, under the laws of any state or of the United States;

(7) cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or public accountant by any other state for any cause other than failing to pay an annual registration fee in such other state;

(8) suspension or revocation of or a voluntary consent decree concerning the right to practice before any state or federal agency for a cause which in the opinion of the board warrants its action;

(9) failure of a certificate holder or registrant to obtain an annual license under the Act, §9, within either:

(A) three years from the expiration date of the license to practice, last obtained, or renewed by the certificate holder or registrant; or

(B) three years from the date upon which the certificate holder or registrant was granted the certificate or registration, if no license was ever issued;

(C) any certificate returned

to the board for revocation or relinquishment may be destroyed by the board. If an application for reinstatement is later granted by the board and the certificate has been destroyed by the board, a duplicate certificate may be issued;

(10) conduct indicating a lack of fitness to serve as a certified public accountant.

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 October 4, 1993

TRD-9329772

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

Chapter 519. Practice and Procedure

• 22 TAC §519.23

The Texas State Board of Public Accountancy proposes an amendment to §519.23 which concerns the record and assessment of cost of preparation. The amendment allows the board to assess cost of preparation of the record against an appealing license.

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

Mr. Treacy also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be a shifting of part of the cost of preparing a record from the board to some licensees. 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 J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3942.

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

§519.23. *The Record and Assessment of Cost of Preparation.*

(a) The record in any case shall include:

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

(6) all staff memoranda and correspondence from parties or data submitted to or considered by the administrative law judge or the board in making decisions.

(b) The board may require a party who appeals a final decision of the board to pay all or part of the actual cost of preparation of the original or a certified copy of record that is required to be transmitted to a reviewing court.

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 October 4, 1993.

TRD-9329763

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

• 22 TAC §519.27

The Texas State Board of Public Accountancy proposes an amendment to §519.27, concerning hearings in disciplinary actions. The proposed amendment recognizes APTRA's codification, APTRA's name change, uses administrative law judges instead of hearings officers, clarifies that the administrative law judge will serve a copy of the proposal for decision on all parties, and sets forth the policy reasons for which the board may vacate or modify an administrative law judge's recommendation.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be a rule that has current statutory references and a written vacation and modification policy. 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 J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3942.

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

Cross reference to statute: Texas Civil Statutes, Article 41(a), §22.

§519.27. *Hearings in Disciplinary Action.*

(a) General rule. Hearings in disciplinary actions shall be governed by the provisions of this [section, the other provisions of this] chapter, the Public Accountancy Act of 1991 and any amendments to it, [§22.] and the Administrative Procedure Act (Government Code, Chapter 2001) [Texas Register Act]. Hearings shall be conducted by an [a] administrative law judge [hearings officer], or the board en banc.

(b) Prehearing conferences. In any disciplinary actions, the administrative law judge [hearings officer], on his own motion or on the motion of any party, may direct the parties, their attorneys, or representatives to appear before him at a specified time and place for a conference prior to the hearing for the purpose of considering:

- (1) the simplification of issues;
- (2) agreement regarding admissions or stipulations of fact to avoid the unnecessary introduction of proof;
- (3) the procedure at the hearing; including, but not limited to, the use of prefiled testimony and objections;
- (4) the limitation, where possible, of the number of witnesses;
- (5) objections to evidence to be offered at the hearing; and
- (6) such other matters as may aid in the simplification of the proceedings and disposition of the matters in controversy; the administrative law judge [hearings officer] shall cause any action taken at a prehearing conference to be recorded in an appropriate order.

(c) Administrative law judge [Hearings officer]. All proposals for decisions of an administrative law judge [hearings officer] shall be given full dissemination to all members of the board. If the decision of the administrative law judge [hearings officer] is adverse to a party to the proceeding other than the board itself, a final decision by the board may not be made until a proposal for decision is served on the parties, and an opportunity is afforded each party adversely affected to file exceptions and present briefs to the board. If any party files exceptions or presents briefs, an opportunity must be afforded to all other parties to file replies to the exceptions or briefs. The proposal for decision must contain a statement of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision, prepared by the administrative law judge [hearings officer or panel] which conducted the hearing. The proposal for decision may be amended pursuant to exceptions, replies, or briefs submitted by the parties without again being served on the parties. The parties by written stipulation may waive compliance with this

section.

(d) Filing of exceptions and replies. Any party of record may, within 15 days of the date of service of the proposal for decision, unless the administrative law judge [hearings officer] has set a shorter or longer period of time, file exceptions to the proposal for decision. Replies to these exceptions shall be filed within 15 days after the date of filing the exceptions unless the administrative law judge [hearings officer] has set a shorter or longer period of time. A request for extension or decrease of time within which to file exceptions or replies shall be filed with the administrative law judge [presiding officer], and a copy of the request shall be served on all parties of record by the party making the request. The administrative law judge [hearings officer] shall promptly notify the parties of the decision with regard to these requests. Additional time shall be allowed only when the interests of justice so require. Upon the expiration of the time for filing exceptions or replies to exceptions, or after time for filing exceptions or replies to exceptions, or after the replies and exceptions have actually been timely filed, the proposal for decision will be considered by the board and either adopted, modified and adopted, or remanded to the administrative law judge [hearings officer]. If remanded to the administrative law judge, [hearings officer] the revised proposal for decision thereafter rendered by the administrative law judge [hearings officer] shall be clearly labeled as an amended proposal for decision. A copy of the proposal for decision shall be served forthwith by the administrative law judge on each party, or each party's attorney of record, and the board. Service shall be in accordance with the board's rules.

(e)-(h) (No change.)

(i) Changes to recommendation. To protect the public interest and to ensure that sound accounting principles govern the decisions of the board, it is the policy of the board to change a finding of fact or conclusion of law or to vacate or modify the proposed order of an administrative law judge when the proposed order is:

- (1) erroneous;
- (2) against the weight of the evidence;
- (3) based on unsound accounting principles or auditing standards;
- (4) based on an insufficient review of the evidence;
- (5) not sufficient to protect the public interest; or
- (6) not sufficient to adequately

allow rehabilitation of the licensee.

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 October 4, 1993.

TRD-9329773

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

◆ ◆ ◆
• 22 TAC §519.34

The Texas State Board of Public Accountancy proposes an amendment to §519.34, concerning forms and scope of discovery, protective orders and supplementation of responses. The proposed amendment establishes several possible sanctions for refusing to properly engage in discovery and changes hearing officer to administrative law judge.

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

Mr. Treacy also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be more open and candid discovery process in contested cases/hearings. There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel, 333 Guadalupe, Tower III, Suite 900, Austin, Texas 78701-3942.

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

Cross reference to Statutes, Texas Civil Statutes, Article 41(a)-1, §22.

§519.34. *Forms and Scope of Discovery; Protective Orders; Supplementation of Responses.*

(a) Forms of discovery. Permissible forms of discovery include:

- (1) oral or written deposition of any party or nonparty;
- (2) written interrogatories;
- (3) request of a party for admissions of facts and the genuineness or identity of documents or things; and
- (4) requests and motions for production, examination, and copying of

documents or other tangible materials.

(b) Scope of discovery. Except as provided in subsection

(c) of this section, unless otherwise limited by order of the Administrative Law Judge [hearings officer] in accordance with these rules, the scope of discovery is as follows.

(1) In general. Parties may obtain discovery regarding any matter which is relevant to the subject matter in the pending proceeding whether it relates to the pending application, petition, protest, claim, or defense of any other party. It is not grounds for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. It is also not grounds for objection that an interrogatory propounded pursuant to §519.37 of this title (relating to Interrogatories to Parties) involves an opinion or contention that relates to fact or the application of law to fact, but the Administrative Law Judge [hearings officer] may order such an interrogatory not be answered until after designated discovery has been completed or until a prehearing conference or other later time. It is also not grounds for objection that a request for admission propounded pursuant to §519.38 of this title (relating to Requests for Admissions) relates to statements or opinions of fact or of the application of law to fact or mixed questions of law and fact or that the documents referred to in a request may not be admissible at hearing.

(2)-(3) (No change.)

(4) Experts and reports of experts. Discovery of the facts known, mental impressions, and opinions of experts, otherwise discoverable because the information is relevant to the subject matter in the pending proceeding but which were acquired or developed in anticipation of hearing and the discovery of the identity of experts from whom the information may be obtained only as follows.

(A) In general. A party may obtain discovery of the identity and location (name, address, and telephone number) of an expert who may be called as an expert witness, the subject matter of which the witness is expected to testify, the mental impressions and opinions held by the expert, and the facts known to the expert (regardless of when the factual information was acquired) which relate to or form the basis of the mental impressions and opinions held by the expert. The disclosure of the same information concerning an expert used for consultation and who is not expected to be called as an expert witness at hearing is required if the consulting expert's opinions or impressions have been reviewed

by a testifying expert.

(B) Reports. A party may also obtain discovery of documents and tangible things including all tangible reports, physical models, compilations of data, and other materials prepared by an expert or for an expert in anticipation of the expert's hearing and deposition testimony. The disclosure of material prepared by an expert used for consultation is required even if it was prepared in anticipation of the hearing if the consulting expert's opinions or impressions have been reviewed by a testifying expert.

(C) Reduction of report to tangible form. If the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert who will be called as an expert witness have not been recorded and reduced to tangible form, the Administrative Law Judge [hearings officer] may order these matters reduced to tangible form and produced within a reasonable time.

(5) Statements. Any person, whether or not a party, shall be entitled to obtain, upon written request, his own statement previously made concerning the matter which is the subject of the hearing, or its subject matter, which is in the possession, custody, or control of any party. If the request is refused, the person may move for a Administrative Law Judge's [hearings officer's] order under the Administrative Procedure [and Texas Register] Act, Government Code, Chapter 2001. [Texas Civil Statutes, Article 6252-13a, Section 14a.] For purposes of this paragraph, a statement previously made is:

(A) a written statement signed or otherwise adopted or approved by the person making it; or

(B) a stenographic, mechanical, electrical, or other type of recording, or any transcription thereof, which is a substantially verbatim recital of a statement made by the person and contemporaneously recorded.

(c) Exemptions. The following matters are protected from disclosure by privilege.

(1) Work product. The work product of an attorney, subject to the exceptions of Texas Rules of Civil Evidence, 503(d), which shall govern as to work product as well as to attorney-client privilege.

(2) Experts. The identity, mental impressions, and opinions of an expert who has been informally consulted or of any expert who has been retained or specially employed by another party in anticipation

of, or preparation for, hearing or any documents or tangible things containing such information if the expert will not be called as an expert witness, except that the identity, mental impressions, and opinions of an expert who will not be called to testify as an expert and any documents or tangible things containing such impressions and opinions are discoverable if the consulting expert's opinions or impressions have been reviewed by a testifying expert.

(3) Written statement. The written statements of potential witnesses and parties, when made in connection with, or in anticipation of the prosecution, investigation, defense, or protest that is the subject of the proceeding, except that persons, whether parties or not, shall be entitled to obtain, upon request, copies of statements they have previously made concerning the subject of the proceeding and which are in the possession, custody, or control of any party. The term "written statements" includes:

(A) a written statement signed or otherwise adopted or approved by the person making it; and

(B) a stenographic, mechanical, electrical, or other type of record, or any transcription thereof which is a substantially verbatim recital of a statement made by the person and contemporaneously recorded. For purposes of this paragraph, a photograph is not a statement.

(4) Party communications. Party communications are communications between agents or representatives or the employees of a party to the proceeding or communications between a party and that party's agents, representatives, or employees, when made in connection with the prosecution, investigation, defense, or protest of the particular proceeding, or in anticipation of the prosecution, protest, or defense of any claims made as part of the proceeding. This exemption does not include communications prepared by or for experts that are otherwise discoverable. For the purpose of this paragraph, a photograph is not a communication.

(5) Other privileged information; any matter protected from disclosure by any other privilege. Upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means, a party may obtain discovery of the materials otherwise exempt from discovery by paragraphs (3) and (4) of this subsection. Nothing in this subsection shall be construed to render nondiscoverable the identity and location of any potential party, any person having knowledge of relevant

facts, any expert who is expected to be called as a witness during hearing, or of any consulting expert whose opinions or impressions have been reviewed by a testifying expert.

(d) **Presentation of objections.** Either an objection or a motion for protective order made by a party to discovery shall preserve that objection without further support or action by the party unless the objection or motion is set for special hearing and a determination is made by the Administrative Law Judge [hearings officer]. At any reasonable time, any party may request a special hearing on any objection or motion for protective order. The failure of a party to obtain a ruling prior to the hearing on any objection to discovery or motion for protective order does not waive such objection or motion. In objecting to an appropriate request within the scope of subsection (b) of this section, a party seeking to exclude any matter from discovery on the basis of an exemption, privilege, or immunity from discovery, must specifically plead the particular exemption, privilege, or immunity from discovery relied upon at or prior to any special hearing, shall produce any evidence necessary to support such claim either in the form of affidavits filed and served at least seven days before the special hearing or by testimony. If the Administrative Law Judge [hearings officer] determines that an in camera inspection and review by the Administrative Law Judge [hearings officer] of some or all of the requested discovery is necessary, the objecting party must segregate and produce the discovery to the Administrative Law Judge [hearings officer] in a sealed wrapper or by answers made in camera to deposition questions, to be transcribed and sealed in the event the objection is sustained. When a party seeks to exclude documents from discovery and the basis for objection is undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights rather than a specific immunity or exemption, it is not necessary for the Administrative Law Judge [hearings officer] to conduct an inspection and review of the particular discovery before ruling on the objection. After the date on which answers are to be served, objections are waived unless an extension of time has been obtained by written agreement or order of the Administrative Law Judge [hearings officer] or good cause is shown for the failure to object within such period.

(e) **Protective orders.** On motion specifying the grounds and made by any person against or from whom discovery is sought under these rules, the Administrative Law Judge [hearings officer] may make any order in the interest of justice necessary to protect the movant from undue burden, unnecessary expense, harassment,

annoyance, or invasion of personal, constitutional, or property rights. Specifically, the hearings officer's authority as to such order extends to, but is not limited by, any of the following:

(1) ordering that requested discovery not be sought in whole or in part, or that the extent or subject matter of discovery be limited, or that discovery not be undertaken at the time or place specified;

(2) ordering that the discovery be undertaken only by such method or upon such terms and conditions or at the time and place directed by the Administrative Law Judge [hearings officer].

(f) **Duty to supplement.** A party who has responded to a request for discovery that was correct and complete when made is under no duty to supplement his response to include information thereafter acquired, except the following shall be supplemented not less than 30 days prior to hearing unless the hearings officer finds that good cause exists for permitting or requiring later supplementation.

(1) A party is under a duty reasonably to supplement his response if he obtains information upon the basis of which:

(A) he knows that the response was incomplete and incorrect when made;

(B) he knows that the response, though correct and complete when made, is no longer true and complete and the circumstances are such that failure to amend the answer is in substance misleading.

(2) If the party expects to call an expert witness when the identity or the subject matter of such expert's testimony has not been previously disclosed in response to an appropriate inquiry directly addressed to these matters, such response must be supplemented to include the name, address, and telephone number of the expert witness, and the substance of the testimony concerning which the expert witness is expected to testify, as soon as is practical, but in no event less than 30 days prior to hearing except on leave of the Administrative Law Judge [hearings officer].

(3) In addition, a duty to supplement any and all responses may be imposed by order of the Administrative Law Judge [hearings officer] or by written agreement of the parties, or at any time prior to hearing, through new requests for supplementation of prior answers.

(g) **Discovery motions.** All discovery motions shall contain a certificate by the party filing same that efforts to resolve the

discovery dispute without the necessity of Administrative Law Judge [hearings officer] intervention have been attempted and failed.

(h) **Discovery sanctions.** Requirements concerning discovery sanctions include the following:

(1) **Motions for sanctions or order compelling discovery.** Upon reasonable notice to all party representatives and affected persons, a party may apply to the administrative law judge for an order compelling discovery. A party may not request sanctions under paragraph (3) of this subsection without having first obtained an order compelling discovery.

(2) **enforcement in district court.** If a person fails to comply with a subpoena or a commission for deposition issued by an administrative law judge, the agency or party requesting the subpoena or commission for deposition may seek its enforcement in district court in any manner provided by law.

(3) **Failure to comply with order or with discovery request.** If a party, or an officer, director, or managing agency of a party, or a person designated to testify on behalf of a party fails to comply with proper discovery requests or to obey an order compelling discovery, an administrative law judge may, after opportunity for hearing, make orders in response to the failure, including any of the following orders:

(A) preventing the disobedient party from further discovery of any kind, or of a particular kind;

(B) deeming any facts pertaining to the order, or any other facts, to be established, as claimed by the moving party;

(C) disallowing the disobedient party from supporting or opposing designated claims or defenses, or prohibiting the party from introducing designated matters in evidence;

(D) striking out pleadings or parts of pleadings, staying further action until the order is obeyed; dismissing the proceeding with or without prejudice; or rendering a judgment against the disobedient party; and

(E) assessing costs in obtaining sanctions as direct administrative costs pursuant to §21(b)(6) of the Act and §519.27(h) of these rules.

(4) **Abuse of discovery process.** The administrative law judge may

impose any of the sanctions listed above on a party who abuses the discovery process in seeking or resisting discovery or who files a request, response, or answer that is frivolous, oppressive, or made for the purpose of delay.

(5) Failure to respond to or supplement discovery. A party who fails to respond to or supplement a discovery request or refuses to supplement a response to a discovery request may not present evidence that the party was under a duty to provide in a response or supplemental response, and may not offer the testimony of an expert witness or of any other person having knowledge of the discoverable matter, unless the administrative law judge finds good cause to permit the evidence despite the non-compliance. The burden of establishing good cause is upon the party offering the evidence, and good cause must be shown in the record.

(6) Impermissible communications. Unless permitted by law, a party representative shall not communicate with the administrative law judge or the Board without the knowledge of all other parties. The administrative law judge or the Board may impose any of the preceding sanctions for impermissible communication.

(7) Record of basis for sanction. The administrative law judge shall state the specific basis for any sanction in the order. A party sanctioned under subsection (b)(1)(1-5) of this section may raise the issue of sanctions in the exceptions to the proposal for decision and in the motion for rehearing.

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 October 4, 1993.

TRD-9329764
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

Chapter 523. Continuing Professional Education

Continuing Professional Education Standards

The Texas State Board of Public Accountancy proposes amendments to §§523.28-523.31, 523.61-523.65, and 523.71-523.73, concerning credits for Published Articles and Books, Minimum Hours Required as a Partici-

part, Limitation for Nontechnical Courses, Alternative Sources of Continuing Education, Mandatory Continuing Education, Application as a Sponsor, Renewal Application, and Obligations of the Sponsor. The proposed amendments redefine continuing education to be continuing professional education, simplify the rules by deleting unnecessary language, remove the requirement of not practicing public accountancy while on active military duty as a condition of exemption, and clarify specific continuing education desired.

William Treacy, executive director, 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.

Mr. Treacy also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be clarified continuing professional education rules which result in a better educated licensee. 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 J. Fandel (Jerry) Hill, General Counsel, 333 Guadalupe Street, Tower III, Suite 900, Austin, Texas 78701-3942.

• 22 TAC §523.28

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

The following are the statutes affected by the amendments: Texas Civil Statutes, Article 41(a)-1, §15A.

§523.28. *Credits for Published Articles and Books.* Continuing Professional Education (CPE) [CE] credit hours may be claimed for published articles and books provided they contribute to the professional competence of the licensee. Credit hours for preparation of such publications may be claimed up to ten hours in any CPE [CE] reporting period. In exceptional circumstances, a licensee may submit a request to the board for additional credit. The request should be accompanied by a copy of the article(s) or book(s) and an explanation justifying the request for additional CPE [CE] hours.

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 October 5, 1993.

TRD-9329774
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

• 22 TAC §523.29

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

§523.29. *Minimum Hours Required as a Participant* A minimum of 50% requirement must be from involvement as a participant in a qualified continuing professional education 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 October 5, 1993.

TRD-9329775
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

• 22 TAC §523.30

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

§523.30. *Limitation for Nontechnical Courses.* Continuing Professional Education (CPE) [CE] credit hours may be claimed for nontechnical courses limited to not more than 50% of the annual requirement.

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

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

TRD-9329776
William Treacy
Executive Director
Texas State Board of
Public Accountancy

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For further information, please call: (512) 505-7066

• 22 TAC §523.31

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

§523.31. Alternative Sources of Continuing Professional Education.

(a) Credit hours may be claimed from other organizations not recognized as formal continuing professional education sponsors. Credit from membership in the committees listed can be claimed using 50 minutes per contact hour at meetings to equal one credit hour:

(1) Financial Accounting Standards Board (FASB);

(2) Governmental Accounting Standards Board (GASB);

(3) FASB's Emerging Issues Task Force (EITF);

(4) AICPA's Auditing Standards Board and Accounting Standards Executive Committee;

(5) Financial Executives Institute's Committee on Corporate Reporting (FEI/CCR); and

(6) National Association of Accountants' Management Accounting Practices Committee.

(b) Credit hours earned from sources other than registered sponsors, or membership on designated committees, must receive prior approval before credit may be claimed.

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 October 5, 1993.

TRD-9329777

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

Mandatory Continuing Professional Education (CPE)

[CE] Program

• 22 TAC §523.61

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

§523.61. Establishment of Mandatory Continuing Professional Education (CPE) [CE].

(a) A mandatory CPE [CE] program was established pursuant to the Public Accountancy Act of 1979, §6(a), as

amended (Texas Civil Statutes, Article 41a-1), which provided the board with authority to adopt a system of required continuing professional education for licensees.

(b) A licensee shall be responsible for ensuring that CPE credit hours claimed conform to the board's standards as outlined in §§523.21-523.31 of this title (relating to Program Presentation Standards; Instructors; Program Sponsors; Learning Environment; Evaluation; Program Measurement; Credits for Instructors and Discussion Leaders; Credits for Published Articles and Books; Minimum Hours Required as a Participant; Limitation for Nontechnical Courses, and Alternative Sources of Continuing Education). [The Public Accountancy Act of 1991, §15A, continuing education states:

[(1) an individual holding a license under this Act shall complete at least 120 hours of continuing education every three years. The individual shall complete at least 20 hours of continuing education each year. A continuing education course shall be accepted by the board only if the course contributes directly to the professional competence of the licensee;

[(2) the board by rule may exempt certain individuals, including disabled and retired individuals, from all or a portion of the requirements of this section.]

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

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

TRD-9329778

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

• 22 TAC §523.62

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

§523.62. Mandatory Continuing Professional Education (CPE) [CE] Reporting.

(a) To receive a license, a licensee shall report CPE [CE] credit hours accrued during the applicable reporting period. A blank on the reporting form will be interpreted as a zero.

(b) A licensee shall report CPE

credit hours accrued on the license renewal form. The license renewal form shall contain a space for reporting the total number of CPE credit hours accrued during the reporting period, and a space for entering information relating to the CPE credit hours claimed. Appropriate instructions shall accompany the notices.

[(b) A licensee shall report CPE credit hours accrued on forms prescribed by the board, to wit: license renewal notices or license notices. License renewal notices are normally mailed in November of each year, and license notices are mailed to those who receive certificates or registrations during the current year. Renewal or initial license notices shall contain a space for reporting the total number of CPE credit hours accrued during the reporting period, and a space for entering information relating to the CPE credit hours claimed. Appropriate instructions shall accompany the notices.]

(c) The board may not grant exemptions from the requirement to report CPE [CE] credit hours accrued. A licensee must report CPE [CE] credit hours on the license renewal form, even if the number reported is zero.

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 October 5, 1993.

TRD-9329779

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

• 22 TAC §523.63

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

§523.63. Mandatory Continuing Professional Education (CPE) Attendance. A licensee shall complete at least 120 hours of continuing professional education every three years. The individual shall complete at least 20 hours of continuing professional education each year.

(1) An initial licensee, one who is paying the license fee during the first twelve-month period [biennium], shall be exempt from the requirement for the [biennial] period during which the applicant is [was] first licensed.

(2) A former licensee whose

certificate or registration shall have been revoked for failure to pay the license fee and who makes application for reinstatement, shall pay the required fees and penalties and shall accrue the minimum continuing professional education (CPE) [CE] credit hours missed.

(3) The board will consider granting an exemption from the continuing professional education requirement on a case-by-case basis if:

(A) a licensee completes and forwards to the board a sworn affidavit indicating that the licensee will not be employed during the period [biennium] for which the exemption is requested. A licensee who has been granted this exemption and who re-enters the workforce shall be required to accrue continuing professional education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing professional education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(B) a licensee completes and forwards to the board a sworn affidavit indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the licensee's immediate supervisor.

(i) For purposes of this section, the term "association with accounting work" shall include the following:

(I) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; data processing; treasury, finance, or audit; or

(II) representing to the public, including an employer, that the licensee is a CPA or public accountant in connection with the sale of any services or products, including such designation on a business card, letterhead, promotional brochure, advertisement, or office; or

(III) offering testimony in a court of law purporting to have expertise in accounting and reporting, auditing, tax or management services; or

(IV) for purposes of making a determination as to whether the licensee fits one of the categories listed in this subclause and subclauses (I)-(III) of this clause, the questions shall be resolved in favor of inclusion of the work as "associ-

ation with accounting work."

(ii) A licensee who has been granted this exemption and who loses the exemption shall accrue continuing professional education hours missed as a result of the exemption subject to a maximum of 200 hours. Such continuing professional education hours shall be accrued from the technical area only as described in §523.2 of this title (relating to Standards for CPE Program Development);

(C) a licensee not residing in Texas, who submits a sworn statement to the board that the continuing professional education requirements for a resident of the resident jurisdiction have been met;

(D) a licensee shows reasons of health, certified by a medical doctor, that prevent compliance with the CPE requirement. A licensee must petition the board for the exemption and provide documentation that clearly establishes the period of disability and the resulting physical limitations;

(E) a licensee is on extended active military duty, during the period for which the exemption [does not practice public accountancy during the biennium] is requested [was granted], and files a copy of orders to active military duty with the board; or

(F) a licensee shows reason which prevents compliance, that is acceptable to the board.

(4) A licensee who has been granted the retired or disabled status under §515.8 of this title (relating to Retirement Status or Permanent Disability) is not required to accrue continuing professional education.

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 October 5, 1993.

TRD-9329767

William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

◆ ◆ ◆
• 22 TAC §523.64

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

◆ ◆ ◆
§523.64. *Disciplinary Actions Relating to Continuing Professional Education (CPE) [CE].*

(a) A licensee who fails to comply with the provisions of §523.62 of this title (relating to Mandatory CPE [CE] Reporting) or §523.63 of this title (relating to Mandatory CPE [CE] Attendance) may be subject to disciplinary action under the Public Accountancy Act of 1991, §21, (Texas Civil Statutes, Article 41a-1), for violation of the Rules of Professional Conduct; §501.25 of this title (relating to Mandatory Continuing Professional Education), which requires compliance with §523.62 of this title (relating to Mandatory CPE Reporting); and §523.63 of this title (relating to Mandatory CPE [CE] Attendance).

(b) A licensee shall retain documents or other evidence supporting CPE [CE] credit hours claimed for the three most recent full reporting periods to the date the credit hours are reported to the board, but shall submit the supporting evidence to the board only if such data is specifically requested.

(c) The board may, as deemed appropriate, audit CPE [CE] data supplied by a licensee and request that all evidence supporting CPE [CE] credit hours claimed be provided to the board within a reasonable period of time as prescribed by the board.

(d) Evidence of falsification, fraud, or deceit in the CPE [CE] information or documentation supplied may necessitate disciplinary action as authorized in the Public Accountancy Act of 1991, §21 (Texas Civil Statutes, Article 41a-1).

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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William Treacy
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Texas State Board of
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For further information, please call: (512) 505-7066

◆ ◆ ◆
• 22 TAC §523.65

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

◆ ◆ ◆
§523.65. *Denial of a License.*

(a) The board shall not issue or renew a license to an individual who has not accrued the required Continuing Profes-

sional Education (CPE) [CE] credit hours unless an exemption has been granted by the board.

(b) The board may revoke, suspend, or impose other disciplinary actions defined in the Act, §21, if a license was issued or renewed in violation of a rule of the Act after notice and hearing as provided in the Act, §21.

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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William Treacy
Executive Director
Texas State Board of
Public Accountancy

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For further information, please call: (512) 505-7066

◆ ◆ ◆
Registered Professional Continuing Education Sponsors

◆ ◆ ◆
• 22 TAC §523.71

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

◆ ◆ ◆
§523.71. Application as a Sponsor.

(a) Each organization desiring to initially register as a provider of continuing professional education shall submit an application on forms provided by the board. This application must be complete in all respects.

(b) The board's staff will review each application for registration and notify the applicant of its acceptance or rejection. Accepted sponsors will be assigned a sponsor number. Rejected applicants will be notified of the reason for rejection.

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 October 5, 1993.

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William Treacy
Executive Director
Texas State Board of
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For further information, please call: (512) 505-7066

◆ ◆ ◆
• 22 TAC §523.72

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

◆ ◆ ◆
§523.72. Renewal Application. Sponsors are required to indicate their desire to continue as a registered continuing professional education sponsor annually on forms provided by the board. This application must be complete in all respects. The board's staff will review each renewal application and notify the sponsor of its acceptance or rejection and, if rejected, the reason for rejection.

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 October 5, 1993.

TRD-9329771
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

◆ ◆ ◆
• 22 TAC §523.73

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

◆ ◆ ◆
§523.73. Obligations of the Sponsor. In consideration for registration as a sponsor of continuing professional education, every organization shall agree, in writing, to the following.

(1) We understand that after acceptance of the application or reapplication by the board we may advise prospective attendees of the program sponsor agreement, our sponsor number, and the number of credit hours recommended. We further agree that if we notify licensees of this agreement we shall do so by use of the following language. "We have entered into an agreement with the Texas State Board of Public Accountancy to meet the requirements of continuing professional education rules covering maintenance of attendance records, retention of program outlines, qualifications of instructors, program content, physical facilities, and length of class hours. This agreement does not constitute an endorsement by the board as to the quality of the program or its contribution to the professional competence of the licensee."

(2) We understand that our ad-

vertising shall not be false or misleading, nor contain words such as "accredited" or "approved" or any terms which may imply that a determination has been made by the board regarding the merits or quality of the program.

(3) We agree that board members, board staff, or its official designees may inspect our facilities, examine our records, attend our courses or seminars at no charge, and audit our program to determine compliance with the sponsor agreement and the continuing professional education standards of the board.

(4) We understand and agree that if we fail to comply with this agreement or fail to meet acceptable standards in our programs, our sponsor agreement may be terminated at any time by the board, our sponsor agreement renewal application denied, and notice of such termination or denial may be provided to licensees by the board.

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 October 5, 1993.

TRD-9329765
William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 505-7066

◆ ◆ ◆
Part XXX. Texas State Board of Examiners of Professional Counselors
Chapter 681. Professional Counselors

Subchapter A. The Board

The Texas State Board of Examiners of Professional Counselors proposes the repeal of existing §§681.1-681.23, 681.31-681.42, 681.51-681.53, 681. 61-681.65, 681.81-681.84, 681.91-681.100, 681.111-681.114, 681.121-681.128, 681.141-681.146, 681.161-681.164, 681.171-681.180, 681.191-681.197, and 681.211-681.220; and proposes new §§681.1-681.19, 681.26, 681.32-681.43, 681.51, 681.52, 681.61-681.64, 681.81-681.84, 681.91-681.97, 681.111-681.113, 681.121-681.127, 681.161-681.163, 681.171-681.179, 681.191-681.200, and 681.211-681.220, concerning licensing and regulation of professional counselors.

The repealed sections concern the board; the practice of counseling; application procedures; academic requirements for examination and licensure; experience requirements for examination and licensure; examinations;

licensing; license and specialty renewal and inactive status; counseling specialties; fitness of applicants for examination and licensure; continuing education requirements; complaints and violations; and formal hearings.

The new sections cover the board; authorized counseling methods and practices; a code of ethics; application procedures; academic requirements for examination and licensure; experience requirements; licensure examinations; licensing; the regular license renewal and inactive and retirement status; the criteria for determining the fitness of applicants for examination and licensure; continuing education requirements; complaints and violations; and formal hearings.

The existing sections are proposed for repeal to allow for the adoption of new sections concerning the regulation and licensing of professional counselors in the State of Texas. The new sections will update and clarify the existing rules and implement the provision of House Bill 2741, 73rd Regular Legislative Session, 1993, and to better assist licensees in understanding and following the rules.

Kathy Craft, executive secretary, has determined that there will be fiscal implications as a result of enforcing or administering the rules. The effect on state government will be an estimated increase of revenues of \$57,000 and additional costs of \$57,000 for each year of fiscal years 1994-1998. There will be no fiscal implications for local government as a result of enforcing or administering the section and there will be no effect on local employment.

Ms. Craft also has determined that for each of the first five years the sections are in effect the public benefit anticipated, as a result of enforcing the sections, will be to assure the regulation of licensed professional counselors continues to identify competent practitioners by updating and clarifying the rules. There is no anticipated cost to small businesses to comply with the new sections. The anticipated cost to individuals required to comply will be the costs involved in applying for and obtaining a license (a total of approximately \$140 each).

Comments on the proposal may be submitted to Kathy Craft, Executive Secretary, Texas State Board of Examiners of Professional Counselors, 1100 West 49th Street, Austin, Texas 78756-3183, (512)834-6658. Comments will be accepted for 30 days after the proposal has been published in the *Texas Register*.

A public hearing on the proposal will be held on Wednesday, October 20, 1993 at 10 a.m. in Room M-739 of the Morton Building, Texas Department of Health, 1100 West 49th Street, Austin, Texas.

• 22 TAC §§681.1-681.23

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.1. *Purpose and Scope.*

§681.2. *Definitions.*

§681.3. *Meetings.*

§681.4. *Transaction of Official Business.*

§681.5. *Attendance.*

§681.6. *Rules of Order.*

§681.7. *Agendas.*

§681.8. *Minutes.*

§681.9. *Elections.*

§681.10. *Officers.*

§681.11. *Committees.*

§681.12. *Executive Secretary.*

§681.13. *Reimbursement for Expenses.*

§681.14. *Official Records.*

§681.15. *Impartiality and Non-discrimination.*

§681.16. *Policy on Handicapped Applicants.*

§681.17. *Official Seal.*

§681.18. *License Certificate.*

§681.19. *Registry.*

§681.20. *Consumer Information.*

§681.21. *Fees.*

§681.22. *Processing Procedures.*

§681.23. *Petition for the Adoption of a Rule.*

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 October 11, 1993.

TRD-9330179

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 834-6658

◆ ◆ ◆
• 22 TAC §§681.1-681.19

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.1. *Purpose and Scope.*

(a) The purpose of this subchapter is to implement the provisions in the Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, as amended, concerning the Texas State Board of Examiners of Professional Counselors (board).

(b) The scope of this subchapter is that it covers the organization, administration, and other general procedures and policies concerning the board's operation.

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

Act—The Licensed Professional Counselor Act, Texas Civil Statutes, Article 4512g, as amended.

Accredited universities—Universities as reported by the American Association of Collegiate Registrars and Admission Officers.

APA—The Administrative Procedure Act, the Government Code, Chapter 2001.

Authorized representative—An individual authorized to act on behalf of a licensee as evidenced by a written power of attorney or the licensee's spouse.

Board—The Texas State Board of Examiners of Professional Counselors.

Client—A person who seeks or receives services from a licensee.

Counseling intern—A person who holds a temporary license to practice counseling.

Department—The Texas Department of Health.

Health care professional—A licensee or any other person licensed, certified, or registered by the State in a health-related profession.

License—A regular, provisional, or temporary license issued by the board unless the content of the rule indicates otherwise.

Licensee—A person who holds a reg-

ular, provisional, or temporary license.

Recognized religious practitioner—A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(1) the counseling activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally cognizable church, denomination or sect, or an integrated auxiliary of a church as defined in Federal Tax Regulations, 26 Code of Federal Regulations, §1.6033-2(g)(5)(i) (1982);

(2) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(3) the person does not use the title of or hold himself or herself out as a professional counselor.

Supervisor—A person approved by the board as meeting the requirements set out in §681.83 of this title (relating to Supervisor Requirements), to supervise a counseling intern.

§681.3. Meetings.

(a) The board shall hold at least two regular meetings and additional meetings as necessary during each fiscal year.

(b) The chairperson may call meetings after consultation with board members or by a majority of members so voting at a regular meeting.

(c) Meetings shall be announced and conducted under the provisions of the Texas Open Meetings Act, Texas Civil Statutes, the Government Code, Chapter 551.

§681.4. Transaction of Official Business.

(a) The board may transact official business only when in a legally constituted meeting with a quorum present. A quorum of the board necessary to conduct official business is five members.

(b) The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to specific instructions of the board.

(c) Robert's Rules of Order Revised shall be the basis of parliamentary decisions except as otherwise provided in this chapter.

§681.5. Agendas.

(a) The executive secretary shall be responsible for preparing and submitting an agenda to each member of the board prior to each meeting which includes items requested by members, items required by law, and other matters of board business which have been approved for discussion by the chairperson.

(b) The official agenda of a meeting shall be filed with the Texas Secretary of State as required by law.

§681.6. Minutes.

(a) The minutes of a board meeting are official only when affixed with the original signatures of the chairperson and the executive secretary.

(b) Drafts of the minutes of each meeting shall be forwarded to each member of the board for review and comments or corrections prior to approval by the board.

(c) The official minutes of the board meetings shall be kept in the office of the executive secretary and shall be available to any person desiring to examine them.

§681.7. Elections.

(a) At the meeting held nearest to August 31 of each year, the board shall elect a vice-chairperson.

(b) A vacancy which occurs in the office of vice-chairperson may be filled at any regular meeting as required.

§681.8. Officers.

(a) Chairperson.

(1) The chairperson shall preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or this chapter.

(2) The chairperson is authorized by the board to make day-to-day minor decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.

(b) Vice-chairperson.

(1) The vice-chairperson shall perform the duties of the chairperson in case of the absence or disability of the chairperson.

(2) In case the office of the chairperson becomes vacant, the vice-chairperson shall serve until a successor is appointed.

§681.9. Committees.

(a) The board or the chairperson may establish committees deemed necessary to carry out board responsibilities.

(b) The chairperson shall appoint members of the board to serve on committees.

(c) The chairperson may appoint nonboard members to serve as committee members on a consultant or voluntary basis subject to board approval.

(d) Committee chairpersons shall make regular reports to the board in interim written reports or at regular meetings.

(e) Committees may direct all reports or other materials to the executive secretary for distribution.

(f) Committees shall meet when called by the committee chairperson or when so directed by the board.

(g) Each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.

§681.10. Executive Secretary.

(a) The executive secretary of the board shall be an employee of the department appointed by the Commissioner of Health, with the advice and consent of the board, as the administrator of board activities.

(b) The executive secretary shall keep the minutes of the meetings and proceedings of the board and shall be the custodian of the files and records of the board unless another custodian is designated by the board.

(c) The executive secretary shall exercise general supervision over persons employed in the administration of the the Licensed Professional Counselor Act (Act). The executive secretary may delegate responsibilities to other staff members when appropriate.

(d) The executive secretary shall be responsible for the investigation of complaints and for the presentation of formal complaints.

(e) The executive secretary shall be responsible for all correspondence for the board and obtain, assemble, or prepare reports and information that the board may direct, or as authorized or required by the department or other agency with appropriate statutory authority.

(f) The executive secretary shall have the responsibility of assembling and evaluating materials submitted by applicants for licensure. Determinations made by the executive secretary that propose denial of licensure are subject to the approval of the appropriate committee of the board or the board which shall make the final decision on the eligibility of the applicants.

(g) The executive secretary or the

executive secretary's designated substitute may serve as the administrator of licensure examinations.

§681.11. Reimbursement for Expenses.

(a) A board member is entitled to per diem and transportation expenses as provided by the latest General Appropriations Act.

(b) Payment to members of per diem and transportation expenses shall be on official state vouchers which have been approved by the executive secretary.

§681.12. Official Records of the Board.

(a) Records which are public may be reviewed by inspection or duplication, or both. Confidential records will not be made available.

(b) When any person's request would be unreasonably disruptive to the ongoing business of the office or when the safety of any record is at issue, physical access by inspection may be denied and the requester will be provided the option of receiving duplicate copies at the requester's cost.

(c) Applicable costs of duplication shall be paid by the requester at the time of or before the duplicated records are sent or given to the requester. The charge for copies shall be the same as set by the department for copies.

(d) The rules of procedure for inspection and duplication of public records contained in the Texas Open Records Act shall apply to requests received by the board.

§681.13. Impartiality and Non-discrimination.

(a) The board shall make no decision in the discharge of its statutory authority with regard to any person's race, religion, color, sex, disability, or national origin.

(b) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or in a disciplinary action against a licensee shall so declare this to the board and shall not participate in any board proceedings involving that applicant or licensee.

§681.14. Applicants with Disabilities.

(a) The board shall comply with the Americans with Disabilities Act.

(b) Applicants with disabilities shall inform the board in advance of any special accommodations needed.

§681.15. License Certificate.

(a) The board shall prepare and provide to each licensee a license certificate which contains the licensee's name and license number.

(b) Regular licenses shall be signed by the board members and be affixed with the seal of the board.

(c) Temporary and provisional licenses shall be signed by the board chair and the executive secretary.

(d) Any license certificate or renewal card issued by the board remains the property of the board and must be surrendered to the board on demand.

§681.16. Registry.

(a) Each year the board shall publish a roster of licensees.

(b) The roster of licensees shall include, but not be limited to, the name, business addresses, and telephone numbers of current licensees.

(c) The board shall make a copy of the roster available to each licensee, and upon request, copies to other state agencies and the general public.

§681.17. Fees.

(a) Fees are as follows:

(1) application and temporary license fee-\$60;

(2) application and provisional license fee-\$60;

(3) application fee for a regular license-\$30;

(4) license examination fee-\$80;

(5) regular license fee-\$36;

(6) annual renewal fee-\$40;

(7) late renewal fee (when renewed after expiration date but on or within 90 days of expiration)-\$80;

(8) license renewal penalty fee (must be paid along with renewal fee when license is renewed more than 90 days but within one year of the expiration date)-\$75;

(9) inactive status fee-\$75;

(10) license certificate or renewal card duplication or replacement fee-\$10;

(11) returned check fee-\$15;

(12) application materials fee-\$5; and

(13) examination review fee-\$25.

(b) Fees paid to the board by applicants are not refundable except in accord-

ance with §681.18 of this title (relating to Processing Procedures).

(c) Remittances submitted to the board in payment of fees may be in the form of a personal check, cashier's check, or money order; however, a returned check fee must be in the form of a cashier's check or money order.

§681.18. Processing Procedures.

(a) Time periods The board shall comply with the following procedures in processing applications for a license and renewal of a regular license.

(1) The following periods of time shall apply from the date of receipt of an application until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a completed application. The time periods are as follows:

(A) letter of acceptance of application-20 working days; and

(B) letter of application deficiency-20 working days.

(2) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The time periods for denial end on the day notice of the proposed decision is mailed to the applicant. The time periods are as follows:

(A) letter of approval for examination-20 working days;

(B) initial letter of approval for a license-180 working days; and

(C) letter of denial of a license-180 working days.

(3) The period of time from the receipt of the application for renewal of a regular license until the renewal card is issued or written notice is given that the application is deficient and additional specific information is required shall be 10 working days. The regular license renewal may be issued in lieu of the notice of acceptance. The period of time from the receipt of the last item necessary to complete the application for renewal until issuance of the renewed license or notification of denial of renewal shall be 10 working days.

(b) Reimbursement of fees.

(1) In the event an application is not processed in the time periods stated in subsection (a) of this section, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the executive secretary. If the executive secretary does not agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request will be denied.

(2) Good cause for exceeding the time period is considered to exist if the number of applications for a license or license renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the board in the application process caused the delay; or any other condition exists giving the board good cause for exceeding the time period.

(c) Appeal. If a request for reimbursement under subsection (b) of this section is denied by the executive secretary, the applicant may appeal to the chairperson of the board for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the chairperson at the address of the board that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time period. The executive secretary shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period. The chairperson shall provide written notice of the chair's decision to the applicant and the executive secretary. An appeal shall be decided in the applicant's favor if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(d) Contested cases. The time periods for contested cases related to the denial of a license or a license renewal are not included within the time periods stated in subsection (a) of this section. The time period for conducting a contested case hearing runs from the date the board office mails notice of the proposed denial and ends when the decision of the board is final and appealable. A hearing may be completed within six months, but may extend for a longer period of time depending on the particular circumstances of the hearing.

§681.19. *Petition for the Adoption of a Rule.*

(a) Purpose. The purpose of this section is to delineate the board's procedures for the submission, consideration, and

disposition of a petition to the board to adopt a rule.

(b) Submission of the petition.

(1) Any person may petition the board to adopt a rule.

(2) The petition shall be in writing; shall state the petitioner's name, address, and phone number; and shall contain the following:

(A) a brief explanation of and justification for the proposed rule;

(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(C) a statement of the statutory or other authority under which the rule is to be promulgated; and

(D) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.

(3) The petition shall be filed with the board office.

(4) The board office may determine the petition does not contain the information described in paragraph (2) of this subsection and shall return the petition to the petitioner.

(c) Consideration and disposition of the petition.

(1) Except as otherwise provided in subsection (d) of this section, the executive secretary shall submit a completed petition to the board for consideration.

(2) Within 60 days after receipt of the petition, the board shall deny the petition or institute rule-making procedures in accordance with the Administrative Procedure and Texas Register Act, Texas Civil Statutes, The Government Code, Chapter 2001. The board may deny parts of the petition or institute rule-making procedures on parts of the petition.

(3) If the board denies the petition, the board shall give the petitioner written notice of the board's denial, including the board's reasons for the denial.

(4) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

(d) Subsequent petitions to adopt the same or similar rules. All initial petitions for the adoption of a rule shall be

presented to and decided by the board in accordance with the provisions of subsections (b) and (c) of this section. The board may refuse to consider a subsequent petition for the adoption of the same or similar rule submitted within six months after the date of an initial petition.

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 October 11, 1993.

TRD-9330166

James O. Mathis, Ed.D.
Chair
Texas State Board of
Examiners of
Professional Counselors

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 834-6658

Subchapter B. Authorized Counseling Methods and Practices

• 22 TAC §681.26

The new section is proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.26. *Counseling Methods and Practices.* Authorized counseling methods and practices may include but are not restricted to the following:

(1) individual counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the life span;

(2) group counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the life span;

(3) marriage counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective and family systems methods and strategies to achieve resolution of problems associated with cohabitation and interdependence of adults living as couples;

(4) family counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, af-

fective and family systems methods and strategies with families to achieve mental, emotional, physical, moral, educational, spiritual, and career development and adjustment through the life span;

(5) chemical dependency counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, affective methods and strategies, and 12-step methods to achieve abstinence from the addictive substances and behaviors by the client;

(6) rehabilitation counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to achieve adjustment to a disabling condition and to reintegrate the individual into the mainstream of society;

(7) sexual issues counseling which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies in the resolution of sexual disorders;

(8) referral counseling which utilizes the processes of evaluating and identifying needs of clients to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;

(9) psychotherapy which utilizes interpersonal, cognitive, cognitive-behavioral, behavioral, psycho-dynamic, and affective methods and strategies to assist clients in their efforts to recover from mental or emotional illness;

(10) play therapy which utilizes play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors as a part of the therapist's role in helping children overcome their social, emotional, and mental problems;

(11) hypnotherapy which utilizes the principles of hypnosis and post-hypnotic suggestion in the treatment of mental and emotional disorders and addictions;

(12) biofeedback which utilizes electronic equipment to monitor and provide feedback regarding an individual's physiological responses to stress. The counselor who uses biofeedback must be able to provide academic preparation and supervision in the use of the equipment as a part of the counselor's academic program or the substantial equivalent provided through approved continuing education;

(13) assessing and appraising which utilizes formal and informal instruments and procedures, for which the counselor has received appropriate training and supervision, in individual and group settings

for the purposes of determining the clients' strengths and weaknesses, mental condition, emotional stability, intellectual ability, interests, aptitudes, achievement level and other personal characteristics for a better understanding of human behavior, and for diagnosing mental problems; and

(14) consulting which utilizes the application of specific principles and procedures in counseling to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, whether individuals, groups, or organizations.

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

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TRD-9330165 James O. Mathis, Ed.D.
Chair
Texas State Board of
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For further information, please call: (512) 834-6658

Subchapter B. The Practice of Counseling

• 22 TAC §§681.31-681.42

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.31. Purpose and Scope.

§681.32. Professional Representation.

§681.33. Relationships with Clients.

§681.34. Testing.

§681.35. Drug and Alcohol Use.

§681.36. Confidentiality.

§681.37. Counselors and the Board.

§681.38. Assumed Names.

§681.39. Display of License Certificate.

§681.40. Advertising and Announcements.

§681.41. Research and Publications.

§681.42. Finding of Non-Fitness for License Subsequent to Issuance of License.

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 C. Code of Ethics

• 22 TAC §§681.32-681.43

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.32. General Ethical Requirements.

(a) A licensee shall not knowingly make any misleading, deceptive, fraudulent, or exaggerated claim or statement about the licensee's services, including:

- (1) the effectiveness of services;
- (2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or
- (3) the practice or field of counseling.

(b) A licensee shall not make any misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health services organization or agency, including the effectiveness of services, qualifications, or products.

(c) A licensee shall discourage a client from holding exaggerated or false ideas about the licensee's professional services, including effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee shall take immediate and reasonable action to correct the ideas

held.

(d) A licensee shall make reasonable efforts to prevent others whom the licensee does not control, from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee shall take immediate and reasonable action to correct the statement.

(e) A licensee shall inform an individual before or at the time of the individual's initial counseling session with the licensee of the following:

(1) fees and arrangements for payment;

(2) counseling purposes, goals, and techniques;

(3) any restrictions placed on the license by the board;

(4) the limits on confidentiality;

(5) any intent of the licensee to use another individual to provide counseling services to the client; and

(6) supervision of the licensee by another licensed health care professional including the name and qualifications of the supervisor.

(f) A licensee shall inform the client of any changes to the items in subsection (e) of this section prior to initiating the change.

(g) A licensee shall provide counseling services only in the context of a professional relationship, and shall not provide counseling services by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature, or telephonic or other electronic media, except in an emergency situation.

(h) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting patients or patronage for or from any health care professional.

(1) The provisions of the Health and Safety Code, §161.091, relating to the prohibition of illegal remuneration apply to licensees.

(2) A licensee employed or under contract with a chemical dependency facility or a mental health facility shall comply with the requirements in the Health and Safety Code, §164.006, relating to so-

liciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Health and Safety Code, Chapter 164, shall not be considered as a violation of the state law relating to illegal remuneration.

(i) A licensee shall not promote the licensee's personal or business activities to a client unless the licensee informs the client of the licensee's personal or business interest in the activity.

(j) A licensee shall not provide counseling services to the licensee's current or previous family members, personal friends, or business associates.

(k) A licensee shall not offer counseling services to an individual concurrently receiving counseling services from another mental health services provider except with that provider's knowledge.

(l) A licensee shall take reasonable action to inform medical or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.

(m) A licensee to whom a school district refers a student for counseling services shall comply with the rules adopted by the Texas Education Agency relating to the relationship between the district and the licensee. This requirement only applies to an outside counselor, not a licensee who is a school district employee.

(n) In individual and group counseling settings, the licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within a group or from individual counseling.

(o) A licensee shall not engage in activities that seek to meet the licensee's personal needs at the expense of a client.

(p) For each client, a licensee shall keep accurate records of the dates of counseling services, types of counseling services, progress or case notes, and billing information. Such records should be kept for seven years for adult clients and seven years beyond the age of 18 for minor clients.

(q) A licensee shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual agreement.

(1) Supervisory relationships between a licensee and any other person used by the licensee to provide services to a client shall be so reflected on billing documents.

(2) On the written request of a client, a client's guardian, or a client's parent (managing or possessory conservator) if the client is a minor, a licensee shall provide, in plain language, a written explanation of the charges for counseling services previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(3) A licensee may not persistently or flagrantly overcharge a client.

(4) A licensee may not submit to a client or a third payor a bill for counseling services that the licensee knows were not provided or knows were improper, unreasonable, or medically or clinically unnecessary.

(r) A licensee shall terminate a counseling relationship when it is reasonably clear that the client is not benefiting from the relationship. When counseling is still indicated, the licensee shall take reasonable steps to facilitate the transfer to an appropriate referral or source.

(s) A licensee shall not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses with the evaluation that the licensee has not personally interviewed the individual.

(t) A licensee may not persistently or flagrantly overtreat a client.

(u) A licensee shall be subject to disciplinary action if the licensee is issued a public letter of reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the Crime Victims Compensation Act, Texas Civil Statutes, Article 8309-1.

§681.33. Sexual Misconduct.

(a) For the purpose of this section the following terms shall have the following meanings.

(1) Mental health services means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in:

(A) alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;

(B) understanding conscious or subconscious motivations;

(C) resolving emotional, attitudinal, or relationship conflicts; or

(D) modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.

(2) Mental health services provider means a licensee or any other licensed or unlicensed individual who performs or purports to perform counseling or mental health services, including a licensed social worker, a chemical dependency counselor, a licensed marriage and family therapist, a physician, a psychologist, or a member of the clergy.

(3) Sexual contact means:

(A) deviate sexual intercourse as defined by the Penal Code, §21.01;

(B) sexual contact as defined by the Penal Code, §21.01;

(C) sexual intercourse as defined by the Penal Code, §21.01; or

(D) requests by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.

(4) Sexual exploitation means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice while treating a sexual or marital dysfunction.

(5) Therapeutic deception means a representation by a licensee that sexual contact with, or sexual exploitation by, the licensee is consistent with, or a part of, a client's or former client's counseling.

(b) A licensee shall not engage in sexual contact with a person who is:

(1) a client or former client;

(2) a counseling intern supervised by the licensee; or

(3) a student at an educational institution at which the licensee provides professional or educational services.

(c) A licensee shall not engage in sexual exploitation of a person who is:

(1) a client or former client;

(2) a counseling intern supervised by the licensee; or

(3) a student at an educational institution at which the licensee provides professional or educational services.

(d) A licensee shall not practice

therapeutic deception of a person who is a client or former client.

(e) It is a defense to a disciplinary action under subsections (b)-(d) of this section if the person was no longer emotionally dependent on the licensee when the sexual exploitation began, the sexual contact occurred, or the therapeutic deception occurred, and the licensee terminated counseling with the person more than two years before the date the sexual exploitation began, the sexual contact occurred or the therapeutic deception occurred.

(f) It is not a defense under subsections (b)-(d) of this section if the sexual contact, sexual exploitation, or therapeutic deception with the person occurred:

(1) with the consent of the person;

(2) outside the counseling sessions of the person; or

(3) off the premises regularly used by the licensee for the counseling sessions of the person.

(g) Examples of sexual exploitation are:

(1) sexual harassment, sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, and:

(A) is offensive or creates a hostile environment, and the licensee knows or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context;

(2) any behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexual;

(3) inappropriate sexual comments about or to a person, including making sexual comments about a person's body;

(4) making sexually demeaning comments to or about an individual's sexual orientation;

(5) making comments about potential sexual performance except when the comment is pertinent to the issue of sexual function or dysfunction in counseling;

(6) requesting details of sexual history or sexual likes and dislikes when not necessary for counseling of the individual;

(7) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee;

(8) kissing or fondling of a sexual nature;

(9) making a request to date;

(10) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature;

(11) any bodily exposure of genitals, anus, or breasts;

(12) encouraging another to masturbate in the presence of the licensee; or

(13) masturbation by the licensee when another is present.

(h) Examples of sexual contact are:

(1) genital and genital contact;

(2) genital and anal contact;

(3) genital and oral contact;

(4) genital and any object contact;

(5) anal and any object contact;

(6) touching breasts;

(7) touching genitals; and

(8) touching anus.

(i) A licensee shall report sexual misconduct as follows.

(1) If a licensee has reasonable cause to suspect that a client has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during counseling or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during counseling or any other course of treatment, the licensee shall report the alleged conduct not later than the 30th day after the date the licensee became aware of the conduct or the allegations to:

(A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and

(B) the board if the conduct involves a licensee and any other state licensing agency which licenses the mental health services provider.

(2) Before making a report under this subsection, the reporter shall inform the alleged victim of the reporter's duty to report and shall determine if the alleged victim wants to remain anonymous.

(3) A report under this subsection need contain only the information needed to:

(A) identify the reporter;

(B) identify the alleged victim, unless the alleged victim has requested anonymity;

(C) express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and

(D) provide the name of the alleged perpetrator.

§681.34. Testing.

(a) Prior to or following the administration of any testing, a licensee shall make known to clients the purposes and explicit use to be made of any testing done as a part of a counseling relationship.

(b) A licensee shall not appropriate, reproduce, or modify copyrighted tests or parts thereof without the acknowledgement and permission of the copyright owner.

(c) A licensee shall not administer any test without the appropriate training and experience to administer and interpret the test.

(d) A licensee must observe the necessary precautions to maintain the security of any test administered by the licensee or under the licensee's supervision.

§681.35. Drug and Alcohol Use. A licensee shall not:

(1) use alcohol or drugs in a manner which adversely affects the licensee's ability to provide counseling services;

(2) use illegal drugs of any kind;

(3) promote, encourage, or concur in the illegal use or possession of alcohol or drugs.

§681.36. Confidentiality.

(a) Communication between a licensee and client and the client's records however created or stored are confidential under the provisions of the Health and Safety Code, Chapter 611, and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.

(b) A licensee shall not disclose any communication, record, or identity of a client except as provided in the Health and Safety Code, Chapter 611, or other state or federal statutes or rules.

(c) A licensee shall comply with the Texas Health and Safety Code, Chapter 611, concerning access to records.

§681.37. Licensees and the Board.

(a) All licensees are bound by the provisions of the Licensed Professional Counselor Act (Act) and this chapter.

(b) A licensee shall have the responsibility of reporting alleged violations of the Act or this chapter to the board's executive secretary.

(c) A licensee shall keep his or her board file updated by notifying the board in writing of changes of name, highest academic degree granted, address, telephone number, and employment.

(d) A licensee shall cooperate with the board by furnishing required documents or information and by responding to a request for information from or a subpoena issued by the board or its authorized representative.

(e) A licensee shall comply with any order issued by the board relating to the licensee.

(f) A licensee shall not interfere with a board investigation by the willful misrepresentation of facts to the board or its authorized representative or by the use of threats or harassment against any person.

(g) A licensee shall not file a complaint with the board in bad faith.

§681.38. Assumed Names.

(a) An individual practice by a licensee may be established as a corporation, a limited liability partnership, a limited liability company, or other allowable business entity in accordance with state or federal law.

(b) An assumed or trade name used by a licensee must not be false, deceptive, or misleading.

§681.39. Consumer Information.

(a) A licensee shall inform each client of the name, address, and telephone number of the board for the purpose of reporting violations to the Act or this chapter:

(1) on each application or written contract for services;

(2) on a sign prominently displayed in the primary place of business; or

(3) on a bill for counseling services provided to a client or third party.

(b) A licensee shall display the license certificate and current renewal card issued by the board in a prominent place in the primary location of practice.

(c) A licensee shall not display a license certificate or current renewal card issued by the board which has been reproduced or is expired, suspended, or revoked.

(d) A licensee shall not make any alteration on a license certificate or renewal card issued by the board.

§681.40. Advertising and Announcements.

(a) Information used by a licensee in any advertisement or announcement of counseling services shall not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive, or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

(1) makes any material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;

(2) makes any representation likely to create an unjustified expectation about the results of a health care service or procedure;

(3) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;

(4) contains a testimonial;

(5) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;

(6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;

(7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;

(8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or

(9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved to or used by another profession or professional.

(c) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) The highest academic degree earned from an accredited college or university and relevant to the profession of counseling or a counseling-related field may be used when advertising or announcing coun-

seling services to the public or in counseling-related professional representations. A degree received at a foreign university may be used if the degree could be accepted as a transfer degree by accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers. A licensee may advertise or announce his or her other degrees from accredited colleges or universities if the subject of the degree is specified.

(e) The board imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name.

(f) All advertisements or announcements of counseling services including telephone directory listings by a person licensed by the board may clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "L.P.C.", or a statement such as "licensed by the Texas State Board of Examiners of Professional Counselors."

§681.41. Research and Publications.

(a) In research with a human subject, a licensee shall take reasonable precautions to ensure that the subject does not suffer emotional or physical harm.

(b) A licensee shall confine the use of data obtained from a counseling relationship for the purposes of education or research to content that can be disguised to ensure full protection of the identity of the subject client.

(c) When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.

(d) A licensee must give due credit through joint authorship, acknowledgement, footnote statements, or other appropriate means to those persons who have contributed significantly to the licensee's research or publication.

§681.42. Finding of Non-Fitness for Licensure Subsequent to Issuance of License. The board may take disciplinary action based upon information received after issuance of a license, if such information had been received prior to issuance of the license and would have been the basis for denial of licensure under §681.163 of this title (relating to Finding of Non-Fitness for Licensure).

§681.43. Required Reporting. A licensee shall report if required by any of the follow-

ing laws:

(1) the Family Code, Chapter 34, concerning abuse or neglect of minors;

(2) the Human Resources Code, Chapter 48, concerning abuse, neglect, or exploitation of elderly persons; and

(3) the Health and Safety Code, Chapter 161, Subchapter K, §161.131 et seq., concerning abuse, neglect, and illegal, unprofessional, or unethical conduct in an in-patient mental health facility, a chemical dependency treatment facility, or a hospital providing comprehensive medical rehabilitation services.

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

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Subchapter C. Application Procedures

• 22 TAC §§681.51-681.53

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.51. Purpose.

§681.52. General.

§681.53. Required Application Materials.

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 D. Application Procedures

• 22 TAC §681.51, §681.52

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.51. General.

(a) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official board forms.

(b) The application form and application fee must be postmarked at least 60 days prior to the date the applicant wishes to take the examination.

(c) Submission of all other required application materials must be postmarked at least 30 days prior to the date the applicant wishes to take the examination. Beginning with the March 1994 examination, the deadline for submitting the supporting documentation will be 45 days prior to the exam.

(d) The board will send a notice to an applicant with an incomplete application. An application not completed within 30 days after the date of the board's notice may be voided; however, an applicant may request in writing that the application be kept active for an additional year. Following each additional year another annual notice will be sent to the applicant and the applicant may again request that the application be kept active for an additional one year. After an application is voided, an applicant will be required to submit a new application and all required materials in addition to paying a new application fee.

§681.52. Required Application Materials.

(a) General application form. An application form shall contain:

(1) specific information regarding personal data, employment and type of practice, other state licenses and certifications held, felony or misdemeanor convictions, educational background including practicum experience, information concerning supervised experience, and references, if applying for a regular license;

(2) a statement that the applicant has read the Act and board rules, and agrees to abide by them;

(3) the applicant's permission to the board to seek any information or references it deems fit to determine the appli-

cant's qualifications;

(4) a statement that the applicant, if issued a license certificate, shall return the license to the board upon the revocation or suspension of the license;

(5) a statement that the applicant understands that fees submitted in the licensing process are non-refundable;

(6) the applicant's signature, dated and notarized; and

(7) a recent full-face wallet-size photograph of the applicant with the imprint of the notary seal on the edge of the photograph.

(b) Practicum documentation form if applying for a temporary or regular license. The practicum documentation form shall contain:

(1) the applicant's name;

(2) the name and address of the agency or organization where the practicum was done;

(3) the name, address, degree, position, and licensure status of the supervisor of the practicum;

(4) inclusive dates of the practicum, the number of clock-hours of practice, the number of academic semester hours awarded, and the name of the school at which the practicum was taken;

(5) the type of setting, the kinds of clients seen, and the counseling methods employed;

(6) any evaluation of the counseling skills of the applicant; and

(7) the signature of the supervisor or agency or school official who can formally attest to the applicant's practicum experience.

(c) Supervised experience documentation form if applying for a regular license. The supervised experience documentation form must be completed by the applicant's supervisor and contain:

(1) the name of the applicant;

(2) the name, address, degree, licensure status, and credentials of the applicant's supervisor;

(3) the name and address of the agency or organization where the experience was gained;

(4) the inclusive dates of the supervised experience and the total number of hours of practice;

(5) the number of hours of weekly face-to-face supervision given to the applicant, the total number of supervisory hours received by the applicant in the experience, and the types of supervision used;

(6) the applicant's employment status during supervised experience;

(7) the types of clients seen and counseling methods used;

(8) the supervisor's evaluation of the applicant's counseling skills and competence for independent or private practice;

(9) the supervisor's notarized signature; and

(10) a statement that the supervised experience complies with the rules set out in Subchapter F of this title (relating to Experience Requirements for Examination and Licensure).

(d) Supervisory contract if applying for a temporary license. An applicant for a temporary license must submit a copy of the board's supervisory contract signed by both the supervisor and applicant.

(e) Graduate transcripts. An applicant must have the official transcript(s) showing all relevant graduate work sent directly to the board from the school(s) where the applicant obtained the course work.

(f) References. An applicant for any license must have board reference forms submitted by three persons who can attest to the applicant's counseling skills and professional standards of practice.

(1) The references shall be persons who are not named elsewhere in the applicant's application and are not current members of the board.

(2) References must include at least one licensed professional counselor. All references must be from persons licensed or certified in the counseling profession or appropriately related professions.

(3) Applicants for a license shall not use current members of the board as references.

(g) Provisional license based on endorsement. Applicants for a provisional license based on endorsement must submit:

(1) a general application form as set out in subsection (a) of this section and the provisional license fee;

(2) official documentation of licensure in another state or territory;

(3) official documentation that the applicant has passed a national examination relating to counseling or an exam offered by another state or territory for licensure as a counselor; and

(4) a letter of sponsorship from a person who holds a regular license in Texas to practice counseling.

This agency hereby certifies that the proposal has been reviewed by legal counsel and

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Subchapter D. Academic Requirements for Examination and Licensure

• 22 TAC §§681.61-681.65

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.61. Purpose.

§681.62. General.

§681.63. Reserved.

§681.64. Academic Requirements.

§681.65. Academic Course Content.

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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James O. Mathis, Ed.D.
Chair
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Subchapter E. Academic Requirements for Examination and Licensure

• 22 TAC §§681.61-681.64

The new sections are proposed under Texas

Civil Statutes, Article 4512y, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.61. Purpose. The purpose of this subchapter is to set out the academic requirements for a temporary or regular license, and the examination required for a regular license.

§681.62. General.

(a) The board shall accept as meeting academic requirements, graduate work done at American universities which hold accreditation from accepted regional educational accrediting associations as reported by the American Association of Collegiate Registrars and Admissions Officers.

(b) Degrees and course work received at foreign universities shall be acceptable only if such course work could be counted as transfer credit by accredited universities as reported by the American Association of Collegiate Registrars and Admissions Officers. If degrees or course work cannot be documented because the foreign university refuses to issue a transcript or other evidence of the degrees or course work, the board may consider, on a case-by-case basis, accepting degrees or course work based on other evidence presented by the foreign graduate applicant.

(c) The relevance to the licensing requirements of academic courses, the titles of which are not self-explanatory, must be substantiated through course descriptions in official school catalogs or bulletins or by other means.

(d) The board shall count no undergraduate level courses taken by an applicant as meeting any academic requirements unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the school.

(e) The board shall accept no course work which an applicant's transcript indicates was not completed with a passing grade or for credit.

(f) In the case of course work taken outside of a program of studies for which a degree was granted, no course in which the applicant received a grade below "B" or pass shall be counted toward meeting academic requirements for examination or licensure.

(g) In evaluating transcripts, the board shall consider a quarter hour of academic credit as two-thirds of a semester hour.

(h) The board office will conduct a preliminary evaluation of course work only after a person submits an application form

and application fee.

§681.63. Academic Requirements.

(a) Persons applying for examinations and licensure must have:

(1) a graduate degree on at least the master's level; and

(2) a planned graduate program in counseling or its substantial equivalent of at least 45 semester hours.

(b) The 45 semester hours must be designed to train a person to provide direct services to assist individuals or groups in a counseling relationship using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(1) The 45 semester hours may be course work that was part of the required graduate degree, or may be in addition to course work taken for the degree, or a combination of both

(2) The 45 hours must cover the course content described in the next section.

(c) Applicants must also have a supervised practicum experience that is primarily counseling in nature of at least 300 clock-hours which were a part of the required planned graduate program.

(1) At least 100 hours of direct client counseling contact must be shown

(2) Academic credit or other acknowledgement of the practicum must appear on the applicant's official graduate transcript.

(3) No practicum course intended primarily for practice in the administration and grading of appraisal or assessment instruments shall count toward the 300 clock-hour requirement

(d) For persons applying for a temporary or a regular license, on or after September 1, 1996, a person must have a master's or doctorate degree in counseling or a related field and a 48-semester hour planned graduate program

§681.64 Academic Course Content

(a) An applicant must have course work in each of the following specific areas:

(1) normal human growth and development—any course which deals with the process and stages of human intellectual, physical, social, and emotional development from prenatal origins through old age,

(2) abnormal human behavior—any course which offers study in the principles of understanding dysfunction in human behavior or social disorganization;

(3) appraisal or assessment techniques—any course which deals with the principles, concepts, and procedures of systematic appraisal or assessment of an individual's attitudes, aptitudes, achievements, interests, and personal characteristics, which may include the use of both non-testing approaches and test instruments;

(4) counseling theories—any course which surveys the major theories of counseling;

(5) counseling methods or techniques—any three courses in methods or techniques used to provide counseling services including:

(A) one course in counseling individuals, and

(B) one course dealing with the theory and types of groups, including dynamics and the methods of practice with groups;

(6) research—any course in the methods of research which may include the study of statistics or a thesis project in an area relevant to the practice of counseling;

(7) life style and career development—any course which deals primarily with areas such as theories of vocational choice, career choice and life style, sources of occupational and educational information, and career decision-making processes;

(8) social, cultural, and family issues—any course which deals primarily in areas such as studies of change, ethnic groups, gender studies, family systems, urban and rural societies, population patterns, cultural patterns, and differing life styles; and

(9) professional orientation—any course which deals primarily with the objectives of professional organizations, codes of ethics, legal aspects of practice, standards of preparation, and the role identity of persons providing direct counseling services.

(b) The remaining courses needed to meet the 45 graduate-hour requirement shall be in areas directly supporting the development of an applicant's counseling skills such as practicum or internship credit and other courses related primarily to counseling. Persons who apply on or after September 1, 1996, will be required to obtain 48 graduate semester hours and to have two courses in social, cultural, and family issues

(c) If an applicant completes a titled course which does not meet the entire content requirements of a course(s) named in subsections (a) and (b) of this section, the applicant may submit evidence to the board that the required content was covered in portions of more than one 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.

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Subchapter E. Experience Requirements for Examination and Licensure

• 22 TAC §§681.81-681.84

(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 State Board of Examiners of Professional Counselor 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act

§681.81. Purpose.

§681.82. Experience Requirements (Internship).

§681.83. Supervisor Requirements.

§681.84. Other Conditions for Supervised Experience.

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 F. Experience Requirements for Examination and Licensure

• 22 TAC §§681.81-681.84

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.81. Temporary License

(a) The board will issue a temporary license to an applicant who:

(1) has filed an application form and temporary license fee;

(2) has met all of the academic requirements for licensure, and

(3) has entered into a supervisory agreement with a supervisor meeting the requirements of §681.83 of this title (relating to Supervisor Requirements); and

(4) has not failed any two successive board examinations.

(b) A person must obtain a temporary license before the person begins an internship.

(c) A temporary licensee may practice only as part of his or her internship.

(d) A counseling intern must maintain a temporary license during his or her supervised experience.

(e) A temporary license is valid for 30 months

(f) A counseling intern who does not obtain a regular license during the 30 months may apply for a second temporary license. No more than two temporary licenses will be issued.

§681.82. Experience Requirements (Internship).

(a) Applicants for examination must have completed 24 months or 2,000 clock-hours of supervised counseling experience acceptable to the board.

(b) A person beginning an internship on or after January 2, 1992, must complete the required 2,000 clock-hours of supervised experience in a time period of no fewer than 12 months, or if applying under the 24-months requirement, the person must average at least 20 clock-hours per week of practice. These months shall not include excess practicum hours used as supervised experience hours.

(c) The internship must have been

(1) after the completion of a graduate degree in counseling or a related

field; or

(2) after the completion of a graduate degree in any area and a planned graduate program in counseling or its substantial equivalent of at least 45 semester hours.

(d) The applicant who began to accumulate supervised experience on or after September 1, 1992, must have completed at least 45 graduate semester hours in counseling or a related field before beginning the supervised experience in addition to the requirements in subsection (c) of this section.

(e) The experience must have consisted primarily of the provision of direct counseling services within a professional relationship to individuals or groups by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life. For internships beginning on or after June 30, 1990, 1,000 hours of direct client counseling contact must be shown.

(f) The applicant must have received direct supervision consisting of at least one hour a week of face-to-face supervision in individual or group settings with no more than one half of the total hours of supervision having been received in group supervision.

(g) The experience must have been under the direct supervision of a supervisor acceptable to the board.

(h) On a case-by-case basis, the board may count hours toward the experience requirements of this subchapter if:

(1) the hours were part of the applicant's academic practicum or internship accumulated after the commencement of the applicant's planned graduate program;

(2) the hours are in excess of the 300-hour practicum required by §681.64(c) of this title (relating to Academic Course Content),

(3) the hours to be counted are not more than 300 hours, and

(4) the applicant requests this consideration in writing.

§681.83. Supervisor Requirements.

(a) A supervisor acceptable to the board must be one of the following:

(1) a person who holds a regular license issued by this board or a person licensed as a counselor in another state;

(2) a person licensed or certified by this state or any other state in a profession that provides counseling with the aca-

ademic training and experience to supervise the counseling services offered by the intern. In Texas this person must be a licensed psychologist, a licensed physician with board certification as a psychiatrist, or a licensed master social worker with a clinical social work specialty, or a licensed marriage and family therapist. The person may be required to submit to the board proof of licensure and certification, official graduate transcripts, and other appropriate documentation; or

(3) a person in a state, territory, county, or jurisdiction where no appropriate licensure or state certification is available who submits to the board relevant official graduate transcripts, documentation of practicum and experience, and any professional certifications which demonstrate that the person is qualified to supervise the type of counseling practice performed by the intern.

(b) A supervisor under subsection (a)(1) or (2) of this section must have met the following requirements.

(1) The supervisor must have held an active state license or certification in good standing for at least 24 months from the date of issuance. Completion of a doctoral degree in counseling or a related field at an accredited university may be substituted for 12 months of the 24-month requirement.

(2) A person who begins the supervision of a counseling intern on or after January 1, 1995, shall meet the requirements stated in paragraph

(1) of this subsection and must have completed one of the following:

(A) a successful completion of an examination offered for certification as a counselor supervisor or current certification as a counselor supervisor by a nationally recognized counseling association acceptable to the board;

(B) 40 clock-hours of training in the supervision of counseling or mental health services through one or a combination of the following:

(i) a graduate course taken for credit at an accredited college or university;

(ii) continuing education programs meeting the requirements of §681.174 of this title (relating to Types of Acceptable Continuing Education); or

(iii) clinical supervision of the proposed supervisor by a person:

(I) licensed by the board or as a counselor in another state; or

(II) licensed or certified by this state or another state as a mental health professional that would be acceptable under subsection (a)(2) of this section;

(C) a doctoral degree in counseling or a related field which was designed to train the person to provide direct services to individuals or groups in a counseling relationship in the resolution of personal-social, educational, or occupational problems. The degree must have been awarded before January 1, 1995, by a university described in the academic requirements for examination and licensure in §681.62(a) or (b) of this title (relating to General); or

(D) provided at least three years of clinical supervision in counseling of another person(s) through a university described in §681.62(a) or (b) of this title or a mental health facility licensed, accredited, or otherwise credentialed by the federal, state, or local government or a nationally recognized organization in the field of mental health. The three years must have been completed before January 1, 1995.

(3) The 40 clock-hours shall include at least the following:

(A) defining and conceptualizing supervision and models or supervision for at least three clock-hours;

(B) supervisory relationship and counselor development for at least three clock-hours;

(C) supervision methods and techniques for at least 12 clock-hours, covering roles (teacher, counselor, and consultant), focus (process, conceptualization, and personalization), group supervision, multicultural supervision (racial and ethnic issues and gender issues), and evaluation methods;

(D) ethical, legal, and professional issues for at least 12 clock-hours, covering roles for supervision and standards of practice ((Subchapter B of this chapter (relating to Authorized Counseling Methods and Practices)); §681.82 of this title ((relating to Experience Requirements (Internship)); and this section should be included)), other codes of ethics, and ethical and legal dilemmas; and

(E) executive and administrative tasks for at least three clock-hours covering supervision plan and contract, and time for supervision, record keeping and reporting.

(4) At the time of application for a license, a person must submit required documentation showing that the person's supervisor meets the requirements of this section.

§681.84. Other Conditions for Supervised Experience.

(a) A person who has commenced and is in the process of completing the 24 months or 2,000 hours of supervised experience may not practice within his or her own private independent practice of counseling as part of such months or hours and may not count the months or hours spent in the person's private independent practice of counseling as part of the supervised experience; however, the person may be employed in his or her supervisor's private practice of counseling as part of such months or hours.

(b) After January 1, 1994, a counseling intern must hold a temporary license. No hours will be counted toward the supervised experience except those accumulated during the time the counseling intern is licensed.

(c) A supervisor may not be in the employ of the counseling intern.

(d) A supervisor may not be related within the second degree by affinity or within the third degree by consanguinity to his or her counseling intern. This subsection shall be effective for internships beginning on or after June 30, 1990.

(e) A counseling intern may be employed on a salary basis or be a consultant or volunteer. All supervisory settings must be structured with clearly defined job descriptions and lines of responsibility.

(f) The full professional responsibility for the counseling activities of an intern shall rest with the intern's official supervisor.

(g) All supervised experience must have been on a formal basis by contract or other specific arrangement prior to the period of supervision. Supervision arrangements must include all specific conditions agreed to by the supervisor and counseling intern.

(h) If a counseling intern enters into contracts with both a supervisor and an organization with which the supervisor is employed or affiliated, the contract between the organization and intern will clearly indicate where counseling services will be performed, that no payment for services will be made directly by a client to the intern, clients records are not the property of the counseling intern, that the full responsibility for the counseling activities of an intern shall rest with the intern's official supervisor, that there are no financial arrangements

with the intern that have been made that extend beyond the period of supervision, and all supervised experience shall be in accordance with this chapter.

(i) A supervisor may not supervise more than eight counseling interns at one time.

(j) An applicant may have no more than two supervisors unless approval is received for further supervisors. The applicant must submit a notarized statement explaining the reasons for the change of supervisor.

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 F. Licensure Examinations

• 22 TAC §§681.91-681.100

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.91. Purpose.

§681.92. Frequency.

§681.93. Applying for Examination.

§681.94. Examination.

§681.95. Locations.

§681.96. Grading.

§681.97. Failures.

§681.98. Notice of Results.

§681.99. Failure to Appear for Examination.

tion.

§681.100. Failure to Apply.

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. Licensure Examinations

• 22 TAC §§681.91-681.97

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.91. Examination.

(a) The board shall administer licensure examinations at least three times a year or as often as deemed necessary.

(b) The examination for licensure shall be a written examination prescribed by the board.

(c) Examinations will be administered in Austin unless otherwise announced by the board.

§681.92. Applying for Examination.

(a) A person must apply for examination in accordance with §681.51 of this title (relating to General) and §681.52 of this title (relating to Required Application Materials). The board shall notify an applicant whose application has been approved in writing or by telephone and forward an examination registration form to each approved applicant as soon as the application has been approved.

(b) An applicant who wishes to take a scheduled examination must complete an examination registration form and return it to the board with the required fee postmarked at least 15 days prior to the date of the examination. In cases where the date of approval of an application necessitates that the applicant be notified by telephone, the applicant must forward the required fee with a postmark of at least 15 days prior to the date of the examination; however, the registration form can be submitted follow-

ing the 15-day deadline. Beginning with the March 1994 examination, the deadline for submitting the exam fee will be 30 days prior to the date of the exam.

§681.93. Grading.

(a) Licensure examinations shall be graded at the direction of the board.

(b) Written examinations shall be identified by number and graded anonymously in order to insure impartiality.

§681.94. Failures.

(a) An applicant who fails the licensure examination may reapply for examination and take either of the next two scheduled examinations. If, without documented medical or other reasons acceptable to the board, the applicant does not take either of the next two examinations, his or her approval to take the examination will be voided and the applicant will be required to submit another application for licensure.

(b) An applicant who fails any two successive examinations may not reapply for a temporary or a regular license until two years have elapsed from the date of the last examination or until the applicant has completed nine graduate semester-hours in the applicant's weakest portions of the examination.

(c) If requested, the board shall furnish an applicant who fails an examination an analysis of performance.

§681.95. Notice of Results.

(a) The board shall notify each examinee of the examination results within 30 days of the date of the examination.

(b) No matter what numerical or other scoring system the board may use in arriving at examination results, the official notice of results to applicants shall be stated in terms of "pass" or "fail."

(c) If the notice of examination results graded or reviewed by the national testing service will be delayed for more than 90 days after the date of the examination, the board shall notify the applicant before the 90th day.

§681.96. Failure to Appear for Examination. If an applicant fails to appear for examination for reasons other than documented illness or other cause beyond the applicant's control after having agreed to do so by applying to take a particular examination, the applicant must reapply and pay another examination fee before being admitted to a subsequent examination.

§681.97. Failure to Apply. The applica-

tion of a person who fails to apply for and take one of the first two examinations scheduled after the applicant has been notified in writing of his approval for examination shall be voided and the applicant shall be so notified.

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Subchapter G. Licensing

• 22 TAC §§681.111-681.114

(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 State Board of Examiners of Professional Counselor 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.111. Purpose.

§681.112. Issuance of Licenses.

§681.113. Reciprocity.

§681.114. Surrender of License.

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. Licensing

• 22 TAC §§681.111-681.113

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.111. Issuance of Licenses.

(a) The board will send a licensure form to each applicant who has satisfactorily fulfilled all requirements for licensure. The applicant must complete the form and return it to the board office with the licensure fee.

(b) Upon receiving the licensure form and fee, the board shall issue a license indicating the license number.

(c) The board will replace a lost, damaged, or destroyed license certificate or renewal cards upon a written request from the licensee and payment of the license replacement fee. Requests must include a notarized statement detailing the loss or destruction of the licensee's original license or be accompanied by the damaged certificate.

(d) Upon the written request and payment of the license certificate duplicate fee by a licensee, the board will provide a licensee with a duplicate for a second place of practice which is designated in a licensee's file.

§681.112. Endorsement.

(a) The board may grant a provisional license to a person who holds, at the time of application, a license or certificate as a counselor issued by another state or territory that is acceptable to the board. An applicant for a provisional license must:

(1) submit an application and provisional license fee;

(2) be licensed in good standing as a counselor in another state or territory that has licensing requirements that are substantially equivalent to the regular licensing requirements of the Licensed Professional Counselor Act (Act);

(3) have passed a national examination relating to counseling or an exam offered by another state or territory for licensure as a counselor; and

(4) be sponsored by a person who holds a regular license issued by the board with whom the provisional licensee may practice.

(b) An applicant for a provisional licensee may be excused from the requirement of subsection (a)(4) of this section if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) The board must complete the processing of a provisional licensee's appli-

cation for a license not later than the 180th day after the date the provisional license is issued or at the time licenses are issued following the successful completion of the examination, whichever is later.

(d) A provisional license is valid until the date the board approves or denies the provisional licensee's application for a license.

(e) The board shall issue a regular license to the holder of a provisional license if:

(1) the provisional licensee passes the examination required by Section 12 of the Act; and

(2) the board verifies that the provisional licensee has the academic and experience requirements for a regular license.

(f) The board shall consider only states and territories of the United States as acceptable for the purposes of licensure by endorsement.

§681.113. Surrender of License.

(a) Surrender by licensee.

(1) A licensee may at any time voluntarily offer to surrender his or her license for any reason, without compulsion.

(2) The license may be delivered to the board office by hand or certified mail.

(3) If there is no complaint pending, the board office may accept the surrender and void the license.

(b) Formal disciplinary action.

(1) When a licensee has offered the surrender of his or her license after a complaint has been filed, the board shall consider whether to accept the surrender of the license.

(2) Surrender of a license without acceptance thereof by the board or a licensee's failure to renew the license shall not deprive the board of jurisdiction against the licensee under the Act or any other statute.

(3) When the board has accepted such a surrender, that surrender is deemed to be the result of a formal disciplinary action and a board order shall be prepared accepting the surrender.

(c) Reinstatement. A license which has been surrendered and accepted may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.

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◆ ◆ ◆
**Subchapter H. License and
Specialty Renewal and Inac-
tive Status**

◆ ◆ ◆
• 22 TAC §§681.121-681.128

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.121. Purpose.

§681.122. General.

§681.123. Staggered Renewals.

§681.124. Licensure Renewal.

§681.125. Specialty Renewal.

§681.126. Late Renewal.

§681.127. Inactive Status.

§681.128. Active Military Duty.

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**Subchapter I. Regular License
Renewal and Inactive and
Retirement Status**

◆ ◆ ◆
• 22 TAC §§681.121-681.127

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.121. General.

(a) A regular license must be renewed annually.

(b) A person who holds a regular license must have fulfilled any continuing education requirements prescribed by board rule in order to renew a license.

(c) Each person who holds a regular license is responsible for renewing the license and shall not be excused from paying late renewal fees or renewal penalty fees.

(d) The board shall deny the renewal of the license of a licensee who is in violation of the Act or this chapter at the time of application for renewal.

(e) A person whose license has expired shall return his or her license certificate to the board.

(f) A person whose license has expired shall not practice counseling or advertise counseling services.

(g) The deadlines established for renewals, late renewals, and license renewal penalty fees in this subchapter are based on the postmarked date of the documentation submitted by the licensee.

(h) The board shall deny renewal if required by the Education Code, §57.491, relating to defaults on guaranteed student loans.

§681.122. Staggered Renewals. The board shall use a staggered system for license renewals.

(1) The renewal date of a license shall be the last day of the licensee's birth month.

(2) Licensure fees will be prorated if the licensee's initial renewal date as determined by the board occurs less than 12 months after the original date of licensure.

(3) Prorated fees shall be rounded off to the nearest dollar.

§681.123. License Renewal.

(a) At least 45 days prior to the expiration of a regular license, the board will send notice to a licensee that includes

the expiration date of the license, a schedule of the renewal and late fees, and the number of hours needed to complete any continuing education requirements.

(b) A license renewal form shall be furnished to licensees eligible for renewal. The form shall require the licensee to provide current addresses, telephone numbers, and such information as continuing education completed, and type of practice.

(c) The board shall not renew a license until it receives the completed license renewal form and the renewal fee, and the licensee has complied with applicable continuing education requirements.

(d) The board shall issue a renewal certificate to a licensee who has met all requirements for renewal. The licensee must display the renewal certificate in association with the license.

(e) The license of a person who made a timely and sufficient request for renewal of his or her license does not expire until the application for renewal is finally determined by the board, or in case the application is denied or the terms of the new license limited, until the last day for seeking review of the board's order or a later date fixed by order of a reviewing court.

(f) The board shall deny the renewal of a license if the licensee is a party to a formal disciplinary action. A formal action commences when the notice described in §681.192(c) of this title (relating to Disciplinary Action; Notices) is mailed by the board.

(1) A license that is not revoked or suspended as a result of formal proceedings shall be renewed provided that all other requirements are met.

(2) In the case of delay in the license renewal process because of formal disciplinary action, late and penalty fees shall not apply.

§681.124. Late Renewal.

(a) A person who renews a license after the expiration date but on or within 90 days after the expiration date shall pay the appropriate late renewal fee.

(b) If a person has not renewed a license for more than 30 days after the date of expiration, the board shall inform the person of the expiration date of the license and the amount of the fee required for renewal.

(c) The board shall notify a person whose license is expired that the person may not advertise, practice, or represent himself or herself as a counselor in any manner. Upon the expiration of a person's license, the board may notify the person to

return the license certificate to the board.

(d) A person whose license was not renewed on or within 90 days of the expiration date may renew within one year of the expiration date by paying the appropriate renewal fee plus the license renewal penalty fee. Payment may be in the form of a personal check, certified check, or money order which the person must submit with the required license renewal form.

(e) If a person did not have the required continuing education at the time of expiration of the license, the person shall file evidence of completion of the required continuing education before the license can be renewed.

(1) The continuing education may have been earned during the continuing education period or within the one-year period following expiration.

(2) The evidence of continuing education shall be the completed continuing education form and other documentation required by the board.

(3) The time period from expiration of the license until renewal of the license shall be subtracted from the next three-year continuing-education reporting period.

(f) On or after one year from the expiration date, a person may no longer reinstate the license and must reapply by submitting a new application, paying the required fees, and meeting the current requirements for license including passing the licensure examination.

§681.125. *Inactive Status.*

(a) A licensee may place his or her license on inactive status by submitting a written request prior to the expiration of the license along with the inactive fee. Inactive status periods shall not be granted to persons whose licenses are not current and in good standing. Inactive status periods shall not exceed three years; however, consecutive inactive status periods may be approved by the board. An inactive status fee is required for each three-year period of inactive status.

(b) An inactive status period shall begin on the first day of the month following payment of an inactive status fee.

(c) All privileges, fees, and continuing education requirements are not applicable during the inactive status period. A person may not act as a counselor, represent himself or herself as a counselor, or provide counseling services during the inactive status period.

(d) Continuing education credit cannot be earned while on inactive status.

(e) A person is subject to investiga-

tion and action under Subchapter L of this chapter (relating to Complaints and Violations) during the period of inactive status.

(f) A person must notify the board in writing to return to active status. Active status shall begin on the first day of the month following payment of applicable fees. The license fee shall be prorated to the next renewal date in accordance with §681.123 of this title (relating to License Renewal).

(g) If continuing education requirements were not met prior to the time that a licensee went on inactive status, upon return to active status the hours that were remaining to complete the three-year continuing education requirement described in §681.172 of this title (relating to Deadlines) must be completed in a time period equal to the time that was remaining in the counselor's three-year cycle at the time that the person went into inactive status. Section §681.124(e) of this title (relating to Late Renewal) will be applicable at the end of this additional time period.

(h) Upon return to active status, the person's next three-year continuing education cycle will begin on the first day of the month following the person's birth month; however, if subsection (g) of this section applies, the start date for the next three-year cycle will begin following the additional time period described in subsection (g) of this section.

§681.126. *Retired Status.*

(a) A licensee may request his or her license be placed on retired status by submitting a written request along with the license certificate. The board staff will stamp the license certificate as retired, indicate the date stamped, and return the certificate to the licensee.

(b) Once a licensee places his or her license on retired status, the individual may no longer practice counseling or refer to himself or herself as a counselor. The individual will no longer be required to pay renewal fees or to obtain continuing education

(c) A retired license cannot be renewed or reinstated. To be eligible for a new license to practice counseling, the person would be required to apply for another license by meeting requirements in effect at the time of the application, including passing the examination.

§681.127. *Active Military Duty.* If a licensee fails to renew his or her license because the licensee is called to or is on active duty with the armed forces of the United States serving outside of the State of Texas, the licensee or the licensee's authorized representative may request that the

license be declared inactive or be renewed. A request for inactive status shall be made in writing to the board prior to expiration of the license or within one year from the expiration date. This section is an exception to the requirement in §681.125 of this title (relating to Inactive Status) that the request be made prior to expiration of the license. A request for renewal may be made before or after the expiration date.

(1) If the request is made by the licensee's authorized representative, the request must include a copy of the appropriate power of attorney or written evidence of a spousal relationship.

(2) The written request shall include a copy of the official transfer orders of the licensee or other official military documentation showing that the licensee is called to or on active duty serving outside of the State of Texas.

(3) The payment of the inactive status fee, late renewal fee and licensure renewal penalty fee is waived for a licensee under this section.

(4) An active duty licensee shall be allowed to renew under this section without submitting proof of continuing education hours if proof is required for renewal; however, the licensee must submit proof of completion of the required number of continuing education hours by the end of the following time period. The time period shall start on the actual date of renewal of the license and be equal to the length of time the licensee was on active duty serving outside the State of Texas during the three-year continuing education period or following expiration of the license. If the licensee fails to submit proof of completion of the required continuing education by the end of the time period, the board may suspend or revoke or deny renewal of the license.

(5) The written request shall include a current address and telephone number for the licensee or the licensee's authorized representative.

(6) The board may periodically notify the licensee or the licensee's authorized representative that the license of the licensee remains in inactive status, if applicable.

(7) Except in extraordinary circumstances, a licensee on active duty serving outside the State of Texas shall notify the board that the licensee is on active duty. The board shall note in the licensee's file that the licensee may be eligible for renewal under this section.

(8) If a licensee is a civilian impacted or displaced for business purposes outside of the State of Texas due to a national emergency or war, the licensee or the licensee's authorized representative may request that the license be declared inactive

in the same manner as described in this section for military personnel. The written request shall include an explanation of how the licensee is impacted or displaced, which explanation shall be on the official letterhead of the licensee's business. The requirements of this section relating to renewal by active duty licensees shall not apply to a civilian under this paragraph.

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Subchapter I. Counseling Specialities

• 22 TAC §§681.141-681.147

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.141. Purpose.

§681.142. Determination of Counseling Specialities.

§681.143. Applications for Specialty Designation.

§681.144. Specialty Designation by the Board.

§681.145. Specialty Examination.

§681.146. Advertising of a Counseling Specialty.

§681.147. Renewal of Specialty Designation.

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Subchapter J. Criteria for Determining Fitness of Applicants for Examination and Licensure

• 22 TAC §§681.161-681.164

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.161. Purpose.

§681.162. Fitness of Applicants for Licensure.

§681.163. Materials Considered in Determination of Fitness of Applicants.

§681.164. Finding of Non-Fitness for Licensure.

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• 22 TAC §§681.161-681.163

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer

the Licensed Professional Counselor Act.

§681.161. Fitness of Applicants for Licensure. In determining the fitness of an applicant for a temporary license or a regular license, the board shall consider the following:

(1) the skills and abilities of an applicant to provide adequate counseling services to clients; and

(2) the ethical behavior of an applicant in relationships with other professionals and clients.

§681.162. Materials Considered in Determination of Fitness of Applicants. In determining the fitness of applicants for a temporary or a regular license, the board shall consider the following:

(1) evaluations of supervisors or instructors;

(2) statements from persons submitting references for the applicant;

(3) evaluations of employers and/or professional associations;

(4) allegations of clients;

(5) transcripts or findings from official court, hearing, or investigative proceedings; and

(6) any other information which the board considers pertinent to determining the fitness of an applicant.

§681.163. Finding of Non-Fitness for Licensure. The substantiation of any of the following items related to an applicant may be, as the board determines, the basis for the denial of a temporary license or a regular license of the applicant:

(1) lack of the necessary skills and abilities to provide adequate counseling services in independent practice;

(2) any misrepresentation in the application or other materials submitted to the board;

(3) the violation of any provision of the Licensed Professional Counselor Act (Act) or this chapter in effect at the time of application which is applicable to an unlicensed person; or

(4) the violation of any provision of code of ethics which would have applied if the applicant had been a licensee at the time of the violation.

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Subchapter K. Continuing Education Requirements

• 22 TAC §§681.171-681.180

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.171. Purpose.

§681.172. Deadlines.

§681.173. Hour Requirements for Continuing Education.

§681.174. Types of Acceptable Continuing Education.

§681.175. Procedures for Approval of Programs.

§681.176. Criteria for Approval of Continuing Education Activities.

§681.177. Determination of Clock Hour Credits.

§681.178. Reporting of Continuing Education.

§681.179. Activities Unacceptable as Continuing Education.

§681.180. Failure to Complete Required Continuing Education.

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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• 22 TAC §§681.171-681.179

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.171. Purpose. The purpose of these sections is to establish the continuing education requirements for the renewal of a regular license which a licensee must complete every three years toward furthering of professional development in counseling. These requirements are intended to maintain and improve the quality of professional services in counseling provided to the public and keep the licensee knowledgeable of current research, techniques and practice, and provide other resources which will improve skill and competence in counseling.

§681.172. Deadlines.

(a) Continuing education requirements for renewal shall be fulfilled during three-year periods beginning on the first day of a licensee's renewal year and ending on the last day of the licensee's renewal year.

(b) The initial three-year period for each licensee shall include the three-year period described in this section plus the period of time from the date of issuance of the licensee's first license to the first renewal date.

§681.173. Hour Requirements for Continuing Education. A licensee must complete 45 clock-hours of continuing education acceptable to the board during each three-year period as described in §681.172 of this title (relating to Deadlines). Three hours of the 45 hours must be directly related to counselor ethics.

(1) A clock-hour shall be 60 minutes of attendance and participation in an acceptable continuing education experience.

(2) Continuing education experiences acceptable to the board shall be those set forth in §681.174 of this title (relating to Types of Acceptable Continuing Education).

§681.174. Types of Acceptable Continuing Education. Continuing education under-

taken by a licensee shall be acceptable if the experience falls in one or more of the following categories:

(1) participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) which employ didactic and experiential methods to increase skill and competence in counseling taught by persons who hold licensure granted by the board or an equivalent counselor licensure board in another state;

(2) participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) which are designed to increase professional knowledge related to the practice of counseling and are conducted by persons qualified within their respective professions by appropriate state licensure or certification where state licensure or certification exists, or in states outside of Texas where licensure or certification does not exist by completion of a graduate degree in counseling or a related field and certification by their respective professional associations if such certification exists;

(3) teaching or consultation in graduate level programs such as institutes, seminars, workshops, and conferences which are designed to increase professional knowledge related to the practice of counseling provided that such teaching and consultation is not part of, or required as a part of, one's employment;

(4) completion of graduate academic courses in areas supporting development of skill and competence in counseling at an accredited institution;

(5) participation in case supervision, management, or consultation provided that such supervision, management, or consultation is not required as a part of a licensee's employment; is conducted according to stated training or didactic goals such as expertise in specific techniques including supervision techniques or certification in specialty areas of counseling; and is conducted by an appropriately state-licensed or state-certified mental health professional who meets board requirements for supervisors, demonstrates training and expertise in the specific area for which supervision is provided, and has received prior approval by the board for the program which does not exceed six months in length;

(6) participation or teaching in programs directly related to counseling (e.g., institutes, seminars, workshops, or conferences) which are approved or offered by an accredited college or university or by a nationally recognized professional organization in the mental health field or its state or local equivalent organization. The board shall maintain and make available on request a listing of acceptable professional organizations, or

(7) completion of an independent study program directly related to counseling and approved or offered by a nationally recognized professional organization in the mental health field or its state equivalent or approved or offered by an accredited college or university.

§681.175. Procedures for Approval of Programs. Individuals and organizations may initiate requests for board approval and hour credits of specific programs for continuing education credit either before or after these programs occur. Approval shall be given only for the specific program described in the request.

(1) Each licensee is responsible for providing the information necessary for the board to make a determination of the applicability of the program to the continuing education requirements.

(2) Sponsors may initiate their own requests and shall, when approval is obtained in advance, announce prior to the commencement of the continuing education activity, the number of hours approved and the content of the continuing education activity as submitted and pre-approved by the board. When approval is requested by a sponsor, the sponsor shall provide each participant with written documentation of participation which shall set forth that participant's name, the number of approved continuing education hours, the title and date(s) of the program as approved by the board, and the signature of the sponsor.

§681.176. Criteria for Approval of Continuing Education Activities. Each continuing education experience submitted by a licensee or sponsor will be evaluated on the basis of the following criteria.

(1) Attendance at programs shall be in accordance with §681.174(1) and (2) of this title (relating to Types of Acceptable Continuing Education) and shall consider the following:

(A) relevance of the subject matter to increase or support the development of skill and competence in counseling or in areas of studies or disciplines related to counseling;

(B) objectives of specific information and skill to be learned;

(C) subject matter, educational methods, materials, and facilities utilized including the frequency and duration of sessions, and the adequacy to implement learner objectives; and

(D) sponsorship and leader-

ship of programs including the name of the sponsoring individual(s) or organization(s), program leaders if different from sponsors, and contact person if different from the preceding.

(2) Teaching in approved programs shall be in accordance with §681.174(3) of this title. Documentation from sponsor(s) including an evaluative statement of performance is required.

(3) Completion of academic work shall be in accordance with §681.174(4) of this title. Official graduate transcripts from accredited school showing completion of graduate hours in appropriate areas for which the licensee received at least a grade of "B" is required.

§681.177. Determination of Clock-hour Credits. The board shall credit continuing education experiences as follows.

(1) Parts of programs which meet the criteria of §681.173 of this title (relating to Hour Requirements for Continuing Education) and §681.176 of this title (relating to Criteria for Approval of Continuing Education Activities) shall be credited on a one-for-one basis with one clock-hour of credit for each clock-hour spent in the continuing education activity.

(2) Teaching in programs which meet the board's criteria as set out in §681.174 of this title (relating to Types of Acceptable Continuing Education) shall be credited on the basis of one clock-hour of credit for one clock-hour taught plus two clock-hours credit for preparation for each hour actually taught. No more than two-thirds of the three-year continuing education requirements can be credited under this option, and credit may be granted for the same presentation or program not more than twice during any three-year cycle. The remaining one-third of the continuing education requirement in each three-year cycle must be obtained under another of the available options in accordance with paragraphs (1) or (3) of this subsection.

(3) Completion of academic work at an institution which meets the accreditation standards acceptable to the board shall be credited on the basis of 15 clock-hours of credit for each semester hour, 10 clock-hours of credit for each quarter hour completed and for which a grade of "B" or above was received as evidenced on an official graduate transcript.

(4) Effective September 1, 1993, no more than 20 clock-hours of the 45 clock-hours three-year continuing education requirement can be obtained through case supervision, management, and consultation programs set out in §681.174(5) of this title.

(5) No more than five clock-hours of the 45 clock-hours required can be

obtained through independent study.

§681.178. Reporting of Continuing Education. The requirements for reporting continuing education shall be as follows.

(1) A licensee's continuing education report shall be filed on a form provided by the board which the licensee shall complete or sign.

(2) A licensee shall submit the required report only at the time of renewal the first or second year of the three-year continuing education cycle. A licensee may submit the required report at any time during the third year of the three-year continuing education cycle provided, however, continuing education must be reported and approved prior to renewal at the end of the three-year cycle or §681.124(e) of this title (relating to Late Renewal) will apply. Each licensee is responsible for ensuring that the board receives timely notice of the licensee's completion of any continuing education activity.

(3) Each report must be accompanied by appropriate documentation of the continuing education claimed on the report as follows:

(A) for a program attended, signed certification by a program leader or instructor of the licensee's participation in the program by certificate, letter or letterhead of the sponsoring agency, or official continuing education validation form of the sponsoring agency;

(B) for teaching or consultation in approved programs, a letter on the sponsoring agency's letterhead giving name of program, location, dates, and subjects taught and giving total clock-hours of teaching or consultation;

(C) for completion of academic work from accredited schools, an official graduate transcript showing course credit with at least a "B" or pass grade; or

(D) for official auditing of a graduate level course at a regionally accredited academic institution, a letter from the academic institution or professor which includes the actual number of clock-hours attended.

§681.179. Activities Unacceptable as Continuing Education. The board will not give continuing education credit to any counselor for:

(1) education incidental to the regular professional activities of a counselor such as learning occurring from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional organization;

(3) meetings and activities such as in-service programs which are required as a part of one's job;

(4) teaching or consultation which is part of one's employment;

(5) any experience which does not fit the types of acceptable continuing education in §681.174 of this title (relating to Types of Acceptable Continuing Education); or

(6) any continuing education activity completed before or after the three-year period for which the continuing education credit is submitted except as allowed in §681.124(e) of this title (relating to Late Renewal).

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

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Subchapter L. Complaints and Violations

• 22 TAC §§681.191-681.197

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.191. Purpose.

§681.192. Denial, Revocation, or Suspension of Licensure.

§681.193. Violations by Non-Licensed Persons.

§681.194. Power to Sue.

§681.195. Complaint Procedures.

§681.196. Licensing of Persons with Criminal Backgrounds.

§681.197. Suspension, Revocation, or Denial.

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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• 22 TAC §§681.191-681.200

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.191. Purpose. The purpose of this subchapter is to set out valid causes for discipline of a licensee and the procedures for reporting alleged violations to the Act and board rules.

§681.192. Disciplinary Action; Notices.

(a) The board may deny, revoke, temporarily suspend, or suspend a license, or may probate disciplinary action, or may issue a reprimand to a person who has:

(1) violated any provision of the Licensed Professional Counselor Act (Act);

(2) violated any rule adopted by the board; or

(3) is legally committed to an institution because of mental incompetence from any cause.

(b) Prior to institution of formal proceedings to revoke, or suspend a license, the board shall give written notice to the licensee by personal service or certified mail, return receipt requested, of the facts or conduct alleged to warrant revocation or suspension; and the licensee or applicant shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(c) If denial, revocation, or suspension of a license is proposed, the board shall give written notice by certified mail, return receipt requested; regular mail; or personal

delivery of the basis for the proposal and that the licensee or applicant must request, in writing, a formal hearing within 10 days of receipt of the notice, or the right to a hearing shall be waived and the license shall be denied, revoked, or suspended.

(d) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth day after the notice is mailed to the last address known to the board unless another date is reflected on a United States Postal Service return receipt.

(e) No notice or hearing is required for the board to issue a reprimand other than notice to the licensee of the board meeting where the reprimand will be considered.

(f) No prior notice or hearing is required to temporarily suspend a license; however, appropriate notice shall be given prior to the hearing held after temporary suspension of the license in accordance with §16(A) of the Act.

§681.193. Violations by Non-Licensed Persons. On or after January 1, 1994, a person commits an offense if he or she knowingly or intentionally practices counseling or represents himself or herself as a counselor without being licensed by the board or exempt from licensure under this Act. Such an offense is a class B misdemeanor.

§681.194. Power to Sue. The board may institute a suit in its own name and avail itself of any other action, proceeding, or remedy authorized by law to enjoin the violation of the Act. The suit is in addition to any other action, proceeding, or remedy authorized by law.

§681.195. Reporting Alleged Violations.

(a) A person wishing to report an alleged violation of the licensed Professional Counselor Act (Act) or the rules by a licensee or other person shall notify the executive secretary. The initial notification may be in writing, by telephone, or by personal visit to the board office.

(b) Upon receipt of a complaint, the executive secretary shall send an acknowledgement letter to the complainant and an official form which the complainant must complete and return to the board before further action can be taken. The executive secretary may accept an anonymous complaint if there is sufficient information for the investigation.

(c) A complaints committee shall be appointed to work with the executive secretary to:

(1) review each complaint and determine whether the complaint fits within

the category of a serious complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act of this chapter.

(d) The executive secretary shall request a notarized response from the licensee or person against whom an alleged violation has been filed and gather information required by the complaints committee of the board.

(e) If the committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(f) If it is determined that there are sufficient grounds to support the complaint, the matters in question shall be investigated.

(g) The board shall use a private investigator only if the department's investigators available to the board have a conflict of interest.

(h) Within each 90 days, the board shall notify a complainant of the status of his or her complaint unless the notice would jeopardize an undercover investigation until the complaint is finally resolved or closed.

(i) If after due investigation a complaint or allegation is not resolved by the committee of the board, the committee may recommend that the license be revoked, suspended, or denied or that other appropriate actions as authorized by law be taken.

(j) The board shall dispose of all complaints in a timely manner. After review of each complaint, the executive secretary shall establish a schedule for conducting each phase of the complaint not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file for the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(k) The executive secretary shall notify the complaints committee of a complaint that extends beyond the time prescribed for resolving the complaint.

§681.196. Licensing of Persons With Criminal Backgrounds.

(a) Purpose. This section is designed to set out guidelines and criteria for the eligibility of persons with criminal backgrounds to obtain and retain licenses as counselors.

(b) Felony conviction. The board shall consider the felony conviction of a licensee or applicant as grounds for the disciplinary action against the license and shall review the conviction.

(c) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee. In considering whether a criminal conviction directly relates to the profession of counseling, the board shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to practice counseling;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a counselor. In making this determination, the board will apply the criteria outlined in Texas Civil Statutes, Article 6252-13c, §4(c)(1)-(7).

(d) The following felonies and misdemeanors relate to the license of a counselor because these criminal offenses indicate an inability or a tendency to be unable to perform as a counselor.

(1) the misdemeanor of knowingly or intentionally practicing counseling without a license;

(2) an offense involving moral turpitude.

(3) the misdemeanor of failing to report child abuse or neglect;

(4) a misdemeanor involving deceptive business practices;

(5) the offense of assault or sexual assault;

(6) the felony offense of insurance claim fraud;

(7) a misdemeanor and/or a felony offense under various titles of the

Texas Penal Code:

(A) concerning Title 5 offenses against the person;

(B) concerning Title 7 offenses against property;

(C) concerning Title 9 offenses against public order and decency;

(D) concerning Title 10 offenses against public health, safety, and morals; and

(E) concerning Title 4 offenses of attempting or conspiring to commit any of the offenses in subparagraphs (A)-(D) of this paragraph; or

(8) any other misdemeanor or felony which would indicate an inability or a tendency to be able to perform as a counselor and which would promote the intent of the Licensed Professional Counselor Act (Act).

(e) Procedures for disciplinary action to persons with criminal backgrounds.

(1) The board's executive secretary will give written notice to the person that the board intends to take disciplinary action after a hearing in accordance with the provisions of the APA, and the board's hearing procedures in Subchapter M of this chapter (relating to Formal Hearings).

(2) If the board takes disciplinary action under these sections, the executive secretary will give the person written notice:

(A) of the reasons for the decision,

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the board and its decision; and

(C) that the person must begin the judicial review by filing a petition with the court within 30 days after the board's action is final and appealable.

§681.197. Suspension, Temporary Suspension, Probation, Reprimand, Revocation, or Denial.

(a) If the board suspends a license, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.

(b) If a suspension overlaps a license renewal date, the suspended counselor shall comply with the renewal procedures in this chapter; however, the suspension shall remain in effect pursuant to subsection (a) of this section.

(c) Upon revocation, suspension or non-renewal of a license, a licensee shall return his or her license certificate and all existing renewal cards to the board.

§681.198 Informal Disposition.

(a) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal settlement conference held to determine whether an agreed settlement order may be approved.

(b) If the executive secretary or the complaints committee of the board determines that the public interest might be served by attempting to resolve a complaint or contested case with an agreed order in lieu of a formal hearing, the provisions of this section shall apply. A licensee or applicant may request an informal settlement conference; however, the decision to hold a conference shall be made by the executive secretary or the complaints committee.

(c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

(d) The executive secretary shall decide upon the time, date and place of the settlement conference, and provide written notice to the licensee or applicant of the same. Notice shall be provided no less than ten days prior to the date of the conference by certified mail, return receipt requested to the last known address of the licensee or applicant or by personal delivery. The ten days shall begin on the date of mailing or delivery. The licensee or applicant may waive the ten-day notice requirement.

(e) The notice shall inform the licensee or applicant of the nature of the alleged violation, that the licensee may be represented by legal counsel, that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate, that committee members may be present, that the board's legal counsel or a representative of the Office of the Attorney General will be present, that the licensee's or applicant's attendance and participation is voluntary, that the complainant and any client involved in the alleged violations may be present, and that the settlement conference shall be cancelled if the licensee or applicant notifies the executive secretary that he or she or his or her legal counsel will not attend. A copy of the board's rules concerning informal disposition shall be enclosed with the notice of the settlement conference.

(f) The notice of the settlement conference shall be sent by certified mail, return receipt requested, to the complainant at his or her last known address or personally delivered to the complainant. The complainant shall be informed that he or she may appear and testify or may submit a written statement for consideration at the settlement conference. The complainant shall be notified if the conference is cancelled.

(g) Members of the complaints committee may be present at a settlement conference.

(h) The settlement conference shall be informal and shall not follow the procedures established in this chapter for contested cases and formal hearings.

(i) The licensee, the licensee's attorney, committee members, and the board may question witnesses, make relevant statement, present statements of persons not in attendance, and present such other evidence as may be appropriate.

(j) The board's legal counsel or an attorney from the Office of the Attorney General shall attend each settlement conference. The committee members or executive secretary may call upon the attorney at any time for assistance in the settlement conference.

(k) The licensee shall be afforded the opportunity to make statements that are material and relevant.

(l) Access to the board's investigative file may be prohibited or limited in accordance with the Open Records Act, Government Code, Chapter 552 and the Administration Procedure Act (APA).

(m) At the discretion of the executive secretary or the committee members, a tape recording may be made of none or all of the settlement conference.

(n) The committee members or the executive secretary shall exclude from the settlement conference all persons except witnesses during their testimony, the licensee, the licensee's attorney, and board staff.

(o) The complainant shall not be considered a party in the settlement conference but shall be given the opportunity to be heard if the complainant attends. Any written statement submitted by the complainant shall be reviewed at the conference.

(p) At the conclusion of the settlement conference, the committee members or executive secretary may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Licensed Professional Counselor Act (Act). The committee

member may also conclude that the board lacks jurisdiction, conclude that a violation of the Act or this chapter has not been established, order that the investigation be closed, or refer the matter for further investigation.

(q) The licensee or applicant may either accept or reject at the conference the settlement recommendations. If the recommendations are accepted, an agreed settlement order shall be prepared by the board office or the board's legal counsel and forwarded to the licensee or applicant. The order shall contain agreed findings of fact and conclusions of law. The licensee or applicant shall execute the order and return the signed order to the board office within ten days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction shall constitute rejection of the settlement recommendations.

(r) If the licensee or applicant rejects the proposed settlement, the matter shall be referred to the executive secretary for appropriate action.

(s) If the licensee or applicant signs and accepts the recommendations, the agreed order shall be submitted to the entire board for its approval. Placement of the agreed order on the board agenda shall constitute only a recommendation for approval by the board.

(t) The identity of the licensee or applicant shall not be made available to the board until after the board has reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the board meeting. The licensee or applicant shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

(u) Upon an affirmative majority vote, the board shall enter an agreed order approving the accepted settlement recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

(v) If the board does not approve a proposed agreed order, the licensee or applicant and the complainant shall be so informed. The matter shall be referred to the executive secretary for other appropriate action.

(w) A proposed agreed order is not effective until the full board has approved the agreed order. The order shall then be effective in accordance with the APA.

(x) A licensee's opportunity for an informal conference under this section shall

satisfy the requirement of the APA, §2001.054(c).

(1) If the executive secretary or complaints committee determines that an informal conference shall not be held, the executive secretary shall give written notice to the licensee or applicant of the facts or conduct alleged to warrant the intended disciplinary action and the licensee or applicant shall be given the opportunity to show, in writing and as described in the notice, compliance with all requirements of the Act and this chapter.

(2) The complainant shall be sent a copy of the written notice. The complainant shall be informed that he or she may also submit a written statement to the board office.

§681.199. Default Orders.

(a) If a right to a hearing is waived under §681.192(c) of this title (relating to Disciplinary Action; Notices) or §681.213(d) of this title (relating to General), the board shall consider an order taking disciplinary action as described in written notice to the licensee or applicant.

(b) The licensee or applicant and the complainant shall be notified of the date, time, and place of the board meeting at which the default order will be considered. Attendance is voluntary.

(c) Upon an affirmative majority vote, the board shall enter an order imposing appropriate disciplinary action.

§681.200. Monitoring of Licensees.

(a) The executive secretary shall maintain a complaint tracking system.

(b) Each licensee that has had disciplinary action taken against his or her license shall be required to submit regularly scheduled reports. The report shall be scheduled at intervals appropriate to each individual situation.

(c) The executive secretary shall review the reports and notify the complaints committee if the requirements of the disciplinary action are not met.

(d) The complaints committee may consider more severe disciplinary proceedings if non-compliance occurs.

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 October 11, 1993.

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James O. Mathis, Ed.D.
Chair

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Examiners of
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For further information, please call: (512) 834-6658

Subchapter M. Formal Hearings

• 22 TAC §§681.211-681.220

(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 State Board of Examiners of Professional Counselors 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 4512g, which provide the Texas State Board of Examiners of Professional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.211. Purpose.

§681.212. Definitions.

§681.213. General.

§681.214. Notice.

§681.215. Parties to the Hearing.

§681.216. Subpoenas.

§681.217. Depositions.

§681.218. Pre-hearing Conferences.

§681.219. Hearing Procedure.

§681.220. Action After the Hearing.

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

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• 22 TAC §§681.211-681.220

The new sections are proposed under Texas Civil Statutes, Article 4512g, which provide the Texas State Board of Examiners of Pro-

fessional Counselors with the authority to revise rules that are necessary to administer the Licensed Professional Counselor Act.

§681.211. Purpose. This subchapter covers the formal hearing procedures and practices that will be used by the board in handling denials, suspensions, temporary suspensions, probations, and revocations of a license and implements the contested case provisions of the Administrative Procedure Act (APA).

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

Contested case—A proceeding in accordance with Administrative Procedure Act (APA) and this chapter, including but not restricted to rule enforcement and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.

Formal hearing—A hearing or proceeding in accordance with this subchapter and includes a contested case as defined in this section to address the issues of a contested case.

Hearing examiner—A person who conducts hearings under this subchapter on behalf of the board.

Licensee—Any person licensed by the board.

Pleading—Any written allegation filed by a party concerning its claim or position.

§681.213. General.

(a) The board or appropriate committee on its own motion or on request from a licensee or applicant may initiate a formal hearing. A formal hearing and all related proceedings shall be conducted in accordance with the provision of Administrative Procedure Act (APA), applicable state and federal statutes, and this chapter.

(b) A formal hearing shall be held in Travis County, unless otherwise determined by the hearing examiner or upon agreement of the parties.

(c) The appropriate committee may determine whether a hearing will be held before a hearing examiner of the board. If a hearing examiner is not utilized, the board shall conduct the formal hearing and contested case proceedings, and all references in this subchapter to the hearing examiner shall be references to the board.

(d) If the applicant or licensee fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the allegations and proposed action and to have waived the right to

a hearing. Appropriate disciplinary action may be taken by the board.

§681.214. Notice.

(a) The hearing examiner shall give notice of the formal hearing in accordance with the notice requirements of Administrative Procedure Act (APA).

(b) If a party fails to appear or be represented at a hearing or proceeding after receiving notice, the hearing examiner may proceed with the hearing or proceeding or take whatever action is fair and appropriate under the circumstances.

§681.215. Parties to the Hearing.

(a) The parties to a hearing shall be the applicant or licensee and the appropriate committee of the board (the complaints committee or application committee).

(b) A party has the privilege to participate fully in any pre-hearing and formal hearing, to appeal as provided by law, and to perform any and all duties and privileges provided by Administrative Procedure Act (APA) and other applicable laws.

(c) A party may appear personally or be represented by counsel.

§681.216. Subpoenas.

(a) On the hearing examiner's own motion or on the written request of any party to the hearing, the hearing examiner shall issue a subpoena to the appropriate sheriff or constable to require the attendance of witnesses or the production of documents. A subpoena may be served by any person authorized to serve subpoenas under the Civil Practice and Remedies Code.

(b) All procedures relating to subpoenas shall be in accordance with APA.

(c) A party or witness may seek to quash the subpoena or move for a protective order as provided in the Texas Rules of Civil Procedure.

(d) Documents include books, papers, accounts, and similar materials or objects.

(e) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled shall be paid for mileage, transportation, meals, and lodging expenses and a fee of \$10 per day in accordance with the APA.

§681.217. Depositions. The taking and use of depositions in any contested case shall be governed by the APA.

§681.218. Pre-hearing Conferences.

(a) In a contested case, the hearing examiner, on his or her own motion or the motion of a party, may direct the parties, their attorneys, or representatives to appear at a specified time and place for a conference prior to the hearing for the purpose of:

(1) the formulation and simplification of issues;

(2) the necessity or desirability of amending the pleadings;

(3) the possibility of making admissions or stipulations;

(4) the procedure at the hearing;

(5) specifying the number of witnesses;

(6) the mutual exchange of prepared testimony and exhibits;

(7) designation of parties; and

(8) other matters which may expedite the hearing.

(b) The hearing examiner shall conduct the pre-hearing conference in such manner and with the necessary authority to expedite the conference while reaching a fair, just, and equitable determination of any matters or issues being considered.

(c) The hearing examiner shall have the minutes of the conference recorded in an appropriate manner and shall issue whatever orders are necessary covering the said matters or issues.

(d) Any action taken at the pre-hearing conference shall be reduced to writing, signed by the hearing examiner and the parties, and made a part of the record.

§681.219. Hearing Procedure.

(a) The hearing examiner's duties. The hearing examiner shall preside over and conduct the hearing. On the day and time designated for the hearing, the hearing examiner shall:

(1) convene and call the hearing to order;

(2) state the purpose of and the legal authority for the hearing;

(3) announce that a record of the hearing will be made;

(4) outline the procedure and order of presentation that will be followed;

(5) administer oaths to those who intend to testify; and

(6) take any and all other actions as authorized by applicable law and this subchapter to provide for a fair, just, and proper hearing.

(b) Order of presentation.

(1) After making the necessary introductory and explanatory remarks on the purpose of and other matters related to the hearing, the hearing examiner will begin receiving testimony and evidence from the witnesses.

(2) Each party may present evidence and testimony and cross-examine or ask clarifying questions of any witness who presents evidence or testimony.

(3) In the request for relief or action of any kind, the party seeking such relief or action has the burden of proving entitlement to the same; provided, however, that the order of proceeding may be altered or modified by the hearing examiner either upon agreement of the parties or upon his or her own motion when such action will expedite the hearing without prejudice to any party.

(4) When the party first proceeding finishes his or her case, the remaining party or parties will be allowed to present evidence and testimony in the same manner. Each witness is subject to cross-examination and clarifying questions by other participants to the proceedings.

(5) The hearing examiner may limit the number of witnesses whose testimony will be repetitious, and the hearing examiner may also establish time limits for testimony so long as all viewpoints are given a reasonable opportunity to be expressed.

(6) The hearing examiner, at his or her discretion, may allow final arguments or take the case under advisement, and shall note the time and close the hearing. For sufficient cause, the hearing examiner may hold the record open for a stated number of days for the purpose of receiving additional evidence into the record.

(c) Consolidation. The hearing examiner, upon his or her own motion or upon motion by any party, may consolidate for hearing two or more proceedings which involve substantially the same parties or issues. Proceedings before the agency shall not be consolidated without consent of all parties to such proceedings unless the hearing examiner finds that such consolidation will be conducive to a fair, just, and proper hearing and will not result in unwarranted expense or undue delay.

(d) Conduct and decorum during the hearing. Every party, witness, attorney, representative, or other person shall exhibit in all hearings proper dignity, courtesy, and respect for the hearing examiner and all other persons participating in or observing the hearing. The hearing examiner is authorized to take whatever action he or she deems necessary and appropriate to maintain the proper level of decorum and conduct, including, but not limited to, recessing

the hearing to be reconvened at another time or place or excluding from the hearing any party, witness, attorney, representative, or other person for such period and upon such conditions as the hearing examiner deems fair and just.

(e) The hearing record. The hearing record will include:

- (1) all pleadings, motions, and intermediate rulings;
- (2) evidence received or considered;
- (3) a statement of matters officially noticed;
- (4) questions and offers of proof, objections, and rulings of them;
- (5) proposed findings and exceptions;
- (6) any decision, opinion, or report by the hearing examiner; and
- (7) all staff memoranda or data submitted to or considered by the hearing examiner or members of the agency who are involved in making the decision.

(f) Recording the hearing. The hearing examiner will keep either a stenographic or other taped record of the hearing proceeding. In the event an independently contracted court reporter is utilized in the making of the record of the proceedings, the board shall bear the cost of the per diem or other appearance fee for such reporter. Any party desiring a written transcript of the proceedings shall contract directly with such court reporter and be responsible for payment of same pursuant to the authority of the Administrative Procedure Act (APA). In those cases when a tape recording of the formal hearing is made, the board shall make such recording available to any party requesting permission to hear or, with appropriate protective measures, allow such recording to be duplicated. Upon appeal of any final order of the board necessitating the forwarding of the record to a court of law, the board may assess the cost of the transcript to the appealing party.

(g) Rules of evidence. The hearing examiner will apply the rules of evidence under the APA and also the following rules.

(1) Consolidation. The hearing examiner may consolidate the testimony of parties or persons if the evidence can be effectively consolidated into one document or the testimony of one witness. The standard by which the hearing examiner should judge this consolidation is whether each party or person can offer unique or new evidence that has not been previously introduced. Any party, under oath, may make an offer of proof of the testimony or evidence excluded through consolidation by dictating into the record or submitting in writing the

substance of the proposed testimony prior to the conclusion of the hearing.

(2) Documentary evidence. Documentary evidence should be presented in its original form but if the original is not readily available, documentary evidence may be received in the form of copies or excerpts. On request, parties shall be given an opportunity to compare the copy with the original. When numerous documents are offered, the hearing examiner may limit those admitted to a number which is typical and representative, and may, at his or her discretion, require the abstracting of the relevant data from the documents and presentation of the abstracts in the form of exhibits provided, however, that before making such requirement, the hearing examiner shall require that all parties of record or their representatives be given the right to examine the documents from which such abstracts were made. Any party may make an offer of proof of the documents which are excluded by a hearing examiner's decision to remove only typical or representative documents.

(3) Exhibits.

(A) Form. Exhibits of documentary character shall be limited to facts material and relevant to the issues involved in a particular proceeding, and the parties shall make a reasonable effort to introduce exhibits which will not unduly encumber the files and records of the board.

(B) Tender and service. The original of each exhibit offered shall be tendered to the hearing examiner or a designee for identification and shall be offered to the parties for their inspection prior to offering or receiving the same into evidence.

(C) Excluded exhibits. In the event an exhibit has been identified, objected to, and excluded, it shall be given an exhibit number for purposes of identification and shall be included in the record under seal.

(D) After hearing. Unless specifically directed by the hearing examiner, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing except in a reopened hearing or a rehearing.

(4) Admissibility of prepared testimony and exhibits. When a proceeding will be expedited and the interests of the parties will not be prejudiced substantially, evidence may be received in written form. The prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read or received as

an exhibit, upon the witness being sworn and identifying the same as a true and accurate record of what his/or her testimony would be if he or she were to testify orally. The witness shall be subject to clarifying questions and to cross-examination and his or her prepared testimony shall be subject to a motion to strike either in whole or in part.

(5) Offer of proof. When testimony is excluded by the hearing examiner, the party offering such evidence shall be permitted to make an offer of proof by dictating into the record or submitting in writing the substance of the proposed testimony prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the board. The hearing examiner may ask such questions of the witness as he or she deems necessary to satisfy himself or herself that the witness would testify as represented in the offer of proof. An alleged error in sustaining any objections to questions asked on cross-examination may be preserved without making an offer of proof.

(6) Official notice. Official notice by the hearing examiner of the board shall be governed by the APA. Official notice may be taken of any statute, ordinance, or duly promulgated and adopted rules or regulations of any governmental agency. The examiner shall indicate during the course of a hearing that information of which he or she will take official notice. When an examiner's findings are based upon official notice of a material fact not appearing in the evidence of record, the examiner shall set forth in his or her proposal for decision those items with sufficient particularity so as to advise the parties of the matters which have been officially noticed. The parties shall have the opportunity to show to the contrary through the filing of exceptions to the hearing examiner's proposal for decision.

§681.220. Action After the Hearing.

(a) Reopening of hearing for new evidence.

(1) The board may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.

(2) The board will reopen a hearing to include such new evidence as part of the record if the board deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.

(3) Notice and procedural requirements will be the same as for the original hearing.

(b) Proposal for decision.

(1) If a proposal for decision is necessary under the APA, the hearing examiner shall prepare the proposal and provide copies of the same to all parties.

(2) Each party having the right and desire to file exceptions and briefs shall file them with the hearing examiner within the time designated by the hearing examiner.

(3) Parties desiring to do so shall file written replies to these exceptions and briefs as soon as possible after receiving same and within the time designated by the hearing examiner.

(4) All exceptions and replies to them shall be succinctly stated.

(c) Pleading after close. At any time after the record has been closed in a contested case, and prior to the administrative decision becoming final in such case, all briefs, exceptions, written objections, motions (including motion for rehearing), replies to the foregoing, and all other written documents shall be filed with the hearing examiner. The party filing such instrument shall provide copies of the same to all other parties of record by first-class U.S. Mail or personal service and certify, in writing thereon, the names and addresses of the parties to whom copies have been furnished, as well as the date and manner of service.

(d) Final orders or decisions.

(1) The final order or decision will be rendered by the board. The board is not required to adopt the recommendation of a hearing examiner and may deny, suspend, or revoke a license as it deems appropriate and lawful. A decision of the board may include any requirement to be imposed upon the licensee or applicant which is related to the individual's practice as a licensee and is deemed by the board to be appropriate and lawful.

(2) All final orders or decisions shall be in writing and shall set forth the findings of fact and conclusions required by law.

(3) All final orders shall be signed by the chairperson of the board; however, interim orders may be issued by the hearing examiner in accordance with his or her order of appointment.

(4) A copy of all final orders and decisions shall be timely provided to all parties as required by law.

(e) Motion for rehearing. A motion for rehearing shall be governed by the APA or other pertinent statute and shall be addressed to the board and filed with the executive secretary.

(f) Appeals. All appeals from final board orders or decisions shall be governed

by the APA or other pertinent statute and communications regarding any appeal shall be to the executive secretary of the board.

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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Chair
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TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 290. Water Hygiene Certification of Waterworks Personnel

• 30 TAC §§290.28-290.36

The Texas Natural Resource Conservation Commission (Commission) proposes amendments to §§290.28-290.36, concerning the certification of waterworks personnel.

All references to the Texas Department of Health, Board of Health, and department have been replaced with appropriate references to the Commission. Senate Bill 2, First Called Session, 72nd Legislature, transferred all the powers, duties, rights, and obligations of the Texas Department of Health pertaining to the setting of sanitary standards for drinking water and the protection of public water supplies and bodies of water to the Texas Water Commission effective March 1, 1992.

Section 290.28 is amended to change several definitions. In the definition of "Certificate" the references to the Department of Health (department) are changed to the commission, and the source of the printed signature on the certificate is changed to the Executive Director and Chair of the Commission. "Commission" and "Executive Director" are added to the definitions, and "Department" and "Committee," the Advisory Certification Committee for Waterworks Operators, is deleted. In the definition of "Designated Courses," advanced waterworks operation is deleted and the reference to the department is changed to the commission. The amended definition of "Experience" deletes the sentence stating that experience as foreman or supervisor in most capacities in water systems is considered as acceptable. The definition of "Training credit" is amended to change the reference from the department to commission.

Section 290.29 changes the reference to the department to the commission, and deletes

references to the committee. The amendments to that section also change the numbering of the subsections from letters to numbers.

The amendment to §290.30, concerning qualifications, changes the headings concerning substitution of qualifications from substitution for education to substitution for experience for Grade A, and Grade B groundwater certificates, adds substitution for experience for Grade C distribution certificates, adds education, experience, and training requirements for Grade B distribution certificates, and renumbers some subsections.

Section 290.31 changes the reference to the department to the commission, adds a provision stating that applications are only valid for 12 months from the date of the application, deletes the requirement of graduation from high school, allows proof of education in addition to training credit to be furnished to the commission, deletes the provision allowing a person with an expired certificate to reapply without demonstrating that the qualification requirements are met, and renumbers some subsections.

Section 290.32 changes the number of months in which to repeat an exam from nine to twelve, changes references to the department to the commission, provides that examinations may be given by the Advisory Certification Committee, and renumbers some subsections.

The amendment to §290.33 changes references to the department to the commission, changes the time for operators holding valid Grade B or C certificates on August 12, 1991, to exchange the certificate without examination and meeting the experience requirement to two years following the effective date of the rules, combines into one section former provisions allowing renewal of certificates by substitution of hours if certain requirements are met, allows recertification by passing the examination up to one year following expiration date without meeting current training requirements, provides that the basic water course may not be used to meet renewal requirements for Grade A or Grade B certificates one year after the effective date of the rules, provides when training hours may be used for renewal, deletes provisions allowing a certificate holder of 30 years to retain his certificate in perpetuity and allowing certificates previously issued in perpetuity to remain perpetual certificates, and renumbers certain subsections.

Section 290.34 changes references to the department to the commission, deletes the list of water-related topics for training, changes references to association to district, changes the entity which submits attendance reports from the appropriate district association officer to the Texas Water Utilities Association, changes the reference to annual or regional water utilities short schools to annual or regional water utilities school, and deletes references to training credit in the appropriate field.

Section 290.35 changes references to the department to the commission, and renumbers the subsections.

Section 290.36 changes references to the department to the commission and revises the application requirements for persons who fail to timely renew their certificates.

Stephen Minick, Division of Budget and Planning, has determined that for the first five-year period these sections as proposed are in effect there will be fiscal implications as a result of enforcement and administration of the sections. The effect on state government will be an increase in revenue of \$7,500 in fiscal year 1994 and \$1,500 in each of the fiscal years 1995-1998. The increase in revenue relates to the creation of an additional class of certificate for which interested persons may apply. These amendments are required to implement the transfer of program responsibility under the provisions of Senate Bill 2 and, with a few exceptions, are not considered to have significant fiscal implications. The sections as proposed may have some impact on municipalities which employ waterworks operators subject to certification under these rules. These effects are not anticipated to be significant in terms of cost to any particular jurisdiction or to municipalities or districts as a whole. The effects on holders of or applicants for operator certificates are associated with restrictions on the number of times an examination may be taken under one application and the qualification of former certificate holders for reinstatement. Potential effects on individual certificate holders may be apparent; however, these effects are still not anticipated to be significant. The maximum cost to any affected party would in most cases be limited to the application fee of \$50.

Mr. Minick also has determined that for the first five-year period these sections are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the program for certification of waterworks personnel, improvements in the professional qualifications of public water system operators and enhanced protection of the quality of public water supplies. There are no costs anticipated for small businesses. There are no known costs to persons required to comply with the sections as proposed beyond those identified for affected waterworks operators.

Written comments on the proposal may be submitted to Charles McEntire, Consumer and Utility Assistance Section, Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. In order to be considered, written comments must be received by the Water Utilities Division not later than 5:00 p.m., on the 30th day after the date of publication of this proposal.

The amendments are proposed under the Texas Water Code, §5.103, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of the state, and the Health and Safety Code, §341.034.

§290.28. Definitions. The following words and terms, when used in this undesignated head, shall have the following meanings,

unless the context clearly indicates otherwise:

Certificate—The certificate of competency issued by the commission [Department] which states that the operator has qualified for certification at the grade specified. The certificate shall have the original or printed signature of the executive director and chair of the commission [the Commissioner and of the Associate Commissioner for Environmental and Consumer Health Protection of the Department]. The commission [Department] may issue the following certificates:

- (A) Grade A Water;
- (B) Grade B Surface Water;
- (C) Grade B Groundwater;
- (D) Grade B Distribution;
- (E)[(D)] Grade C Surface Water;
- (F)[(E)] Grade C Groundwater;
- (G)[(F)] Grade C Distribution; and
- (H)[(G)] Grade D Water.

Commission—The Texas Natural Resource Conservation Commission.

[Commissioner—The commissioner of health or his or her authorized representative.]

[Committee—The Advisory Certification Committee for Waterworks Operators.]

[Department—The Texas Department of Health.]

Designated courses—The minimum 20-hour courses or their equivalent required to obtain a certificate, as specified in these rules and regulations. The designated courses shall include one or more of the following: basic waterworks operation, [advanced waterworks operation,] groundwater production, surface water production, water distribution, water laboratory, safety, pump and motor maintenance, and management. Courses offered by the Water and Wastewater Training Division, Texas A&M University Engineering Extension Service or similar approved courses shall be considered by the commission [department] to be designated courses.

Executive Director—The executive director of the Texas Natural Resource Conservation Commission.

Experience—Actual work experience, full or part-time, in water supply operation, maintenance, distribution, laboratory analysis, or other approved practices considered

essential for production of final product from the water supply system.

(A) [Experience as foreman or supervisor in most capacities in water systems shall be considered as acceptable.] Certificates of Competency shall not be issued to managerial or administrative officials such as mayors, city managers, councilpersons, or utility board members unless they conduct daily, on-site operational activities for a public water system. Certificates also will not be issued to support personnel such as secretaries, billing clerks, customer service representatives, meter readers, radio dispatchers, nor to employees of state and/or federal agencies having regulatory authority over public water systems.

(B)-(C) (No change.)

Training credit—The hours of credit allowed by the commission [department] for attendance at training which has been approved in accordance with the provisions in these rules and regulations.

Water supply system—The works and auxiliaries for production, treatment, storage, and distribution of the water from the sources of supply to the free-flowing outlet of the ultimate consumer.

§290.29. Administration.

[(a)] The commission [Department] shall be responsible for the following:

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

[(b)] The committee shall consist of eight members and shall be appointed and organized as follows:

[(1)] The commissioner shall appoint the following as members, giving consideration to geographic distribution:

[(A)] five persons who are currently employed by waterworks systems and who hold the highest classification of certificate issued by the department;

[(B)] one faculty member of a college, university, or technical school;

[(C)] one person who represents the department;

[(D)] one person who represents the employers of waterworks operators.]

[(2)] Ex officio non-voting members of the committee shall consist of:]

[(A)] the division head, Water and Wastewater Training Division, Texas

A&M University Engineering Extension Service; and]

[(B) the executive director, Texas Water Utilities Association.]

[(3) The term of committee membership shall be five years, and no member shall serve more than two consecutive terms. No member shall continue to serve when his or her major activity is no longer in waterworks operations.]

[(4) The commissioner shall appoint the committee chairman from among the members. The committee shall select from among its members such other officers as may be needed.]

[(5) A quorum of the committee shall be a majority of its members.]

[(6) Committee members shall be eligible for reimbursement of travel expenses at the same rate as state employees. Expenses must be approved by the department.]

[(c) The committee shall be responsible for the following:]

[(1) assisting the department in formulating policies, regulations, and procedures needed to administer the certification program;]

[(2) conducting and grading Grade A examinations at the request of the department;

[(3) advising and assisting the department as needed in reviewing and evaluating questionable applications and in other matters, as requested by the department];

[(4) promoting and encouraging the certification of waterworks personnel;]

[(5) advising the department regarding the approval of training courses for certification credit.]

§290.30. Qualifications.

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

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

(5) For [for] the years of experience required for Grade A certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than six years for high school graduates, five years for college graduates with bachelor's degrees, or four years for college graduates with master's degrees.

(c) (No change.)

(d) Grade B groundwater certificate. Education, experience, and training re-

quirements are as follows:

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

(4) For [for] the years of experience required for Grade B groundwater certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than three years for a high school graduate or one year for a college graduate.

(e) Grade B distribution certificate. Education, experience, and training requirements are as follows:

(1) high school graduation or the equivalent, five years of experience, and 100 hours of training credit (See paragraph (3) of this subsection);

(2) college degree (bachelor's) with a major in any engineering discipline eligible for registration as a professional engineer; or in chemistry, biology, or bacteriology; one year of experience, and 100 hours of training credit (See paragraph (3) of this subsection);

(3) the 100 hours of training credit indicated in paragraphs (1) and (2) of this subsection shall include each of the following designated courses, or the equivalent:

(A) water distribution;

(B) safety;

(C) pump and motor maintenance; and

(D) water laboratory.

(4) for the years of experience required for Grade B distribution certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than three years for a high school graduate or one year for a college graduate.

(f)[(e)] Grade C surface water certificate. Education, experience, and training requirements are as follows:

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

(4) For the years of experience for Grade C surface water certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than one year.

(g)[(f)] Grade C groundwater certificate. Education, experience and training requirements are as follows:

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

(4) For [for] the years of experience for Grade C groundwater certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than one year.

(h)[(g)] Grade C distribution certificate. Education, experience, and training requirements are as follows:

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

(3) The remaining 20 hours must be in one of the following courses:

(A) pump and motor maintenance;

(B) chlorinator maintenance;

(C) water laboratory;

(D) water utility safety; [or]

(E) water utilities calculations; or

(F) valve and hydrant maintenance.

(4) For the years of experience for Grade C distribution certificates, one year of college (32 semester hours) or an additional 40 hours of approved training credits may be substituted for one year of the experience requirement. In no case shall the actual experience be less than one year.

(i)[(h)] Grade D water certificate. A Grade D water certificate is not renewable if the operator is employed at a system of 250 connections or more; surface water systems must have an operator with at least Grade C surface water certification. Education, experience, and training requirements are as follows:

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

§290.31. Applications.

(a) Application for certification shall be made on a standard form provided by the commission [Texas Department of Health (department)] and signed by the applicant. All statements and qualifications given by the applicant are subject to verification by the commission [department]. Misrepresentation or falsification of information by the applicant shall be grounds for rejection of an application.

(b) Each application shall be accompanied by the appropriate fee. If application is made for two or more grades, the fee shall be for the sum of each certificate applied for on the application form. A certificate will be issued for the highest level passed. Approved applications and fees are valid for 12 months from the date of application. If an examination has not been taken within 12 months from the date of application, a new application must be submitted with another fee.

(c) Grade A, B, and C applicants shall list two references, preferably a current and a previous supervisor, whom the commission [department] may contact to verify the applicant's work experience.

(d) The applicant shall furnish evidence of having the equivalent of high school graduation. Any of the following shall be considered the equivalent of high school graduation:]

[(1) The General Education Development (GED) diploma,]

[(2) the report of satisfactory scores on the required GED examinations,]

[(3) a report of official discharge from the U.S. Armed Forces which shows high school equivalency,]

[(4) admission to an accredited college or university]

(d)(e) The applicant shall furnish evidence of any training credit or proof of education when requested by the commission [department]

(e)(f) Any examination taken by the applicant prior to the commission's [department's] approving the corresponding application shall be held by the commission [department] for a maximum of six [nine] months pending approval of the application for one or more grades of certificates. If the application is not approved within six [nine] months for one or more grades of certificate, the applicant shall submit a new application with the appropriate fee and retake the examination.

(f)(g) Any applicant for a Grade A certificate shall meet qualification requirements and submit the appropriate fee before taking the examination. An approved application will be held for a maximum of nine months, then discarded if an examination has not been taken.

(h) Any person who previously held a Grade A, B, C, or D certificate which expired may reapply and take the examination without demonstrating that the qualification requirements are met, provided that proof of the previously held certificate and appropriate fee are submitted to the department.]

§290.32. Examinations.

(a) (No change.)

(b) Any applicant who fails to pass an examination may repeat the same examination after a period of 90 days following the date of the previous examination. Following the failure of an initial examination, the application shall be held for a maximum of 12 months pending the repeat of the examination. During this period, the examination may be retaken twice more without payment of an additional fee. If the examination is not repeated within 12 months, the applicant shall submit another application with the appropriate fee.

(c) Following the failure of an initial examination, for which a fee is submitted, an applicant's application shall be held by the department for a maximum of nine months pending the applicant's repeating the examination. If the examination is not repeated within nine months, the applicant shall submit another application with the appropriate fee. The exam may be retaken a maximum of three times for one fee.]

(c)(d) Examinations shall be supervised by the commission [department], by any member of the committee, or by any person designated by the commission [department] Examinations shall be given at places and times determined by the commission [department], by any member of the advisory certification committee, or by persons designated by the commission [department]

(d)(e) Examinations shall be graded by the commission [department] or by any member of the advisory certification committee, at the request of the commission [department]

§290.33 Certificates.

(a) Issuance of certificates

(1) Upon satisfactory fulfillment of the requirements provided in these rules and regulations, a suitable certificate shall be issued by the commission [department]

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

(6) Operators holding a valid Grade B or C surface water certificate on August 12, 1991, may exchange the certificate for the same grade of groundwater certificate without examination and without meeting the groundwater experience requirement provided: the required designated courses have been completed; the appropriate application and fee have been submitted; the operator can demonstrate a need for the groundwater certificate; and the exchange is made within two years following the effective date of these rules.

(7) Operators holding a valid Grade B or C groundwater certificate on August 12, 1991, may exchange the certificate for the same grade of surface water certificate without examination and without meeting the surface water experience requirement provided: the required designated courses have been completed; the appropriate application and fee have been submitted; the operator can demonstrate a need for the surface water certificate; and the exchange is made within two years following the effective date of these rules.

(8) Upon application and payment of the appropriate fee, an operator who maintains a valid certificate for 30 years shall retain his certification in perpetuity.

(9) Grade A certificates previously issued in perpetuity will remain perpetual certificates.

(b) Period of validity of certificates.

(1) The period of validity shall be as follows:

(A) Grade A: 8 years;

(B) Grade B: 5 years;

(C) Grade C: 3 years; and

(D) Grade D: 2 years.

(2) The certified operator shall inform the commission [department] of any change in address or employment during the period of validity of the certificate.

(c) Renewal of certificates.

(1) (No change.)

(2) The following requirements shall be met for renewal of each certificate along with payment of the appropriate fee:

(A) certificates may be renewed by substitution of hours if the required training credits and the appropriate fee are submitted within 30 days following the expiration date of the certificate. Training required for renewal is as follows: Grade A-80 hours; Grade B-50 hours; Grade C-30 hours; and Grade D-20 hours.

[(A) retaking and passing the written examination within 30 days following the expiration date of the certificate, in which case renewal shall be effective on the date of examination;]

(B) certificates may be renewed by retaking and passing the writ-

ten examination within 30 days following the expiration date of the certificate, in which case renewal shall be effective on the date of examination.

[(B) completion of 20 hours of training credit for a Grade D certificate since the date of last issuance and prior to the date of expiration, in which case renewal shall be effective on the date of expiration. Training credit hours may be used only once for renewal;]

(C) [(F) when the certificate of an operator expires while he or she is in military service, it may be renewed without examination upon proof of military service and of the previously held certificate.

[(C) completion of 30 hours of training credit for a Grade C certificate since the date of last issuance and prior to the date of expiration, in which case renewal shall be effective on the date of expiration. Training credit hours may be used only once for renewal;]

[(D) completion of 50 hours of training credit for a Grade B certificate since the date of last issuance and prior to the date of expiration, in which case renewal shall be effective on the date of expiration. Training credit hours may be used only once for renewal;]

[(E) completion of 80 hours of training credit for a Grade A certificate since the date of last issuance and prior to the date of expiration, in which case renewal shall be effective on the date of expiration. Training credit hours may be used only once for renewal;]

(3) Operators may be recertified by passing the appropriate examination up to one year following a certificate's expiration date without meeting current training requirements. Operators who wish to recertify after one year following a certificate's expiration date must meet the current training requirements.

[(3) Operators holding a valid Grade B or C surface water certificate on the effective date of these rules may exchange the certificate for the same grade of groundwater certificate without examination and without meeting the groundwater experience requirement provided: the required designated courses have been completed, the appropriate application and fee have been submitted; the operator can demonstrate a need for the groundwater certificate; and the exchange is made either within two years following the effective date of these rules or by the expiration date of the surface

water certificate, whichever is the greater time period.]

(4) The basic water course may not be used to meet renewal requirements for Grade A or Grade B certificates after one year following the effective date of these rules.

[(4) Operators holding a valid Grade B or C groundwater certificate on the effective date of these rules may exchange the certificate for the same grade of surface water certificate without examination and without meeting the surface water experience requirement provided: the required designated courses have been completed; the appropriate application and fee have been submitted; the operator can demonstrate a need for the surface water certificate; and the exchange is made either within two years following the effective date of these rules or by the expiration date of the groundwater certificate, whichever is the greater time period.]

(5) Training credit hours may be used only once for renewal purposes and must be earned before the issuance date and expiration date of the certificate.

[(5) Upon application and payment of the appropriate fee, an operator who maintains a valid certificate for 30 years shall retain his certification in perpetuity.]

(6) When the certificate of an operator expires while he or she is in military service, it may be renewed without examination upon proof of military service and of the previously held certificate.

[(6) Grade A certificates previously issued in perpetuity will remain perpetual certificates.]

(d) Application renewal procedure.

(1) Before the expiration date of the certificate, the commission [department] shall mail to the certified operator a renewal application showing the expiration date, the requirements for renewal, and the fee to be paid. The commission [department] shall mail the renewal application to the operator at the most recent address provided by the operator to the commission [department].

(2) The operator shall return the renewal application with the appropriate fee to the commission [department], and shall submit any required record or evidence of completion of training credit.

(3) Upon the applicant's satisfactory fulfillment of the requirements for renewal provided in these rules and regulations, a suitable renewal certificate shall be issued by the commission [department].

(e) Suspension or revocation of certificates.

(1) (No change.)

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

(2) When the commission [department] has reason to believe that charges against a certified operator may be valid, the commission [department] shall notify the operator by personal service or certified mail at his last known address:

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

(3) After the commission's [department's] examination of the charges and the operator's rebuttal, if the commission [department] still has reason to believe there is cause for suspension or revocation, the commission [department] shall initiate a formal hearing in accordance with the commission's [department's] formal hearing procedures. [in Chapter 1 of this title (relating to Texas Board of Health).]

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

(6) An operator may be placed on "probation" [probation] if, in the judgment of the commission [department], he/she commits an offense not serious enough to warrant suspension or revocation of the certificate. Such "probationary" [probationary] status shall serve as a warning to the operator and additional or repeat offenses shall warrant suspension or revocation proceedings. The period of probation shall be at the discretion of the commission [department], and may vary depending upon the circumstances and nature of the offense. Notification and rebuttal procedures for probation shall be the same as for suspension and revocation except that the commission [department] shall not be required to hold a formal hearing in accordance with paragraph (3) of this subsection.

§290.34. Training Approval.

(a) Training used to meet the requirements for obtaining or renewing water certificates shall be in water-related topics, as determined by the commission [Texas Department of Health (Department)]. Water-related topics include basic waterworks operation, groundwater production and treatment, surface water production and treatment, water distribution, water laboratory, safety, water utility management, or their equivalency as determined by the Department.]

(b) Training credit for attendance at meetings of districts and approved chapters of the Texas Water Utilities Association shall be allowed only when the meeting includes a training session related to waterworks or wastewater operations. Training credit shall be based upon the attendance

report submitted by the Texas Water Utilities Association. [appropriate district association officer.] Persons earning training hours at district [association] meetings may use these hours toward obtaining renewal certificates and new certificates where allowed under these rules. Training credit shall be allowed in accordance with the following provisions:

(1) district [association] monthly meetings: two hours of credit per meeting attended and verified; and

(2) district [association] all day meetings: one hour of credit per hour of verified attendance;

(c) Training credit for attendance at training sessions of annual or regional water utilities [short] schools, sponsored by the Texas Water Utilities Association and/or districts [associations], recognized by the commission [department], shall be allowed in accordance with the following provisions:

(1) annual or regional [short] school: one hour of credit per hour in attendance at training sessions; and [up to a maximum of 20 hours;]

(2) training credit shall be based upon attendance recorded by the commission [department] or by other means determined by the commission [department].

(d) Training credit for certification will be granted for those courses which have been reviewed and approved by the commission [department] prior to the receipt of the training.

(e) Upon application, an individual may be granted four hours of training credit [in the appropriate field] for presenting one hour of training at the annual school or regional schools of the Texas Water Utilities Associations and 10 hours of training credit [in the appropriate field] for articles published in journals such as the American Water Works Association, Texas Water Utilities Association Journal, or others relating to the water utilities industry.

§290.35. Reciprocity. The commission [department] may issue certificates, without examination, to applicants who hold valid certification issued under laws of any other state, territory, or possession of the United States of America or any country provided:

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

(4) the applicant lives in Texas [this state] or is employed in the water-works field in Texas; and

(5) (No change.)

§290.36. Fees.

(a) (No change.)

(b) Certificates that have not been renewed within 30 days of the expiration date with the appropriate fee will be considered invalid. A new certificate shall be obtained by submitting a new application with the appropriate fee and receiving a passing score on the examination if application is made within 12 months following the expiration date of the certificate.

(c)-(d) (No change.)

(e) All fees shall be made payable to the Texas Natural Resource Conservation Commission [TDH-OCP (Texas Department of Health Operator Certification Program)] and are not refundable.

(f) (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 October 7, 1993.

TRD-9329965 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call. (512) 463-8069

Rules and Regulations for Public Water System

• 30 TAC §290.51

(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 Natural Resources Conservation Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Natural Resource Conservation Commission (TNRCC) proposes the repeal of §290.51 and the adoption of new §290.51 concerning fees for services to public water systems. The Commission is proposing this new section in response to significant increases in federal monitoring requirements under the Safe Drinking Water Act. These mandates require a significant increase in regulatory involvement with public water systems. Currently, the TNRCC staff schedules and collects most federally mandated drinking water samples. For this service to continue, additional staff and funding are required. Failure to secure additional funding will result in this burden being shifted to public water suppliers. The new section proposes fees similar in structure to the existing fees. Due to the expanded regulatory scheme mandated by the Safe Drinking Water Act, including the additional inspection and sampling requirement, the existing fee structure is insufficient to meet the needs of the program. As a result, the proposed new section is designed to provide the Commission with necessary

additional revenue.

Stephen Minick, Division of Budget and Planning, 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 increase in revenue of approximately \$1.65 million in each of the fiscal years 1994-1998. This section will result in increased costs to operators of public water systems of \$1.65 million annually over the same period. Costs to individual operators will vary but are anticipated to increase an average of approximately \$230 per year. The increases will range from 20% in the smallest system to 265% in the largest system. These costs will also be realized by local governments which operate public water systems. Likewise, private operators of public water systems will realize the same cost increases and the effects anticipated for small businesses will vary under the proposed rate schedules with the size of the system, the number of service connections, wells and surface plants.

Mr. Minick has also determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing this repeal will be improvements in the regulation of public water systems and the resources available to support drinking water programs. Specifically, this fee and staffing increase will greatly reduce the regulatory liability of public water suppliers by insuring that timely and appropriate sampling takes place. There are no known costs anticipated for persons required to comply with this section that are not identified previously.

Written comments on the proposal may be submitted to Steven E. Walden, Monitoring and Enforcement Section, Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-6020. Comments will be accepted for a period of 30 days following the date of this publication. In addition, a public hearing will be held on October 28, 1993, at 10:00 a.m., in Room 103 of John H. Reagan State Office Building, Austin.

The repealed section is proposed under the Texas Water Code §5.103, which authorizes the Texas Natural Resource Conservation Commission to adopt any rules necessary to carry out its powers, duties, and policies, and the Health and Safety Code, §341.041.

§290.51. Fees for Services to Drinking Water System.

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 October 7, 1993.

TRD-9329962 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption. November 15, 1993

For further information, please call: (512) 463-8069

The new section is proposed under the Texas Water Code, §5.103, which authorizes the Texas Natural Resource Conservation Commission to adopt any rules necessary to carry out its powers, duties, and policies, and the Health and Safety Code, §341.041.

§290.51. Fees for Services to Drinking Water System.

(a) Purpose and scope.

(1) The purpose of this section is to establish fees for services provided by the commission to public water systems.

(2) The commission will provide services to public water systems, as follows:

(A) scheduling of analysis of drinking water for chemical content;

(B) collection of samples of drinking water for chemical analyses;

(C) review system data for evaluation of sampling waivers;

(D) inspect public water systems;

(E) review plans for new systems and major improvements to existing systems; and

(F) provide technical assistance as needed.

(3) The fees which the commission will charge for services provided to community and nontransient noncommunity water systems under this subsection will be according to the following schedule:

Number of connections (c) *

$$A_{fee} = (c)^{0.65} \times \$9.50$$

Number of wells (w)

$$B_{fee} = (w) \times \$40.00$$

Number of surface plants (s)

$$C_{fee} = (s) \times \$400.00$$

$$TOTAL FEE = A_{fee} + B_{fee} + C_{fee}$$

*Number of connections will be determined from data collected from the latest inspection report. All nontransient noncommunity systems, state, federal and other community water system installations determined by the commission which serve large populations through a few connections shall have the number of connections for fee purposes determined by dividing the population served by a value of ten. Examples of such installations include, but are not limited to, are universities, children's homes, correctional facilities, and military facilities which generally do not bill customers for water service.

** The minimum total fee will be \$75.

(4) New public water systems will not be assessed a fee for services until water is supplied to the first connection.

(5) The commission will charge a fee of \$75 for services provided to noncommunity water systems which are not addressed in paragraph (3) of this subsection.

(6) All fees are due by January 1 of each year, shall be paid by check or money order, and shall be made payable to the Texas Natural Resource Conservation Commission.

(b) Failure to make payments as

required under this section will subject the violator to the penalty provisions of Chapter 341, of Subchapter C of the Health and Safety Code.

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 October 7, 1993.

TRD-9329963

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: November 15, 1993

For further information, please call: (512) 463-8069

Chapter 330. Municipal Solid Waste

Subchapter P. Fees and Reports

- 30 TAC §§330.601-330.604, 330.621, 330.641

The Texas Natural Resource Conservation Commission (TNRCC) proposes amendments to §§330.601-330.603, 330.621, and 330.641,

and new §330.604, concerning fees and reports. These sections are proposed in order to incorporate new provisions of the Solid Waste Disposal Act (SWDA), Health and Safety Code, recently promulgated by the legislature in Senate Bill 1051 (SB 1051), and to clarify certain operating procedures, related primarily to solid waste fees, measurement options, and reporting requirements. Also, throughout these proposed amendments the term "department" is proposed to be changed to "commission," and the mailing address of the agency is proposed to be appropriately changed.

Section 330.601 (relating to Purpose and Applicability) is proposed to be amended by adding new language at §330.601(a)(2) and redesignating existing §330.601(a)(2) as §330.601(a)(3). The proposed new language states that the assessment of fees for the generation or management of industrial solid waste or hazardous waste is governed by regulations contained in Chapter 335, Subchapter J of this title (relating to Hazardous Waste Generation, Facility, and Disposal Fees System).

Section 330.601 (relating to Purpose and Applicability) is proposed to be amended at subsection (b) to delete the exemption from payment of solid waste fees currently provided for operators of facilities registered or permitted independently from disposal processes or disposal, and to add the statutory exemption for source-separated yard waste materials that are composted at a composting

facility provided by §1.08 of SB 1051, amending the Health and Safety Code, §361.013(f). Also proposed is the statutory exception which does not allow exemption from the fee for any compost or product for composting that is not used as compost or is deposited in a landfill. Further, §330.601(b) is proposed to be clarified by adding a definition for source-separated yard waste.

Section 330.601 (relating to Purpose and Applicability) is also proposed to be amended by adding new language at §330.601(b)(2) and redesignating existing §330.601(b)(2) as §330.601(b)(3). The proposed new language states that a fee for disposal of an industrial solid waste or hazardous waste in a municipal solid waste disposal facility shall be assessed under the authority of Chapter 335, Subchapter J, of this title (relating to Hazardous Waste Generation, Facility and Disposal Fees System), unless no such fee is applicable under Chapter 335, Subchapter J, in which case the waste shall be assessed a fee under Chapter 330 of this title for disposal of solid waste in municipal solid waste facility. In addition, new §330.601(b)(4) is proposed to include specific reference to interest penalties for late payment of the fees authorized under this subchapter. House Bill 2605, Acts of the 73rd Legislature, 1993, authorizes the commission to adopt consistent rules relating to the assessment of interest penalties.

Section 330.602 (relating to Fees) is proposed to be amended at §330.602(a)(1) and (2) to incorporate the statutory changes in the solid waste fee structure provided by §1.08 of SB 1051, amending the Health and Safety Code, §361.013(a). The proposed amendment would establish the fees the commission shall charge for landfill disposal of municipal solid waste at \$1.25 per ton of waste received, if measured by weight, or if measured by volume, \$0.40 per cubic yard of compacted solid waste or \$0.25 per cubic yard of uncompacted solid waste received. Also, §330.602(a)(1) is proposed to be amended by adding a meaning for the term "compacted waste," as a liquid, sludge, or similar waste or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, dewatering, composting, incineration, and similar processes. Under proposed §330.602(a)(2), related to measurement options, the fee rates are reiterated, and it is specified that the commission will calculate the fees. Further, under proposed §330.602(a)(2)(B) and (C) the landfill operator without scales available is required to accurately report the number of cubic yards of compacted and uncompacted waste received for disposal.

Section 330.602 is also proposed to be amended by the addition of §330.602(a)(3), relating to fee calculation by the commission, which would be based on information obtained from the quarterly solid waste summary report, and the results of the calculation would be billed to the applicable permittee/registrant or a designated representative on a quarterly basis. Proposed §330.602(a)(4) sets the payment date for solid waste fees at 30 days from the date the payment is requested. Under new proposed §330.602(a)(5), formerly designated as

§330.602(a)(4), the references to the Department of Health and the Bureau of Solid Waste are proposed to be deleted and substituted with the Texas Natural Resource Conservation Commission. Further proposed amendments relate to the mailing address, and method of fee calculation, with the proposed deletion of the sentence, "The fee shall be calculated using information in the quarterly report and remitted along with the quarterly report." Under new §330.602(a)(6), relating to penalties, the word "commission" is proposed to be substituted for "department," and the following phrase is proposed to be added: "...may assess interest penalties for late payment of fees." Also, the statutory reference of §361.252 of the Health and Safety Code would be substituted for the outdated rule reference.

Section 330.602(b), relating to fees for solid waste incineration and processing for disposal by a means other than landfilling, is proposed to be amended to delete the specific inclusion in the existing rule requiring a fee for "processing of solid waste for fuel or recycling," in order to enable the commission to not charge a fee for these activities if it is deemed appropriate not to charge the fee. This subsection (b) is also proposed to be amended to allow for the reporting of waste amounts by volume (i.e., cubic yards), as well as by the recommended method of reporting by weight (i.e., short tons).

In §330.602(b)(1), relating to fee rates, the rates are proposed to be adjusted to match the fee structure provided for in the statute under §361.013(A), Health and Safety Code. Thus, the fee rate is proposed to be 62.5 cents per ton of waste received, if measured by weight, or if measured by volume, 20 cents per cubic yard of compacted solid waste or 12.5 cents per cubic yard of uncompacted solid waste received. Also §330.602(b)(1) is proposed to be amended by adding a meaning for the term "compacted waste," as a liquid, sludge, or similar waste, or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, dewatering, composting, incineration, and similar processes. Under proposed §330.602(b)(2), related to measurement options, the fee rates are reiterated, and it is specified that the commission will calculate the fees. Further, under proposed §330.602(b)(2)(B) and (C), the operator without scales available is required to accurately report the number of cubic yards of compacted and uncompacted waste received.

Section 330.602 is also proposed to be amended by the addition of §330.602(b)(3) relating to fee calculation by the commission, which would be based on information obtained from the quarterly solid waste summary report, and the results of the calculation would be billed to the applicable permittee/registrant or a designated representative on a quarterly basis. Proposed §330.602(b)(4) sets the payment date for solid waste fees at 30 days from the date the payment is requested. Under new proposed §330.602(b)(5), formerly designated as §330.602(b)(4), the references to the Department of Health and the Bureau of Solid Waste are proposed to be deleted and substituted with the Texas Natural Resource Con-

servation Commission. Further proposed amendments relate to the mailing address, and method of fee calculation, and the proposed deletion of the sentence, "The fee shall be calculated using information in the quarterly report and remitted along with the quarterly report." Under new proposed §330.602(b)(6), relating to penalties, the word "commission" is proposed to be substituted for "department," and the following phrase is proposed to be added: "...may assess interest penalties for late payment of fees." Also, the statutory reference to §361.252 of the Health and Safety Code would be substituted for the outdated rule reference.

Section 330.603 is proposed to be amended at §330.603(a)(1) by adding a name for the report for disposal facilities and processes as the Municipal Solid Waste Fee Report. Under §330.603(a)(1)(A), added specified contents of the report would include the amount of source-separated yard waste converted to compost or product for composting, in order to enable the commission to implement the Health and Safety Code, §361.013(f), as added by SB 1051, which stipulates that the commission may not charge a fee for source-separated yard waste materials that are composted at a composting facility. Under proposed §330.603(a)(2)(B), the conversion factors for cubic yards to pounds, medium compaction and heavy compaction, are proposed to be amended from 600 pounds per cubic yard to 666.66 pounds per cubic yard (medium) and from 700 pounds per cubic yard to 800 pounds per cubic yard (heavy). Section 330.603(a)(3) is proposed to be amended by adding the phrase "or the amount of waste processed for disposal at a processing facility serving less than 5,000 people," in order to allow the use of population equivalent by such processing facility owners/operators. This section is also proposed to be amended to fix the population equivalent at one ton per person per year.

Section 330.603 is also proposed to be amended under §330.603(a)(5) to change the report due date from 45 days after each calendar quarter to 20 days following the end of the fiscal quarter, and to specify that the commission's fiscal year begins on September 1 and concludes on August 31. Under proposed §330.603(a)(7), relating to penalties, the statutory reference to §361.252 of the Health and Safety Code would be substituted for the outdated rule reference.

Section 330.603 is proposed to be amended at §330.603(b)(1) by adding a name for the report for facilities and processes not for disposal as the Municipal Solid Waste Annual Summary Report. Under proposed §330.603(b)(6), relating to penalties, the statutory reference of §361.252 of the Health and Safety Code would be substituted for the outdated rule reference.

New §330.604 (relating to Composting Refund) is proposed in order to implement the statutory requirements relating to the solid waste fee refund for certain composting activities and accomplishments, pursuant to SB 1051 and the Health and Safety Code, §361.013(f) and §361.0135. Proposed new §330.604(a) would establish the applicability of the refund by specifically excluding any

compost or product for composting that is not used as compost and is deposited in a landfill or used as daily landfill cover. This new section also proposes that in order to be eligible for the composting refund, the operator of the facility must receive written approval of a composting plan by the executive director. Under proposed new §330.604(b), a refund of up to 15% is provided for operators of municipal solid waste facilities if the refunds are used to lease or purchase and operate equipment necessary to compost yard waste; composting operations are actually performed; and the finished compost material produced by the facility is returned to beneficial reuse. Proposed new §330.604(c) provides that the refund would increase to up to 20% of the total solid waste fees if, in addition to composting the yard waste, the operator voluntarily bans the disposal of yard waste at the facility, while proposed new subsection (d) states that the total amount of the refund is limited to the amount identified in the facility's composting plan. Proposed new §330.604(e) identifies when the composting refund is collectable, and also allows the refund to be applied as a credit against future billed fees. Subsection (e) also proposes that the operator is entitled to the refund of a percentage of the fees collected by the facility on or after the date which the executive director of the commission approves the composting plan. Finally new §330.604 is proposed at subsection (f) to require the commission to conduct an annual assessment of the composting operations applying for a refund in order to ensure composting activities are conducted in accordance with the approved composting plan, and to state that failure to so comply may result in the suspension of the composting refund.

Section 330.621(b) and §330.641(b) are proposed to be amended to change the reference to the Texas Department of Health to the commission.

Stephen Minick, Division of Budget and Planning, has determined that for the first five-year period the sections as proposed are in effect there will be fiscal implications as a result of enforcement and administering the sections. The effect on state government will be a decrease in revenue equivalent to the amount of fees credited to operators of municipal solid waste facilities qualifying for credits for purchase and operation of composting equipment. The actual amount of revenue involved cannot be determined and will depend on a number of factors related to the costs and benefits of maintaining a composting facility for each operator. These factors will vary for each facility. The absolute maximum amount of revenue credited would be 20% of the annual total income to the Municipal Solid Waste Disposal Fund, or approximately \$4.5 million. It is anticipated that the credits issued will be less than this amount, particularly in the first years the rule is in effect. The effect on local government will vary depending on local conditions and the operation of solid waste management facilities. The effect of the proposed rule will be to amend disposal fee rates for wastes measured both by weight and by volume. The effect on any one facility will depend on the method of measurement utilized and whether

the proposed rate represents an increase or decrease. Although costs to some operators of municipal solid waste facilities may increase by undetermined amounts, it is not anticipated that total revenues paid by facility operators as a group will change significantly as a result of the proposed rate changes. Local governments will also be affected by the exemption from fees assessment proposed for source-separated yard waste. This exemption will be generally equivalent to the \$.25 per cubic yard proposed to be assessed for uncompacted waste. In addition, local governments operating municipal solid waste facilities will have the same opportunity as any operator to qualify for up to a 20% credit against quarterly disposal fee payments for operation of composting equipment. There are no costs anticipated to small businesses.

Mr. Minick has also determined that for each year of the first five years the sections as proposed are in effect the public benefits anticipated as a result of enforcement of and compliance with the sections are more equitable rate structures for fee assessments for disposal of solid waste, improved support of state policies for management of solid waste, preservation of the capacity of the state's solid waste disposal facilities and the increased reduction in the amounts of solid waste disposed. There are no costs anticipated for individuals required to comply with these sections as proposed.

Comments on the proposal may be submitted to John Sadler, Municipal Solid Waste, Compliance/Enforcement Section, Texas Natural Resource Commission, P.O. Box 13087, Austin, Texas 78711-3087. Comments will be accepted for 30 days after the date of publication.

The new and amended sections are proposed under the Texas Health and Safety Code, Chapter 361, which provide the commission all powers necessary and convenient under that chapter to carry out its responsibilities concerning the regulation and management of municipal solid waste. These sections will implement the provisions of Health and Safety Code §§361.013, 361.0135, 361.014, 361.136, 361.252, and House Bill 2605, Acts of the 73rd Legislature, 1993.

§330.601. Purpose and Applicability.

(a) Purpose.

(1) Fees The commission [department] is mandated by the Solid Waste Disposal Act, Health and Safety Code, Chapter 361, to collect a fee for solid waste disposed of within the state, and from transporters of solid waste who are required to register with the state. Fee requirements for persons who collect and/or transport municipal wastewater treatment plant sludges, water supply treatment plant sludges, grit trap waste, grease trap waste, and septage are contained in §330.448 of this title (relating to Transporter Fees) Transportation fee schedules for persons who engage in the collection and/or transportation of used or scrap tires are contained in §330.817 of this

title (relating to Transporter Fees). Persons desiring to transport or deliver waste in enclosed containers or enclosed vehicles to a Type IV municipal solid waste management facility are subject to special route permit application and maintenance fees set forth and described in §330.32 of this title (relating to Collection and Transportation Requirements). The fee amount may be raised or lowered in accordance with spending levels authorized by the legislature.

(2) Industrial solid waste and hazardous waste. The assessment of fees for the generation, treatment, storage or disposal of industrial solid waste or hazardous waste is governed by regulations contained in Chapter 335, Subchapter J of this title (relating to hazardous Waste Generation, Facility, and Disposal Fees System).

(3)[(2)] Reports. The commission [department] requires reports in order to track the amount of waste being stored, treated, processed, or disposed of in the state, to track the amount of processing and disposal capacity and reserve (future) disposal capacity, and to enable equitable assessment and collection of fees.

(b) Applicability.

(1) Fees. Each operator of a municipal solid waste disposal facility or process for disposal is required to pay a fee to the commission [department] based upon the amount of waste received for disposal. [Operators of facilities registered or permitted independently from disposal processes or disposal are not required to pay a fee.] For the purpose of these sections, landfills, waste incinerators, and sites used for land treatment or disposal of wastes, sites used for land application of sludge or similar waste for beneficial use, composting facilities, and other similar facilities or activities are determined to be disposal facilities or processes. Recycling operations or facilities that process waste for recycling are not considered disposal facilities. Source-separated yard waste composted at a composting facility, including a composting facility located at a permitted landfill are exempt from the fee requirements set forth and described in these sections. For the purpose of these sections, source-separated yard waste is defined as leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material not greater than six inches in diameter, that results from landscape maintenance and land-clearing operations, which has been separated and has not been commingled with any other waste material at the point of generation.

(2) A fee for disposal of an industrial solid waste or hazardous waste in a municipal solid waste disposal facil-

ity shall be assessed under the authority of Chapter 335, Subchapter J of this title (relating to Hazardous Waste Generation, Facility, and Disposal Fees System). If no fee under Chapter 335, Subchapter J is applicable to the disposal of an industrial solid waste or hazardous waste, then such waste shall be assessed a fee under this chapter for the disposal of solid waste in a municipal solid waste facility.

(3)[(2)] Reports. All registered or permitted facility operators are required to submit reports to the commission [department] covering the types and amounts of waste processed or disposed of at the facility or process location; other pertinent information necessary to track the amount of waste generated and disposed of, recovered, or recycled; and the amount of processing or disposal capacity of facilities. The information requested on forms provided by the commission [department] shall not be considered confidential or classified information unless specifically authorized by law, and refusal to submit the form complete with accurate information by the applicable deadline shall be considered as a violation of this section and subject to appropriate enforcement action and penalty.

(4) Interest penalty. Owners or operators of a facility failing to make payment of the fees imposed under this subchapter when due shall be assessed a penalty of 5.0% of the amount due; and, if the fees are not paid within 30 days after the day on which the fees are due, an additional 5.0% penalty shall be imposed. An annual interest rate of 12%, compounded monthly, shall be imposed on delinquent fees beginning 60 days from the date on which the fee is due.

§330.602. Fees.

(a) Landfilling. Each operator of a facility in Texas that disposes of municipal solid waste by means of landfilling, including landfilling of incinerator ash, is required to pay a fee to the commission [department] for all waste received for disposal. The fee rate for waste disposed of by landfilling is dependent upon the reporting units used. It is recommended that waste amounts be measured and reported in short tons (2,000 pounds); however reporting by cubic yards is acceptable. [as well as in cubic yards; however, measuring and reporting by cubic yards alone or in short tons alone is acceptable, provided the landfill operator complies with the provisions of paragraph (2) of this subsection]

(1) Fee rates. [The amount of fee owed for compacted waste received is the greater of the amount calculated under subparagraphs (A) or (B) of this paragraph, or may be determined in accordance with paragraphs (2)(A) or (B) of this subsection

The amount of fee owed for uncompact waste received is the greater of the amount calculated under subparagraphs (A) or (C) of this paragraph, or may be determined in accordance with paragraphs (2)(C) or (D) of this subsection.] For purposes of this subsection, uncompact waste means any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to collection, or has not been compacted subsequent or prior to collection by any type of mechanical device other than small, in-house, compactor devices owned and/or operated by the generator of the waste. Compacted waste is a liquid, sludge, or similar waste, or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, dewatering, composting, incineration, and similar processes.

(A) Tons. For waste reported in tons, the fee rate is \$1.25 [\$0.50] per ton received for disposal.

(B) Cubic yards (compacted). For waste reported in compacted cubic yards, the fee rate is \$0.40 [\$0.50] per cubic yard received for disposal.

(C) Cubic yards (uncompact). For waste reported in uncompact cubic yards, the fee rate is \$0.25 [\$0.10] per cubic yard received for disposal.

(2) Measurement options.

(A) If the landfill operator chooses not to determine the number of cubic yards of compacted waste received, he or she must determine and report the weight of such waste received for disposal. The fee for waste reported in short tons will be calculated by the commission at [the received waste and remit a fee for such received waste in] an amount equal to \$1.25 [\$1.50] per ton.

(B) If scales are not available for landfill use to determine the weight of compacted waste received, the facility operator must accurately measure and report [or otherwise determine] the number of cubic yards of such waste received for disposal. The fee for compacted waste reported in cubic yards will be calculated by the commission at [and may, in lieu of calculating the disposal fee based on weight as well as volume, remit a fee for such received waste in] an amount equal to \$0.40 [\$0.50] per cubic yard

(C)[(D)] If scales are not available for landfill use to determine the weight of uncompact waste received, the facility operator must accurately measure [or otherwise determine] and report the number of cubic yards of such waste received for disposal. The fee for uncompact waste reported in cubic yards will be calculated by the commission at [and may, in lieu of calculating the disposal fee based on weight as well as volume, remit a fee for such received waste in] an amount equal to \$0.25 [\$0.10] per cubic yard.

[(C)] If the landfill operator chooses not to determine the number of cubic yards of uncompact waste received, he or she must determine and report the weight of the received waste and remit a fee for such waste in an amount equal to \$0.50 per ton.]

(D)[(E)] If a landfill operator chooses to report the amount [Landfill operators who estimate amounts] of waste received utilizing the population equivalent method authorized in §325.603(a)(3) of this title (relating to Reports) the fee for such waste received shall be calculated by the commission at [shall remit a fee for such received waste in] an amount equal to \$1.25 [\$1.50] per ton

(3) Fee calculation. The fee shall be calculated by the commission using information obtained from the quarterly solid waste summary report. A billing statement will be generated quarterly by the commission and forwarded to the applicable permittee/registrant or a designated representative.

(4)[(3)] Fee due date. [The required fee shall be paid no later than 45 days following the end of the calendar quarter for which the fee is applicable. However, the fee due date with respect to payments owed for the third quarter of calendar year 1991 (July 1, 1991-September 30, 1991) shall be January 10, 1992.] All solid waste fees shall be due within 30 days of the date the payment is requested.

(5)[(4)] Method of payment. The required fee shall be submitted in the form of a check or money order made payable to the Texas Natural Resource Conservation Commission [Texas Department of Health] and delivered or mailed to the returned address designated by the commission in the billing statement distributed quarterly [Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199]. The fee shall be calculated using information in the quarterly report and remitted along with the quarterly re-

port.]

(6)[(5)] Penalties. Failure of the landfill operator to submit the required fee payment by the due date shall be sufficient cause for the commission [department] to revoke the landfill permit and authorization to process or dispose of waste. The commission [department] may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with the Health and Safety Code, §361.252 (relating to Administrative Penalty by Commission) [§325.223 of this title (relating to Administrative Penalty Determination)] or take any other action authorized by law to secure compliance.

(b) Incinerators and processes for disposal. Each operator of a facility that disposes of or processes municipal solid waste for disposal by a means other than landfilling is required to pay a fee to the commission [department] for all waste received for processing or disposal. Facilities and/or processes included in this category include, but are not limited to, incineration; composting; [processing of solid waste for fuel or recycling;] application of sludge, septic tank waste, or shredded waste to the land; and similar facilities or processes. Not included as a process for disposal is land application of waste that has already been properly composted in one of the facilities named. It is recommended that waste amounts be measured and reported in short tons (2,000 pounds); however reporting by cubic yards is acceptable. [as well as in cubic yards; however, measuring and reporting by cubic yards alone or in short tons alone is acceptable, provided the facility operator complies with the provisions of paragraph (2) of this subsection.]

(1) Fee rates. [The amount of fee owed for compacted waste received, is the greater of the amount calculated under subparagraphs (A) or (B) of this paragraph, or may be determined in accordance with paragraphs (2)(A) or (B) of this subsection. The amount of fee owed for uncompact waste received, is the greater of the amount calculated under subparagraphs (A) or (C) of this paragraph, or may be determined in accordance with paragraphs (2)(C) or (D) of this subsection.] For purposes of this subsection, uncompact waste means any waste that is not a liquid or a sludge, has not been mechanically compacted by a collection vehicle, has not been driven over by heavy equipment prior to collection, or has not been compacted subsequent or prior to collection by any type of mechanical device other than small, in-house, compactor devices owned and/or operated by the generator of the waste. Compacted waste is a liquid, sludge, or similar waste, or any waste that has been reduced in volume by a collection vehicle or by any other means including, but not limited to, de-

watering, composting, incineration, and similar processes.

(A) Tons. For waste reported in tons, the fee rate is \$0.62 and one-half cents [\$0.25] per ton received.

(B) Cubic yards (compacted). For waste reported in compacted cubic yards, the fee rate is \$0.20 [\$0.25] per cubic yard received.

(C) Cubic yards (uncompact). For waste reported in uncompact cubic yards, the fee rate is \$0.12 and one-half cents [\$0.05] per cubic yard received.

(2) Measurement options.

(A) If the operator chooses not to determine the number of cubic yards of compacted waste received, he or she must determine and report the weight of such waste received. The fee for compacted waste reported in short tons will be calculated by the commission at [the received waste and remit a fee for such received waste in] an amount equal to \$0.62 and one-half cents [\$0.75] per ton.

(B) If scales are not available for facility use to determine the weight of compacted waste received, the operator must accurately measure and report [or otherwise determine] the number of cubic yards of such waste received. The fee for compacted waste reported in cubic yards will be calculated by the commission at [and may, in lieu of calculating the disposal fee based on weight as well as volume, remit a fee for such received waste in] an amount equal to \$0.20 [\$0.25] per cubic yard.

(C)[(D)] If scales are not available for facility use to determine the weight of uncompact waste received, the facility operator must accurately measure and report [or otherwise determine] the number of cubic yards of such waste received. The fee for uncompact waste reported in cubic yards will be calculated by the commission at [and may, in lieu of calculating the disposal fee based on weight as well as volume, remit a fee for such received waste in] an amount equal to \$0.12 and one-half cents [\$0.05] per cubic yard.

[(C)] If the operator chooses not to determine the number of cubic yards of uncompact waste received, he or she must determine and report the weight of the received waste and remit a fee for such received waste in an amount equal to \$0.25 per ton.]

(D)[(E)] If a landfill operator chooses to report the amount [Landfill operators who estimate amounts] of waste received utilizing the population equivalent method authorized in §325.603(a)(3) of this title (relating to Reports) the fee shall be calculated by the commission at [shall remit a fee for such received waste in] an amount equal to \$0.62 and one-half cents [\$0.75] per ton.

(3) Fee calculation. The solid waste fee shall be calculated by the commission using information obtained from the quarterly solid waste summary report. A billing statement will be generated quarterly by the commission and forwarded to the applicable permittee/registrant or a designated representative.

(4)[(3)] Fee due date. All solid waste fees shall be due within 30 days of the date the payment is requested. [The required fee shall be paid no later than 45 days following the end of the calendar quarter for which the fee is applicable. However, the fee due date with respect to payments owed for the third quarter of calendar year 1991 (July 1, 1991-September 30, 1991) shall be January 10, 1992.]

(5)[(4)] Method of payment. The required fee shall be submitted in the form of a check or money order made payable to the Texas Natural Resource Conservation Commission [Texas Department of Health] and delivered or mailed to the returned address designated by the commission in the billing statement distributed quarterly [Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. The fee shall be calculated using information in the quarterly report and remitted along with the quarterly report.]

(6)[(5)] Penalties. Failure of the facility or process operator to submit the required fee payment by the due date shall be sufficient cause for the commission [department] to revoke the permit or registration and authorization to process or dispose of waste. The commission [department] may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with the Health and Safety Code, §361.252 (relating to Administrative Penalty by Commission) [§325.223 of this title (relating to Administrative Penalty Determination)] or take any other action authorized by law to secure compliance.

(c) Facilities and processes not for disposal. Facilities or processes not included in the scope of subsections (a) and (b) of this section shall be considered as "facilities and processes not for disposal."

Facilities and processes not for disposal are those facilities that are permitted or registered independently from landfill, incinerator, or disposal processing operations and include, but are not limited to, such facilities or processes as transfer stations, shredders, balers, methane extractors, etc. Facilities and processes not for disposal are not required to pay a fee to the commission [department] but are required to submit reports.

§325.603. Reports.

(a) Disposal facilities and processes.

(1) **Municipal Solid Waste Fee**
Report frequency, report form, and report information.

(A) Report frequency. Quarterly, each disposal facility or process operator shall report to the [department] commission the information requested on the report form for the appropriate reporting period including the amount of source separated yard waste converted to compost or product for composting. Annually, the operator shall submit a summary of the information to show the yearly totals and year-end status of the facility or process, as requested on the report form, for the appropriate reporting period. An operator shall file a separate report for each facility which has a unique permit, permit application number, or registration number.

(B) Report form. The report shall be on a form furnished by the commission [department] or reproduced from a form furnished by the commission [department]. Forms reproduced by the facility operator are not recommended because each report form for each reporting period will have two unique numbers on each form. One number will specifically identify the facility for which the report is made; the other number will specifically identify the individual form. To use the wrong form, or the form intended for a different reporting period, will automatically make the data incorrect for that facility report. The operator will receive one form from the commission [department] for each facility or process prior to the due date. The operator must assure that the data entered on the form are applicable for the particular facility and period for which the data are reported.

(C) Report information. In addition to a statement of the amount of waste received for processing or disposal, the report shall contain other information requested on the form, including the facility operator's name, address, and phone number; the permit number, permit application

number, or registration number; the facility type, size, and capacity; and other information the commission [department] may request.

(2) (No change.)

(A) (No change.)

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

(B) Conversion factors to be used for waste transport vehicles relative to waste volume and weight in vehicles shall be as follows:

(i) (No change.)

(ii) one cubic yard = 666.66 [600] pounds (medium compaction); and

(iii) one cubic yard = 800 [700] pounds (heavy compaction).

(3) Use of population equivalent. In determining the amount of waste deposited in a landfill serving less than 5,000 people or the amount of waste processed for disposal at a processing facility serving less than 5,000 people, the owner/operator may use the number of tons calculated or derived from the population served by the facility in lieu of maintaining records of the waste deposited at the facility. The amount of waste shall [may] be calculated on the basis of one ton per person per year. The report shall document the population served by the facility and reflect any changes since the previous report.

(4) Reporting units for beneficial land use application sites. Wastewater treatment plant sludge and septage received for disposal at registered beneficial use land application sites in vacuum or closed tank trucks may be reported in dry weight equivalent units, provided the site operator either produces satisfactory documentation indicating the percent solids present in the received waste materials or uses the dry weight/volume conversion factors set forth in subparagraphs (A) and (B) of this paragraph:

(A) one gallon = 0.5 pounds (sludge-dry weight equivalent); and

(B) (No change.)

(5) Report due date. The required quarterly solid waste summary report shall be submitted to the commission [department] not later than 20 [45] days following the end of the fiscal [calendar] quarter for which the report is applicable. The commission's fiscal year begins on September 1, and concludes on August 31. [However, the due date with respect to the report for the third quarter of calendar year 1991 (July 1, 1991-September 30,

1991) shall be January 10, 1992.]

(6) Method of submission. The required report shall be delivered or mailed to the Texas Natural Resource Conservation Commission [Texas Department of Health] and delivered or mailed to the returned address designated by the commission in the billing statement distributed quarterly [Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. The fee shall be calculated using information in the quarterly report and remitted along with the quarterly report.]

(7) Penalties. Failure of the facility or process operator to submit the required report by the due date shall be sufficient cause for the commission [department] to revoke the permit or registration and authorization to process or dispose of waste. The commission [department] may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with the Health and Safety Code, §361.252 (relating to Administrative Penalties by Commission) [§330.223 of this title (relating to Administrative Penalty Determination)] or take any other action authorized by law to secure compliance.

(b) Facilities and processes not for disposal. Facilities and processes not for disposal (as defined in §330.602(c) of this title (relating to Fees) are subject to reporting requirements but are not required to pay a fee.

(1) **Municipal Solid Waste Annual Summary** Report frequency, report form, and report information.

(A) Report frequency. Annually, each facility or process operator shall report to the commission [department] the information requested on the report form for the appropriate reporting period. An operator shall file a separate report for each facility which has a unique permit, permit application number, or registration number.

(B)-(C) (No change.)

(2)-(3) (No change.)

(4) Report due date. The required annual report shall be submitted to the commission [department] not later than 45 days following the calendar year for which the report is applicable.

(5) Method of submission. The required report shall be delivered or mailed to the Texas Natural Resource Conservation Commission [Texas Department of Health] and delivered or mailed to the returned address designated by the commission in the billing statement

distributed quarterly [Bureau of Solid Waste Management, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3199. The fee shall be calculated using information in the quarterly report and remitted along with the quarterly report.]

(6) Penalties. Failure of the facility of process operator to submit the required report by the due date shall be sufficient cause for the commission [department] to revoke the permit or registration and authorization to process or dispose of waste. The commission [department] may assess interest penalties for late payment of fees and may also assess penalties (fines) in accordance with the Health and Safety Code, §361.252 (relating to Administrative Penalties by Commission) [330.233 of this title (relating to Administrative Penalty Determination)] or take any other action authorized by law to secure compliance.

§330.604. Composting Refund.

(a) Applicability. Any compost or product for composting that is not used as compost and is deposited in a landfill or used as daily landfill cover is not exempt from fees due under §330.602 of this title (relating to Fees). In order to be eligible to receive a refund authorized by this subsection, the operator of the facility must submit to the commission a composting plan and receive written approval of the plan by the executive director.

(b) The operator of a public or privately owned municipal solid waste facility is entitled to a refund of up to 15% of the solid waste fees collected under §330.602 of this title if:

(1) the refunds are used to lease or purchase and operate equipment necessary to compost yard waste; and

(2) composting operations are actually performed; and

(3) the finished compost material produced by the facility is returned to beneficial reuse

(c) The amount of refund authorized by this subsection shall increase to up to 20% of the total solid waste fees collected by the facility if, in addition to composting the yard waste, the operator of the facility voluntarily bans the disposal of yard waste at the facility

(d) The total amount of the refund authorized by this subsection shall be limited to the amount identified in the facility's composting plan

(e) The composting refund is collectable beginning on the date that the first composting operations occur in accordance with the approved composting plan. The commission may allow the composting re-

fund to be applied as a credit against fees required to be collected under §330.602 of this title (relating to Fees). The operator is entitled to a refund of a percentage of the fees collected by the facility on or after the date which the commission approves the composting plan.

(f) The commission shall conduct an annual assessment of the composting operation to ensure composting activities are conducted in accordance with the approved composting plan. Failure to comply with the composting plan may result in the suspension of the composting refund.

§330.621. Purpose and Applicability.

(a) (No change.)

(b) Applicability. These sections apply only to transporters of sludge and similar waste who are required to register with the commission [department].

§330.641. Purpose and Applicability.

(a) (No change.)

(b) Applicability. These sections apply only to transporters of untreated medical waste who are required to register with the Texas Natural Resource Conservation Commission [Texas Department of Health].

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 October 7, 1993

TRD-9329959

Mary Ruth Holder
Director, Legal Services
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption November 15, 1993

For further information, please call (512) 908-6087

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 72. Memorandum of Understanding with Other State Agencies

Memorandum of Understanding Concerning Coordination of Services to Persons with Disabilities

• 40 TAC §72.210

The Texas Department of Human Services

(DHS) proposes an amendment to §72.210, concerning the memorandum of understanding for coordination of services to persons with disabilities. The purpose of the amendment is to clarify the responsibilities of the Texas Interagency Council on Early Childhood Intervention (ECI) in relation to persons with disabilities.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Raiford also has determined that for each year of the first five years the amendment is in effect the public benefit anticipated as a result of enforcing the amendment will be that policy regarding the ECI's responsibilities to persons with disabilities will be clearer. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Dixie G. Camp at (512) 450-3301 in DHS's Office on Services to Persons with Disabilities. Comments on the proposal may be submitted to Nancy Murphy, Policy and Document Support-222, Texas Department of Human Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

§72.210. The Texas Interagency Council on Early Childhood Intervention (ECI).

(a) Financial and service responsibilities to persons with disabilities.

(1) ECI was established by the Texas State Legislature to provide services to infants and toddlers with developmental delays and their families. ECI contracts with 75 [77] local community organizations and agencies. The ECI programs are affiliates of local school districts, educational service centers, state centers, state schools, Texas Department of Mental Health and Mental Retardation (TXMHMR) community centers, private rehabilitation centers, and universities. Children under age three [seven] with a significant delay in one or more areas of development, or with established medical conditions known to lead to developmental delays (such as Down [Down's] syndrome), and children diagnosed as having atypical behaviors are eligible for services. The contact for program information is the Executive Director, Texas Early Childhood Intervention Program, (512) 502-4900 [458-7673].

(2) Agreements with state agencies. The Texas ECI Program represents an inter-agency effort of the Texas Department

of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Human Services, Texas Commission on Alcohol and Drug Abuse, Texas Department of Protective and Regulatory Services, and the Texas Education Agency. The Texas ECI Program is governed by an inter-agency council with a representative from each of the departments listed in this paragraph, plus three public representatives [representative] appointed by the Office of the Governor. [Program staff are also distributed among the four agencies listed in this paragraph.]

(b) (No change.)

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

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

TRD-9329818

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

Proposed date of adoption: December 1, 1993

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

◆ ◆ ◆
Part XIX. Texas
Department of Protective
and Regulatory Services
Chapter 700. Child Protective
Services

The Texas Department of Protective and Regulatory Services (TDPRS) proposes amendments to §§700.328, 700.1801, and 700.1803, and proposes the repeal of and new §700.1802, concerning foster care assistance payments, cost reporting, cost-finding analysis, and definition of allowable and unallowable costs, in its Child Protective Services (CPS) chapter. The purpose of the proposal is to enhance the cost-finding methodology rules regarding the way cost report data are analyzed. The enhancements will clarify TDPRS's current reimbursement practices and TDPRS's cost-finding and rate setting methodology. If adopted, the amendments to the cost-finding methodology and the reimbursement rates resulting from applying the amended cost-finding methodology will become effective January 1, 1994. In addition, if there are not sufficient revenues to reimburse providers at the rates determined by following the cost-finding methodology, the Board of TDPRS will inform providers that there are not sufficient revenues available to pay the determined rates. If the Board finds that there is insufficient revenue to pay the determined rates, and as long as this insufficiency exists, the Board will reduce each level-of-care rate by the same percentage. The amount resulting from these across-the-board reductions to the level-of-care rates must be sufficient to allow the agency to operate within available

revenues.

Jerry Abel, chief fiscal officer, has determined that for the first five-year period the proposal will be in effect there will be fiscal implications as a result of enforcing or administering the proposal. The effect on state government for the first five-year period the proposal will be in effect is an estimated additional cost in state dollars to the operating budget approved by the Board based on a caseload increase of 10% per year and will be as follows: \$365,000 in fiscal year (FY) 1994; \$401,000 in FY 1995; \$441,000 in FY 1996; \$486,000 in FY 1997; and \$534,000 in FY 1998. There will be no fiscal implications for local government as a result of enforcing or administering the proposal.

Mr. Abel also has determined that for each year of the first five years the proposal is in effect the public benefit anticipated as a result of enforcing the proposal will be a more accurate understanding of reimbursement determination practices. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposal.

Questions about the content of the proposal may be directed to Mary Anne Howard at (512) 450-4050 in the Rate Analysis Department. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-215, Texas Department of Protective and Regulatory Services W-402, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

TDPRS will hold a public hearing on the proposal on Tuesday, November 9, 1993, at 1:00 p.m. in the John H. Winters Building Public Hearing Room, first floor, East Tower, 701 West 51st Street, Austin, Texas

Subchapter C. Eligibility for
Child Protective Services

• **40 TAC §700.328**

The amendment is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, Chapter 31, which provides the department with the authority to provide financial assistance and services to families with dependent children, and Texas Civil Statutes, Article 4413(503), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS. The proposed amendment implements the Human Resources Code, §31.003

§700.328. Foster Care Assistance Payments.

(a) To receive foster care assistance payments, private child care facilities must be approved by the Texas Department of Protective and Regulatory Services (TDPRS) [(PRS)] for participation

(b) [For payments after January

1988.] TDPRS's [PRS's] foster care rates will be determined by the level-of-care that the child needs, subject to adjustments based on the extent to which other services provided by outside parties meet the child's needs or on other factors consistent with the child's needs. In the rate structure, rates are [set] based on [an] analysis of cost reports and other pertinent financial and statistical information including statistics published by the United States Department of Agriculture (USDA) on the expenditures on a child by families [available appropriated revenues]. TDPRS's [PRS's] determination of a child's [the] level-of-care is based upon the child's characteristics, as described in TDPRS's [the common] application form [document], and the definitions of levels of care [established by the Health and Human Services Coordinating Council].

(c) Foster care assistance payments are intended to cover the child's basic needs, not the needs of the provider, unless meeting provider needs is necessary for meeting the child's needs. [PRS establishes the] The rates for foster care payments are reviewed by the Texas Board of Protective and Regulatory Services annually in an open meeting, after considering pertinent financial and statistical information, TDPRS rate recommendations, other staff recommendations, the cost finding methodology, public testimony, agency service demands, and the availability of appropriated revenue. Costs included in the rates are specified in §§700.1801-700.1806 of this title (relating to Cost Reporting, Cost-finding Analysis, Definition of Allowable and Unallowable Costs, Allowable Costs, Unallowable Costs, and Cost Not Included in Recommended Payment Rates). [The rates include allowances for lodging, food, clothing, personal and incidental expenses for the child, recreation, travel, and transportation. At some levels of care, the rates also include allowances for psychological services; therapeutic or social services; and any health, medical, or psychiatric services provided as part of the facility's program.]

(d) To participate in TDPRS's [PRS's] foster care program, all TDPRS and non-TDPRS families and [non-PRS] private, non-profit and for-profit facilities, group homes, and child-placing agencies must complete a contract or agreement with TDPRS [PRS]. The contract or agreement must be signed by the foster care provider and TDPRS and will be in effect for a designated period stated in writing in the contract or agreement. At the expiration of this period, the contract will continue according to its then-current terms until either party terminates the contract, or until TDPRS notifies the provider of a change, at which point the contract ends, and a new

contract begins if the provider agrees to the new terms. This agreement will be expressed in writing.

(e) Upon TDPRS's [PRS's] request, these families, facilities, group homes, and child-placing agencies must accept a TDPRS [common] application form as complete and sufficient application for a child's placement. [document and submit a completed cost report. PRS uses cost reports to set foster care rates.] Facilities, group homes, and child placing agencies that receive payment from TDPRS either directly or indirectly must submit a completed cost report. These cost reports are used to set foster care rates for Levels-of-Care 2-6 and emergency shelters. Reimbursement for a [child care] facility, group home, or child-placing agency serving Levels-of-Care 2-6 is contingent on the completion and submittal of the cost report to TDPRS [PRS]. Failure to complete and submit a cost report is grounds for placing a hold on payments to providers or for terminating the contract or agreement [vendor hold or contract termination].

(f) TDPRS [PRS] may exempt a family, facility, group home, or child-placing agency from the cost report requirement if extenuating circumstances make it impossible [or impractical] for the facility, group home, or child-placing agency to comply. A letter stating the reason(s) for requesting an exemption from completing the cost report must be submitted in writing to TDPRS. TDPRS will, in its sole discretion, make a determination about whether to grant the exemption. [Exemptions may be granted if the facility is newly opened and licensed, financial records are lost or destroyed, or the number of children placed by PRS is so small that the information in a cost report is insignificant to the facility's overall budget.]

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 October 11, 1993

TRD-9330130 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Protective and
Regulatory Services

Proposed date of adoption: January 1, 1994

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

◆ ◆ ◆
Subchapter R. Cost-finding
Methodology for 24-Hour
Child-care Facilities

◆ 40 TAC §700.1802

(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 Department of Protective Regulatory Services or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeal is proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, and Chapter 31, which provides the department with the authority to provide financial assistance and services to families with dependent children. The repeal is also proposed under Texas Civil Statutes, Article 4413 (503), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS.

§700.1802. Cost-Finding Analysis.

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 October 11, 1993

TRD-9330131 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Protective and
Regulatory Services

Proposed date of adoption: January 1, 1994

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

◆ ◆ ◆
◆ 40 TAC §§700.1801-700.1803

The amendments and new section are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs, Chapter 31, which provides the department with the authority to provide financial assistance and services to families with dependent children, 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS. The proposed amendments and new section implement the Health and Safety Code, §31.003

§700.1801 Cost Reporting Non-Texas Department of Protective and Regulatory Services (TDPRS) families, facilities, group homes, and child-placing agencies [Agencies] that contract with TDPRS [the Texas Department of Protective and Regulatory Services (PRS)] to provide 24-hour[,] residential child-care services must submit financial and statistical information according to the requirements specified in this subchapter. Providers of 24-hour residential child care services must report this information on cost-reporting forms ap-

proved by TDPRS [PRS]. The cost report must cover all of the provider's activities during the provider's previous fiscal year unless TDPRS [PRS], at its sole [own] discretion, requires a provider to submit a cost report covering selected activities or covering another time period. The word "rate," when used in this subchapter, shall refer to the reimbursements paid either directly or indirectly to a provider with whom TDPRS has a contract or an agreement.

(1)-(6) (No change.)

(7) Methods of allocation TDPRS adjusts allocated costs if the department considers the allocation method to be unreasonable.

(A) Direct costing must be used whenever possible, which means that allowable costs incurred for the benefit of, or directly attributable to, a specific business component must be directly charged to that particular business component. If direct costing is not possible, a provider must use reasonable methods of allocation and must be consistent in the use of allocation methods across program areas and business entities to ensure that allowable costs are equitably allocated across business activities or business entities receiving the benefits of those allocated costs. Costs reported for the provider must be representative of the actual circumstances of the provider's operations, whether directly charged or allocated. An indirect allocation method approved by some other department, program, or governmental entity is not automatically approved by this department. The department reviews each allocation method on a case-by-case basis in order to ensure that the reported costs fairly and accurately represent the operations of the provider. Any change in allocation methods from one year to the next must be fully disclosed by the provider on its cost report and must be accompanied by a written explanation of the reasons for such change.

(B) When practical and the amounts are material, costs must be allocated on a functional basis. Some examples are listed as follows:

(i) Costs of a central payroll operation could be allocated to all business components based on the number of checks issued.

(ii) Costs of a central purchasing function could be allocated based on the dollar amount of purchases made or requisitions handled.

(iii) Costs of utilities or rent could be allocated based upon

square footage.

(iv) Payroll costs for an employee working across business components could be allocated based upon that employees' timesheets and/or a documented timestudy.

(v) Transportation equipment costs could be allocated based upon mileage logs.

(C) General management and administrative costs that cannot be allocated on a functional basis should be allocated reasonably and consistently across all business components receiving the benefits of those allowable general management and administrative costs. If all the business components have equivalent units of service, such general management and administrative costs could be allocated based upon each business component's units of service. One recommended method for allocating such costs would be based upon the ratio of each business component's variable costs related to the total variable costs of all the provider's business components. Because only cost data are analyzed in the calculation of reimbursement rates, allocation methods based upon revenue streams are inappropriate and generally unallowable.

(D) Cost allocation methods must be clearly and completely documented in the provider's workpapers, with details as to how specific allocations are made. [Providers must use reasonable methods of cost allocation when they allocate costs. If PRS considers a provider's method of allocation unreasonable, TDPRS adjusts the allocated costs. Providers must keep work papers supporting their cost allocations.]

(8)-(16) (No change.)

§700.1802. Cost-finding Analysis.

(a) The Texas Board of Protective and Regulatory Services reviews the Texas Department of Protective and Regulatory Services' (TDPRS's) payment rates for providers of 24-hour residential child care services annually in an open meeting, after considering pertinent financial and statistical information, TDPRS rate recommendations developed according to the provisions of this subchapter (proposed rates), other staff recommendations, the cost-finding methodology, agency service demands, public testimony, and the availability of appropriated revenue. Prior to the open meeting in which rates are presented for

adoption, rate packets which contain the proposed rates and average inflation factor amounts are sent to provider association groups. Rate packets are sent to any other interested party, by written request. Providers who wish to comment on the proposed rates may attend the open meeting and give public testimony. Notice of the open meetings are published in the *Texas Register*. If proposed rates are adopted by the Board, all foster care providers will receive notice of the adopted rates by letter.

(b) To develop the rate recommendation for Board consideration for Level-of-Care 1, TDPRS analyzes the most recent statistical data available on expenditures on a child by families published by the United States Department of Agriculture (USDA) from the lower and middle income groups. The USDA, in compiling data on child-rearing expenditures, has determined that, in general, costs considered to be necessities did not vary as much as those considered to be discretionary among households by income group. In recognition of this determination and the desire to provide for a margin above the cost of basic necessities, TDPRS uses the following formula to determine a basic maintenance payment. The rate for Level-of-Care 1 is a foster care maintenance payment which does not cover salary expenses or administrative expenses.

(1) TDPRS excludes medical costs from its calculations for Level of Care 1 since medical costs are covered by Medicaid.

(2) TDPRS determines a per day cost for each of the following cost categories across all age groups specified in the USDA data: housing; food; transportation; clothing; and education, child care, and other.

(3) The per day costs for all of the cost categories are summed into a total cost per day for the lower-income group and a total cost per day for the middle-income group specified in the USDA data.

(4) TDPRS multiplies the total cost per day for the lower-income group by .72.

(5) TDPRS multiplies the total cost per day for the middle-income group by .28.

(6) The results of the above multiplication are added to become the total cost per day. This total cost per day is projected using the Implicit Price Deflator-Personal Consumption Expenditures (IPD-PCE) index, which is a general cost-inflation index, from the period covered in the USDA statistics to the next effective

rate period. Information on inflation factors is specified in this section.

(c) To develop rate recommendations for Board consideration for Levels-of-Care 2-6 and emergency shelters, TDPRS analyzes the information submitted in provider cost reports and related documentation in the following ways.

(1) TDPRS excludes the expenses specified in §700.1805 and §700.1806 of this title (relating to Unallowable Costs and Costs Not Included in Recommended Payment Rates). In addition to the exclusions and adjustments made during audit desk reviews and on-site audits, TDPRS may, at its sole discretion, exclude or adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that a prudent and cost effective provider must incur. An example of a provider who is not prudent and cost effective is a provider who has an occupancy rate of 30% or less. These exclusions or adjustments include, but are not limited to, revenue offset adjustments, occupancy adjustments, and cost projection adjustments. TDPRS may exclude from the data base any cost report that is not completed according to the published methodology and the specific instructions to the cost report. Some of the reasons for exclusion of a cost report from the data base include, but are not limited to, receiving the cost report too late to be included in the data base, low occupancy exclusions, auditor-recommended exclusions, exclusions for days of service errors, providers that do not participate in the level-of-care system, providers with no public placements, using cost estimates instead of actual costs, not using the accrual method of accounting for reporting information on the cost report, not reconciling between the cost report and the provider's general ledger, and not maintaining records that support the data reported on the cost report.

(2) TDPRS does not use in its rate determination for Levels-of-Care 5 and 6 the costs of providers who have 50% or more of their days of service from private placements.

(3) TDPRS excludes from median occupancy determination and from rate determination providers whose occupancy rates are 30% or below.

(4) TDPRS expands the days of service and expenses of providers that report less than a full year of data on the cost report. To expand the days of service and expenses as if the provider were in operation for a full year, TDPRS multiplies the days of service and expenses by the following factor:

expansion factor = 365/number of days reported on the cost report

(5) TDPRS allocates payroll taxes and employee benefits to each salary line item on the cost report on a pro rata basis based on the portion of that salary line item to the amount of total salary expense. The employee benefits for administrator/director, assistant administrator, owner, partners, or stockholders are allocated directly to the corresponding salaries for these positions. The allocated payroll taxes are Federal Insurance Contributions Act (FICA) or Social Security, the Workers' Compensation Insurance (WCI) and the Federal and State Unemployment (FUTA/SUTA).

(6) TDPRS reduces reported costs by the amount of federal revenue reported, including revenue from USDA, and Chapter 1 and Chapter 2 Education revenue. TDPRS also reduces vocational costs by the amount of revenue earned by a facility from a vocational program. Revenue earned and paid to a child from a vocational program is not used to reduce vocational expenses.

(7) TDPRS groups allowable costs into the following cost areas:

- (A) administration;
- (B) routine daily service;
- (C) dietary services;
- (D) therapeutic services;
- (E) building and transportation;
- (F) medical and dental services; and
- (G) educational services.

(8) TDPRS allocates or spreads affected costs according to a model of staff-to-child ratios identified in a facility that meets level-of-care monitoring standards. TDPRS will provide, upon written request, the model ratios and the costs on the cost report to which the ratios are applied. The affected costs are administrative salaries of the director, assistant, and other administrative staff; houseparent and recreation staff salaries; therapy salaries; maintenance staff salaries; building repair expenses; nurse salaries; and education expenses for providers who serve children in an emergency shelter or children who have a determination by the Admission, Review and Dismissal (ARD) Committee. TDPRS allocates these affected costs across levels of care served by the provider. Emergency shelter costs are not allocated across levels of care since, for rate setting purposes, all children in emergency shelters are considered to be at the same level of care. An example of one way in which costs are allocated or spread using some of the model ratios is illustrated by the following chart:

A provider has \$50,000 in total routine daily care costs (TRC). The provider has a total of 5,000 days of service distributed among these levels of care in the following manner: 1,000 days at Level of Care 2; 1,000 days of service at Level of Care 3; and 3,000 days of service at Level of Care 4. The model of staff-to-child ratios were converted to percentages. In this example, the percentages for routine daily care costs for Levels of Care 2, 3, and 4 are .5, .5, and .55, respectively.

Level 2 days (LOC2) = 1,000 Level 2 percent days (PC2) = 1000/5000 or .2
 Level 3 days (LOC3) = 1,000 Level 3 percent days (PC3) = 1000/5000 or .2
 Level 4 days (LOC4) = 3,000 Level 4 percent days (PC4) = 3000/5000 or .6

Step one: Determine the weights

Routine weight 2 (RW2) = .5 times .2 (PC2) = .1
 Routine weight 3 (RW3) = .5 times .2 (PC3) = .1
 Routine weight 4 (RW4) = .55 times .6 (PC4) = .33

Step two: Sum the weights

Total weights (TW) = .1 (RW2) + .1 (RW3) + .33 (RW4) = .53

Step three: Standardize the weights

Standardized weight (SW2) = RW2 / TW = .1/.53 = .1887
 Standardized weight (SW3) = RW3 / TW = .1/.53 = .1887
 Standardized weight (SW4) = RW4 / TW = .33/.53 = .6226

Step four: Allocate costs to levels and divide by days of service

(TRC times SW2) / LOC2 = (\$50,000 times .1887) / 1,000 = \$9.435
 (TRC times SW3) / LOC3 = (\$50,000 times .1887) / 1,000 = \$9.435
 (TRC times SW4) / LOC4 = (\$50,000 times .6226) / 3,000 = \$10.377

(9) TDPRS includes therapy costs in its recommended payment rates for Levels-of-Care 3-6 and for emergency shelters.

(10) TDPRS will remove the additional staffing cost that was added to the reported cost report expenses for Level-of-Care 5 to accommodate the staffing require-

ment set forth in the monitoring standards for Level-of-Care 5 effective September 1, 1994, at which time costs associated with meeting the staffing requirement at Level-of-Care 5 should be fully reflected in the cost base used to determine rates.

(11) TDPRS calculates an occupancy rate for each provider based on that provider's maximum program capacity, total days of service and number of days in the provider's reporting period. TDPRS also

calculates a median occupancy rate for each level of care. Since TDPRS is unable to compute an occupancy rate for TDPRS foster group homes at Level-of-Care 2, the median occupancy rate for Level-of-Care 2 is calculated without TDPRS foster group homes.

(A) The formula for calculating a provider's occupancy rate is as follows.

The provider's maximum program capacity is multiplied by the number of days in the provider's reporting period. The result of this calculation is divided into the provider's total days of service and multiplied by 100 to convert the result to a whole number.

Occupancy Rate = (Total days of service / (maximum program capacity times number of days in provider's reporting period)) times 100

(B) To calculate the median

occupancy rate for each level of care, the occupancy rates of providers who have 60% or more of their days of service within one

level of care are placed in an array and arranged from the lowest provider occupancy rate to the highest provider occu-

pancy rate. The median or middle provider's occupancy rate from each level of care occupancy array becomes the median occupancy rate for that level-of-care. If a provider's occupancy rate for a given level of care is below the median occupancy rate for that level of care, TDPRS adjusts the provider's administration, transportation, donated transportation, building, donated building, educational building, and donated educational building expenses by multiplying each of these expenses by the provider's calculated occupancy adjustment factor and subtracting the result of that multiplication from the expense to be adjusted. The occupancy adjustment factor is determined by dividing the provider's occupancy rate by the median occupancy rate and subtracting that result from 1. If the provider's occupancy rate is above the median, no occupancy adjustment is made.

(12) TDPRS projects allowable expenses in each cost area for the period between each provider's reporting period and the next effective rate period. TDPRS uses the Implicit Price Deflator-Personal Consumption Expenditures (IPD-PCE) index, which is a general cost-inflation index, and other item-specific inflation indices to calculate these projected allowable expenses. The IPD-PCE is a nationally recognized measure of inflation published by the Bureau of Economic Analysis of the United States Department of Commerce. TDPRS uses the lowest feasible IPD-PCE forecast consistent with the forecasts of nationally recognized sources available to TDPRS at the time the rates are prepared. The item-specific inflation indices are the Federal Insurance Contributions Act (FICA) or Social Security and Medicare payroll taxes set by federal statute, the Workers' Compensation Insurance (WCI) tax rate determined annually by the Texas State Board of Insurance, and the Federal and State Unemployment (FUTA/SUTA) rates obtained from the Texas Employment Commission (TEC). If tax rates for the prospective rate period for FICA or FUTA/SUTA or WCI are not known, TDPRS bases its projections on the compounded annual rate of change in these tax rates from the most recent consecutive two-year period for which data are available at the time reimbursement rates are determined. Upon written request, TDPRS will provide inflation factor amounts used to determine rates. Depreciation expenses and mortgage interest expenses are not projected.

(13) TDPRS adds each provider's projected allowable costs in all of the cost areas specified in paragraph (7)(A)-(G) of this subsection in order to obtain a projected total cost for each provider.

(14) TDPRS ranks the projected total costs of all providers from low to high in each level-of-care cost array for Levels-

of-Care 2-6 and emergency shelters.

(15) TDPRS uses the projected total costs of providers who have 60% or more of their days of service within one level-of-care in the cost array for that level of care. For rate setting purposes, emergency shelters are considered to have 100% of their days of service at the same level.

(16) TDPRS excludes from each level of care cost array and from its reimbursement determination any provider's total cost that exceeds two standard deviations above or below the mean total cost.

(17) TDPRS determines the median projected total cost from each cost array for Levels-of-Care 2-6 and emergency shelters. The median projected total cost becomes the recommended payment rate.

(d) The Texas Board of Protective and Regulatory Services reviews payment rates annually for providers of 24-hour residential child care services in an open meeting, after considering pertinent financial and statistical information, TDPRS rate recommendations developed according to the provisions of this subchapter, other staff recommendations, the cost-finding methodology, agency service demands, public testimony, and the availability of appropriated revenue. The Board may also adjust payment rates, if determined appropriate, when federal or state laws, rules, standards, regulations, policies or guidelines are changed or adopted. These adjustments may result in increases or decreases in payment rates. The Board determines whether the payment rates are within TDPRS's budget. If there are not sufficient revenues to reimburse providers at the rates determined by the cost-finding methodology, the Board will inform providers that there are not sufficient revenues available to pay the determined rates. If the Board finds that there is insufficient revenue to pay the determined rates and as long as this insufficiency exists, the Board will reduce each level-of-care rate by the same percentage. The amount resulting from these across-the-board reductions to the level-of-care rates must be sufficient to allow the agency to operate within available revenues.

§700.1803. Definition of Allowable and Unallowable Costs.

(a) General information. The Texas Department of Protective and Regulatory Services (TDPRS) [(PRS)] defines allowable and unallowable costs in order to identify the reasonable expenses that a prudent and cost effective [an efficient and economical] provider must incur to provide the 24-hour child-care services specified in the provider's contract or agreement with TDPRS [PRS]. The primary objective of TDPRS's [PRS's] cost-reporting system is to determine a fair and reasonable reim-

bursement rate [rates] for a prudent and cost effective provider [these providers]. To achieve this objective, TDPRS [PRS] compiles a rate base that includes [, to the extent possible,] only information about allowable costs. When TDPRS [PRS] classifies a particular type of expense as unallowable, the classification means only that TDPRS [PRS] will not include the expense in the rate base because the department does not consider the expense reasonable and necessary to provide contracted services. The classification does not mean that individual providers must not make these expenditures.

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

(1) "Allowable costs" are expenses that are reasonable and necessary in the normal conduct of operations relating to child-care services in a 24-hour, residential child-care facility. To the extent possible, TDPRS [PRS] includes only allowable costs in the rate base. The key terms in this definition and in the definition of unallowable costs are further explained as follows.

(A) "Reasonable" refers to the amount expended. An amount is reasonable if it does not exceed the cost that a prudent and cost effective [business] operator seeking to contain costs would incur.

(B)-(C) (No change.)

(2)-(3) (No change.)

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

Issued in Austin, Texas, on October 11, 1993.

TRD-9320132

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

Proposed date of adoption: January 1, 1994

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

◆ ◆ ◆
TITLE 43. TRANSPORTATION
Part I. Texas Department of Transportation
Chapter 1. Administration

(Editor's Note: The Texas Department of Transportation proposes for permanent adoption the new sections it adopts on an emergency basis in this issue. The text of the new

sections is in the Emergency Rules section of this issue.)

The Texas Department of Transportation proposes amendments to §§180-182, and 184, new §183 and §185, and the repeal of §183, concerning Advisory Committees

The repeal of §183 is necessary because of the contemporaneous emergency adoption of new §183, which incorporates the provisions of the repealed section as rewritten and expanded. Section 180 is amended to include advisory committees created by the department. Section 181 is amended by deleting some unnecessary terms and also by adding definitions of department advisory committee, district engineer, and statutory advisory committee. Section 182 is amended to clarify that the section only applies to statutory advisory committees, remove the requirement that the commission designate the chair of the aviation and bicycle rules committees and allow those committees to elect a chair and vice-chair; remove provisions concerning the frequency of meetings; lower the advance notice of meetings from 14 to ten days; and require the department to report advice of statutory advisory committees to the commission and to invite the committee chair to appear before the commission. Section 184 is amended by adding a provision for the department to submit emergency rules to the commission without prior review by the advisory committee; by authorizing the committee to waive preliminary or final review of draft rules; and by authorizing the committee to defer the committee's review of rules until the public comment period.

New §183 replaces the existing section and outlines the duties of the statutorily appointed advisory committee, the frequency of meetings, and the expiration date of each committee. New §185 lists certain committees created by the department and states their purpose, duties, and manner of reporting, membership requirements, frequency of meetings, requisites for formal committee action, election of officers, and duration of existence of committees.

Senate Bill 383, 73rd Legislature, 1993, added Texas Civil Statutes, Article 6252-33, to require the department to adopt rules that (1) state the purpose of each of its advisory committees and describe each committee's task and the manner in which it will report the agency; and (2) establish a date on which each committee will automatically be abolished unless continued in existence by affirmative vote of the commission. Adoption on emergency basis is necessary in order to comply with the mandates of Senate Bill 383, which became effective on September 1, 1993, to provide for flexibility in the process for statutory advisory committee review of department rules, to clarify existing provisions, and to assure that critical roles of the advisory committees continue without interruption, thereby protecting the vital interests, safety and welfare of the taxpayers and the travelling public.

Robert W. Jackson, associate general counsel, has determined that there will be no fiscal implications as a result of enforcing or administering the sections. Mr. Jackson has certified that there will be no significant impact on

local economies or overall employment as a result of enforcing or administering the proposed sections

Mr. Jackson also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to provide for public input into the policy making process of the department, improved oversight and monitoring of advisory committees, and enhanced effectiveness of advisory committee input. 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 Robert W. Jackson, Associate General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of comments will be 5:00 p.m. on November 4, 1993.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amended sections. The public hearing will be held at 9:00 a.m. on Monday, October 25, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance with the procedures specified in Chapter 1 of this title (relating to Administration). Any interested person may appear and offer comments, either orally or in writing; however, questioning for those making presentations will be reserved exclusively for the presiding officer as may be necessary to ensure a complete record. While any person with pertinent comments will be granted an opportunity to present them during the course of the hearing, the presiding officer reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views and identical or similar comments through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Advisory Committees

• 43 TAC §§1.80-1.82, 1.84

The repeal, amendments, and new sections are proposed under Texas Civil Statutes, Article 666S, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of

the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Articles 46c-3, 6663b, 6673g, and 6673h, which create four specific advisory committees and authorize the commission to adopt rules to govern the operations of those committees. Texas Civil Statutes, Article 6252-33, directing state agencies to adopt rules concerning the operation of advisory committees, is the statute affected by the rules.

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

Issued in Austin, Texas, on October 6, 1993

TRD-9329885

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: November 15, 1993

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

• 43 TAC §1.83

(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 Department of Transportation 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 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Articles 46c-3, 6663b, 6673g, and 6673h, which create four specific advisory committees and authorize the commission to adopt rules to govern the operations of those committees. Texas Civil Statutes, Article 6252-33, directing state agencies to adopt rules concerning the operation of advisory committees, is the statute affected by the repeal.

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 October 6, 1993.

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Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: November 15, 1993

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

• 43 TAC §1.83, §1.85

(Editor's Note: The Texas Department of Transportation proposes for permanent adoption the new sections it adopts on an emer-

gency basis in this issue. The text of the new sections is in the Emergency Rules section of this issue.)

The new sections are proposed under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Articles 46c-3, 6663b, 6673g, and 6673h, which create four specific advisory committees and authorize the commission to adopt rules to govern the operations of those committees. Texas Civil Statutes, Article 6252-33, directing state agencies to adopt rules concerning the operation of advisory committees, is the statute affected by the new rules.

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

Issued in Austin, Texas, on October 6, 1993

TRD-9329889 Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: November 15, 1993

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

Chapter 31. [Division of] Public Transportation

General

• 43 TAC §31.3

The Texas Department of Transportation proposes an amendment to §31.3, concerning definitions. The definition of new start is deleted and being replaced with the broader term of service expansion which encompasses both new starts as well as existing transit systems. A definition is being added for RPT (rural public transportation) as that is a common short-form reference used by the department as well as the transit industry.

This action is necessary due to the contemporaneous proposed amendments to §31.36 of this chapter concerning the §18 grant program.

Richard G. Christie, director of public transportation, 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.

Mr. Christie also has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section.

Mr. Christie 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 a more consis-

tent application in the administration of public transportation grant 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.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amendments. The public hearing will be held at 1:30 p.m. on Tuesday, November 2, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 1:00 p.m. 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 reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Written comments on the proposed amendments may be submitted to Richard G. Christie, Director of Public Transportation, Attention Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be 5:00 p.m. on November 12, 1993.

The amendments are proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and specifically to administer the state public transportation fund and state and federal public transportation programs. The amendments implement the provisions of Texas Civil Statutes, Articles 6663b and 6663c.

§31.3 Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the

context clearly indicates otherwise:

[New start-A public transportation system implemented in an area previously unserved by any such system. In certain instances, the implementation of a new mode of public transportation (such as rail service) in what was previously a bus only system) may be considered a new start.]

RPT (rural public transportation)-A generic term used to identify contractors who provide service in nonurbanized areas.

Service expansion-The implementation or enhancement of public transportation services in a geographic area. Examples include, but are not limited to, initiating service in an area previously unserved by any public transportation contractor, offering more frequent service within a contractor's service area, and implementing a new mode of public transportation services (such as rail service in what was previously a bus only system or fixed-route services in what was previously a demand-response system).

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 October 7, 1993.

TRD-9329971 Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: November 15, 1993

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

State Programs

• 43 TAC §31.11

The Texas Department of Transportation proposes an amendment to §31.11, concerning the state formula funding program. This action is necessary to conform to language contained in House Bill 1942, 73rd Legislature, 1993, which amended Texas Civil Statutes, Article 6663c.

Previous legislation was intended to eliminate state funding to transit authorities while enabling other political subdivisions within the same urbanized area as an authority to receive formula program funding. An example is the City of Arlington, which is located in the same urbanized area as the Dallas and Fort Worth transit authorities.

Formula program funding for urbanized areas is based on population and population density. The amendments enacted by the 72nd Legislature resulted in the inclusion of large unincorporated areas which were not served by transit systems and which skewed the formula program funding. The 73rd Legislature addressed this problem by defining more carefully the populations and densities to be

used in such instances.

The proposed amendments would add new clauses (ii) and (iv) to subsection (b)(1)(A) to describe the calculations of population and population density. There are also a number of technical corrections proposed to update the name of the federal enabling legislation and grantor agency. Those corrections do not alter the original intent of the existing rules.

Richard G. Christie, director of public transportation, has determined that for the first five-year period the section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section. Certain cities may have realized financial benefits during the preceding two years under the previous allocation methodology. However, the new methodology should not reduce state formula funding below the levels required by those cities to continue transit operations.

Mr. Christie also has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section. Mr. Christie 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 a more consistent application in the administration of public transportation grant programs. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be negligible.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amendments. The public hearing will be held at 9 a.m. on Tuesday, November 2, 1993, in the first floor hearing room of the Dawitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 8:30 a.m. 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 reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the pre-

siding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th St., Austin, Texas 78701-2383, (512) 463-8588.

Written comments on the proposed amendments may be submitted to Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for comments will be 5 p.m. on November 12, 1993.

The amendments are proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and specifically to administer the state public transportation fund and state and federal public transportation programs. The amendments implement the provisions of Texas Civil Statutes, Articles 6663b and 6663c.

§31.11. Formula Program.

(a) Purpose. Texas Civil Statutes, Article 6663c, require the commission to allocate, at the beginning of each fiscal biennium, certain appropriated amounts from the public transportation fund on the basis of a prescribed formula. This section sets out the policies, procedures, and requirements for that formula allocation.

(b) Formula allocation. At the beginning of each state fiscal biennium, an amount equal to the amount appropriated from all sources to the commission by the legislature for that biennium for public transportation, other than federal funds and amounts specifically appropriated for coordination, technical support, or other costs of administration, will be allocated to designated recipients.

(1) The commission will allocate those funds as follows.

(A) 50% of the funds available under this section will be allocated in urbanized areas that have a population of not less than 50,000 according to the most recent federal census and that are not served by an authority, as that term is defined in §31.3 of this title (relating to Definitions) and to areas not served by [part of] an authority but located in urbanized areas that have a population of not less than 50,000 according to the most recent federal census and that include one or more authorities. Any local governmental entity having the power to operate or maintain a public transportation system, except for an authority, as that term is defined in §31.3 of this title (relating to Definitions), may receive formula program funds described in paragraph (2) of this subsection. Of the money allocated under this paragraph, the commission

will distribute:

(i) 10% of the total amount to designated recipients for federally assisted public transportation projects in urbanized areas, each with a population of not less than 50,000, according to the most recent federal census, selected by the commission; and

(ii) 90% of the total amount to designated recipients operating public transportation services in urbanized areas, each with a population of not less than 50,000, according to the most recent federal census and receiving funds in accordance with §1607a of the Federal Transit [federal Urban Mass Transportation] Act (49 United States Code, §1607a(a)(i)). These monies will be distributed in each eligible urbanized area in an amount equal to the sum of:

(I) one-half of the total amount allocated to that category multiplied by the ratio that the population of the urbanized area[, excluding the population residing within the area of an authority,] bears to the total population of all urbanized areas[, excluding the population residing within areas of an authority,] in the state in that category operating transit systems and receiving funds in accordance with §1607a of the Federal Transit [federal Urban Mass Transportation] Act (49 United States Code, §1607a(a)(i)); and

(II) one-half of the total amount allocated to that category multiplied by the ratio that the number of inhabitants per square mile of the urbanized area[, excluding the number of inhabitants per square mile attributable to an authority,] bears to the combined number of inhabitants per square mile of all urbanized areas[, excluding the number of inhabitants per square mile attributable to an authority,] in the state in that category operating transit systems and receiving funds in accordance with §1607a of the Federal Transit [federal Urban Mass Transportation] Act (49 United States Code, §1607a(a)(i)).

(iii) The calculation required by clause (ii)(I) of this subparagraph shall not include:

(I) the population residing within the area of an authority; or

(II) for urbanized areas of 250,000 or more, the population residing outside of the corporate limits of a municipality served by a transit system.

(iv) The calculation required by clause (ii)(II) of this subparagraph shall not include:

(I) the number of inhabitants per square mile attributable to an authority; or

(II) For urbanized areas of 250,000 or more, the inhabitants per square mile attributable to areas outside the corporate limits of a municipality served by a transit system.

(B) 50% of the funds available under this section will be allocated in urban areas, each with a population of less than 50,000, according to the most recent federal census, or in rural areas. Any eligible recipient may receive formula program funds described in paragraph (2) of this subsection. Of the money allocated under this paragraph, the commission will distribute:

(i) 10% of the total amount to designated recipients for federally assisted rural public transportation projects, selected by the commission; and

(ii) 90% of the total amount to designated recipients operating public transportation services in nonurbanized areas. These monies will be distributed in accordance with the following formula:

$D = T \times F/A$ where:

"D" = the amount distributed to a designated recipient;

"T" = the total amount apportioned under this subparagraph for a fiscal year of the state;

"F" = the amount of federal public transportation money available to the state through the federal formula grant program for areas other than urbanized areas in accordance with §1614 of the Federal Transit [federal Urban Mass Transportation] Act (49 United States Code, §1614), including money transferred for that purpose in accordance with §1607a of that Act (49 United States Code, §1607a), that was approved during the state's preceding fiscal year for the designated recipient; and

"A" = the amount of federal public transportation money available to the state through the federal formula grant program for areas other than urbanized areas in accordance with §1614 of the Federal Transit [federal Urban Mass Transportation] Act (49 United States Code, §1614), including money transferred for that purpose in accordance with §1607a of that Act (49 United States Code, §1607a), that was approved during the state's preceding fiscal year for all designated recipients eligible to receive money under this subparagraph.

(2) Funds allocated under this section may be used to provide:

(A) 65% of the local share requirement for federally financed projects

for capital improvements;

(B) 50% of the local share requirement for projects for operating expenses and administrative costs;

(C) 50% of the total cost of a public transportation capital improvement, if the designated recipient certifies that federal money is unavailable for the proposed project and the commission finds that the proposed project is vitally important to the development of public transportation in the state; and

(D) 65% of the local share requirement for federally financed planning activities.

(c) Unobligated funds. Any money under this section that the designated recipient has not applied for before the November commission meeting in the second year of a state fiscal biennium shall be administered by the commission under the discretionary program described in §31.13 of this title (relating to Discretionary Program).

(d) Application. To receive funds allocated under this section, a designated recipient must first submit an application, in the form prescribed by the department, to the director, which shall include the following certifications:

(1) that money is available to provide:

(A) 35% of the local share requirement of federally assisted capital improvements or planning projects and 50% of the local share requirement of federally financed projects for operating expenses and administrative costs to be financed under the formula program; or

(B) 50% of the total cost of other public transportation capital improvement projects; and

(2) that the proposed public transportation project is consistent with continuing, cooperating, and comprehensive regional transportation planning implemented in accordance with the Federal Transit [federal Urban Mass Transportation] Act of 1964 (49 United States Code, §1601 et seq) and the Federal-Aid Highway Act of 1973 (49 United States Code, §1602a) (Federal approval of a proposed public transportation project shall be accepted as a determination that all federal planning requirements have been met).

(e) Project evaluation. In evaluating a project under this section, the department shall consider the need for fast, safe, efficient, and economical public transportation and the approval of the federal FTA

[UMTA], or its successor.

(f) Reporting requirements. A designated recipient that receives funds allocated under this section shall submit to the department, on the format prescribed by the department, quarterly reports which include the following information: operating cost per passenger; operating cost per revenue mile; fare recovery rate; average vehicle occupancy; on-time performance; the number of accidents per 100,000 vehicle miles; and the number of total miles between mechanical road calls. The reports shall be submitted based on calendar quarters and shall be provided to the department within 45 days of the end of the calendar quarter.

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 October 7, 1993.

TRD-9328970

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: November 15, 1993

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

Federal Programs

• 43 TAC §31.36

The Texas Department of Transportation proposes an amendment to §31.36, concerning the §18 grant program. This action is necessary to establish an alternate to the current funding allocation methodology in §31.36. Transit industry representatives have made a compelling argument in favor of system-specific performance goals and management objectives that will ensure that the public's interests are protected.

New paragraph (2) of subsection (c) would establish a set-aside for service expansions to address the needs of new starts as well as provide additional funding for current §18 contractors to provide enhanced or improved service. The proposed language establishes procedures and deadlines for the award of an amount not to exceed 10% of the balance of the annual federal §18 apportionment for service expansions of any type. Monies not used under paragraph (2) would be distributed in accordance with the provisions of subsection (c)(3) and (4).

Current rules outline a formula for the allocation of §18 funds using five demographic and performance factors. The weighted averages are then subject to adjustments based on the annual adoption of caps and bases by the Texas Transportation Commission that limit the increases or decreases in a given year to specified percentages. Proposed changes in paragraph (3) of subsection (c) would guarantee each §18 contractor the same percentage of monies they received under the FY 1994

allocation, subject to certain conditions. Those limitations and adjustments, which are outlined in clauses (i)-(ii) of subparagraph (3)(A), address expansion funding awarded in the previous year and population shifts that affect an area's eligibility to receive §18 monies.

Both the transit industry and the department agree that performance measures are important to ensure that transit riders' interests are protected and to guide system managers in making improvements. The proposed new subsection (c)(4) establishes a process for the development of performance goals and management objectives for each §18 system. The specific categories identified are clearly important but flexibility is provided in the selection of a precise measure and target. Through the negotiation process and an annual review, department staff would provide feedback to each contractor and offer technical assistance as needed. Section 18 operators would remain eligible for funding in accordance with subsection (c)(3) as long as they made a good-faith effort to meet those goals and objectives.

It is also important, however, that the Texas Transportation Commission retain the ability to terminate funding to any operator that does not make a good-faith effort. Although such deficiencies are expected to be infrequent, paragraph (4)(C) outlines the procedures to be followed in such cases, including a minimum one-year grace period and the provision of technical assistance prior to termination.

Richard G. Christie, director of public transportation, has determined that for the first five-year period the section is in effect there will be fiscal implications for state and local governments as a result of enforcing or administering the section. However, those costs should not exceed current expenditures by either state or local governments related to this section.

Mr. Christie also has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section. However, the proposed 10% set-aside limitation in subsection (c)(2) may delay the implementation of new starts or service expansions due to the unavailability of funds in a given year.

Mr. Christie 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 a more consistent application in the administration of public transportation grant programs. There will be no effect on small businesses. The anticipated economic cost to persons who are required to comply with the section as proposed will be negligible.

Pursuant to the Administrative Procedure Act, the Government Code, Chapter 2001, the Texas Department of Transportation will conduct a public hearing to receive comments concerning the proposed amendments. The public hearing will be held at 1:30 p.m. on Tuesday, November 2, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin, and will be conducted in accordance

with the procedures specified in 43 TAC §1.5. Those desiring to make comments or presentations may register starting at 1 p.m. 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 reserves the right to restrict testimony in terms of time and repetitive content. Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible. Comments on the proposed text should include appropriate citations to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the proposed text should be submitted in written form. Presentations must remain pertinent to the issue being discussed. A person may not assign a portion of his or her time to another speaker. A person who disrupts a public hearing must leave the hearing room if ordered to do so by the presiding officer. Persons with disabilities who have special communication or accommodation needs and who plan to attend the hearings may contact Al Zucha, public information officer, at 125 East 11th Street, Austin, Texas 78701-2383, (512) 463-8588.

Written comments on the proposed amendments may be submitted to Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483. The deadline for receipt of written comments will be 5:00 p.m. on November 12, 1993.

The amendments are proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to promulgate rules for the conduct of the work of the Texas Department of Transportation, and specifically to administer the state public transportation fund and state and federal public transportation programs. The amendments implement the provisions of Texas Civil Statutes, Articles 6663b and 6663c.

§31.36. Section 18 Grant Program.

(a) Purpose. The Federal Transit Act of 1964, §18, as amended (49 United States Code §1614), authorizes the Secretary of the United States Department of Transportation to make grants for public transportation projects in nonurbanized areas. The department has been designated by the governor to administer the §18 program.

(b) Eligible recipients. State agencies, local public bodies, private nonprofit organizations, Indian tribes and groups, and operators of public transportation services are eligible to receive §18 funds through the department. Private for-profit operators of public transportation services may participate in the program through contracts with

eligible recipients.

(c) Allocation of funds [Formula allocation]. As part of its administration of the §18 program, the department is charged with ensuring that there is a fair and equitable distribution of program funds within the state (FTA Circular 9040.1C [9040.1B], Chapter 1, §4). Effective January 1, 1994 [September 1, 1989], the department will allocate §18 funds to local contractors in the following manner.

(1) Unless the governor certifies to the Secretary of the United States Department of Transportation that the intercity bus service needs of the state are being adequately met, the department will reserve not less than 5.0% of the fiscal year 1992 §18 federal apportionment for the development and support of intercity bus transportation. The percentage to be reserved for intercity bus transportation will rise to 10% in fiscal year 1993 and 15% in fiscal year 1994 and beyond unless the governor certifies that such expenditures are not necessary. If it is determined that all or a portion of the set-aside monies are not required for intercity bus service, those funds shall be applied to the formula apportionment process described in paragraph (3) of this subsection.

(2) An amount not to exceed 10% of the balance of the annual §18 federal apportionment, after the set-aside for intercity bus service described in paragraph (1) of this subsection and department administrative expenses are deducted, shall be reserved for the expansion of nonurbanized public transportation services. No later than January 1 of each year, all applicants requesting funding under this paragraph shall file a notice of their intentions to expand services. All service expansions shall be initiated on September 1 following the filing of the notice of intent unless otherwise authorized by the department. The amounts to be awarded for each service expansion shall be determined by the commission. After receiving an award under this paragraph, service expansions shall become subject to the funding allocation process described in paragraph (3) of this subsection in succeeding fiscal years. If it is determined that all or a portion of the funds made available under this paragraph are not needed for the purposes described, those monies shall be distributed in accordance with the provisions of paragraph (3) of this subsection.

(3) Except as provided in paragraphs (1) and (2) of this subsection, the balance of the annual §18 federal apportionment and any state funds appropriated specifically for the purpose of funding nonurbanized public transportation services will be allocated to existing RPT contractors as described in this paragraph. No later than June 1 of each

calendar year, the department will announce the allocations for the fiscal year beginning on September 1 of the same year.

(A) Subject to the following limitations and adjustments, each RPT contractor shall receive the same percentage of funds as were awarded to that contractor by the commission for fiscal year 1994.

(i) The percentage awards to each RPT contractor will be adjusted annually to include any projects funded under paragraph (2) of this subsection during the previous fiscal year.

(ii) If a portion of an RPT contractor's service area is declared an urbanized area by the United States Census Bureau or the service area is otherwise reduced, the department and that contractor shall negotiate an appropriate adjustment in the award of nonurbanized public transportation funding to that contractor.

(iii) If a previously designated urbanized area is declared nonurbanized by the United States Census Bureau, a public transportation contractor serving that area shall apply for funds in accordance with paragraph (2) of this subsection.

(B) Prior to receiving funds a contractor must complete and comply with all application requirements, rules, and regulations applicable to the §18 program, and must negotiate a contract with the department pursuant to paragraph (4) of this subsection.

(4) A contract for the allocation of funds pursuant to paragraph (3) of this subsection shall have an effective date of September 1, shall be for a 12-month period unless otherwise authorized by the department, and shall provide for performance goals and management objectives for the RPT contractor that are acceptable to the commission.

(A) Performance goals for each fiscal year shall at a minimum include at least one measure deemed appropriate for that RPT contractor by the department from the categories listed in clauses (i)-(iii) of this subparagraph and may include at least one measure as provided in clause (iv) of this subparagraph.

(i) Cost efficiency. Examples include, but are not limited to, specific performance targets related to revenue recovery ratio, cost per vehicle mile, or cost per service hour.

(ii) Cost effectiveness. Examples include, but are not limited to, specific performance targets related to cost per passenger trip or cost per passenger mile.

(iii) Service utilization. Examples include, but are not limited to, specific performance targets related to passenger trips per capita, passenger trips per mile, or passenger trips per hour.

(iv) Other measures. The department may also require an RPT contractor to adopt other performance goals that are deemed appropriate by the department to address particular operational issues. For example, if an RPT contractor has experienced a number of vehicular accidents during the preceding year, the department would recommend institution of a safety program with the goal of reducing the number of accidents by a specified percentage.

(B) Management objectives for each fiscal year shall at a minimum include at least one measure deemed appropriate by the department from each of the following categories.

(i) Training. Examples include, but are not limited to, a target for hours of training to be provided to drivers, renewal of first aid and related certifications for all drivers and management employees, or completion of a total quality management course by a specified number of supervisory staff members.

(ii) Marketing and public involvement. Examples include, but are not limited to, the expenditure of a specified budget percentage or amount on marketing activities, the completion of a specified number of public meetings to obtain comments on system operations, or the administration of a passenger survey on quality of service.

(iii) Disadvantaged business enterprise participation. Examples include, but are not limited to, achievement of a specified percentage increase in the use of disadvantaged business enterprises, or recruitment and certification of a specified number of disadvantaged business enterprises.

(iv) General management activities. Examples include, but are not limited to, the automation of all financial and personnel records, preparation of a business plan to foster private sector partnerships, or completion of a staffing plan that identifies funding resources for anticipated personnel increases.

(C) A contractor's performance goals and management objectives will serve as a basis for the department's annual review of the contractor's efficiency and effectiveness in providing public transportation services. If the contractor fails to meet those goals or objectives, and fails to demonstrate a good faith effort for their accomplishment, the commission may rule the contractor ineligible to receive nonurbanized public transportation funding. However, the department will make all possible efforts to ensure continuity of service in that area to accommodate the needs of public transportation riders.

(i) The department will notify the contractor of any deficiencies noted in the annual review, and will allow the contractor a minimum grace period of one calendar year from the date of notification to correct those deficiencies. During the grace period, the department will make every reasonable effort to provide appropriate technical assistance to the RPT contractor.

(ii) If at the end of the grace period the deficiencies have not been corrected, the commission may by written order authorize the department to terminate funding to the RPT contractor.

[(2) A portion of the annual §18 federal apportionment will be reserved for the establishment of nonurbanized public transportation systems in areas currently not served by a §18 system. The amount to be reserved will be determined by the department no later than June 1 of each year and shall be based on current planning estimates by the department. The department will establish a maximum amount to be allocated to each project authorized under this paragraph. The balance available under this paragraph will be reviewed by the department at periodic intervals during the fiscal year and amounts released to contractors described in paragraph (3) of this subsection as deemed appropriate. Projects to be funded under this paragraph may be approved by the department at any time during the fiscal year. Once a new system has been in operation for at least six months, it will become subject, for the next full fiscal year, to the funding allocation process described in paragraph (3) of this subsection.

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

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

[(A) Unadjusted totals will be calculated for each contractor, taking the sum of the factors described in clauses (i)-(v) of this subparagraph for the contractor and dividing the total by five. The resulting aggregate factor will then be multiplied by the total \$18 funds determined by the department to be available for projects to be funded under this paragraph. The product of the latter calculation is the unadjusted formula total for each contractor.

[(i) Nonurbanized population. Using the latest census figures available from the state data center, the nonurbanized population for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the nonurbanized population factor for each contractor.

[(ii) Square mileage. Using the department's database, the square mileage (by county) for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the square mileage factor for each contractor.

[(iii) Vehicle miles per cost. Using the most recent four quarterly reports submitted by each contractor, the contractor's average vehicle miles travelled per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the vehicle miles per cost factor for each contractor. For con-

tractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

[(iv) Revenues per expenses (revenue recovery ratio). Using the most recent four quarterly reports submitted by each contractor, the contractor's average revenue collected per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the revenues per expenses factor for each contractor. For contractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

[(v) Passenger trips per nonurbanized population. Using the most recent four quarterly reports submitted by each contractor and the population data described in clause (i) of this subparagraph, the contractor's average one-way passenger trips per service area population will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the passenger trips per nonurbanized population factor for each contractor. For systems that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

[(B) Based on the relative size of the federal apportionment and the relative number of \$18 formula contractors in comparison to the preceding fiscal year, the department will adjust the formula totals derived in subparagraph (A) of this paragraph. The adjustments will be based on a comparison of the preliminary formula totals to the Section 18 grant funds available to each contractor during the preceding 12 months. As contractors enter their second and following years of formula funding, this will be a comparison to the previous year's allocation. The commission

will determine an appropriate allocation base and cap and all preliminary formula amounts derived in subparagraph (A) of this paragraph will be adjusted to fall within that range. (For example, if contractor X's unadjusted total represented 87% of the previous year's expenditures and the annual funding base was established at 90%, contractor X's allocation would be increased to 90%. Similarly, if contractor Y's unadjusted total represented 125% of the previous year's expenditures and the annual funding cap was established at 110%, contractor Y's allocation would be reduced to 110%.) If the federal apportionment remains substantially unchanged from fiscal year 1990, the base will be no less than 95% and the cap will be as high as feasible given the available funding. Any reserve funds described in paragraphs (1)-(2) of this subsection that are released for allocation under this paragraph will be awarded on a percentage basis to the existing contractors at the lowest funding levels relative to the base. Similarly, any funds allocated under this paragraph that are not obligated by December 1 of the fiscal year of allocation will be awarded on a percentage basis to the other existing contractors at the lowest funding levels relative to the base.]

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 October 7, 1993.

TRD-9329972

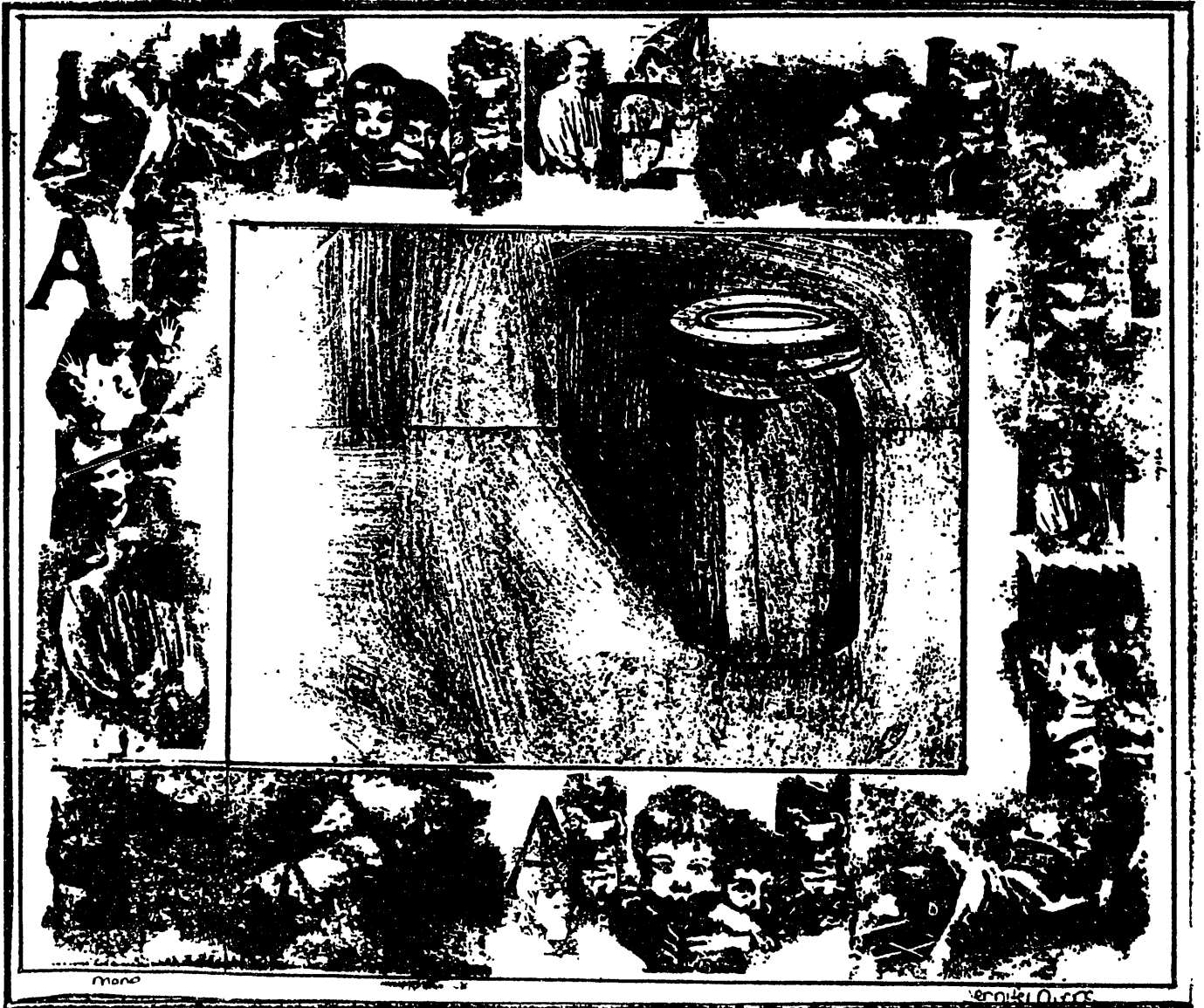
Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

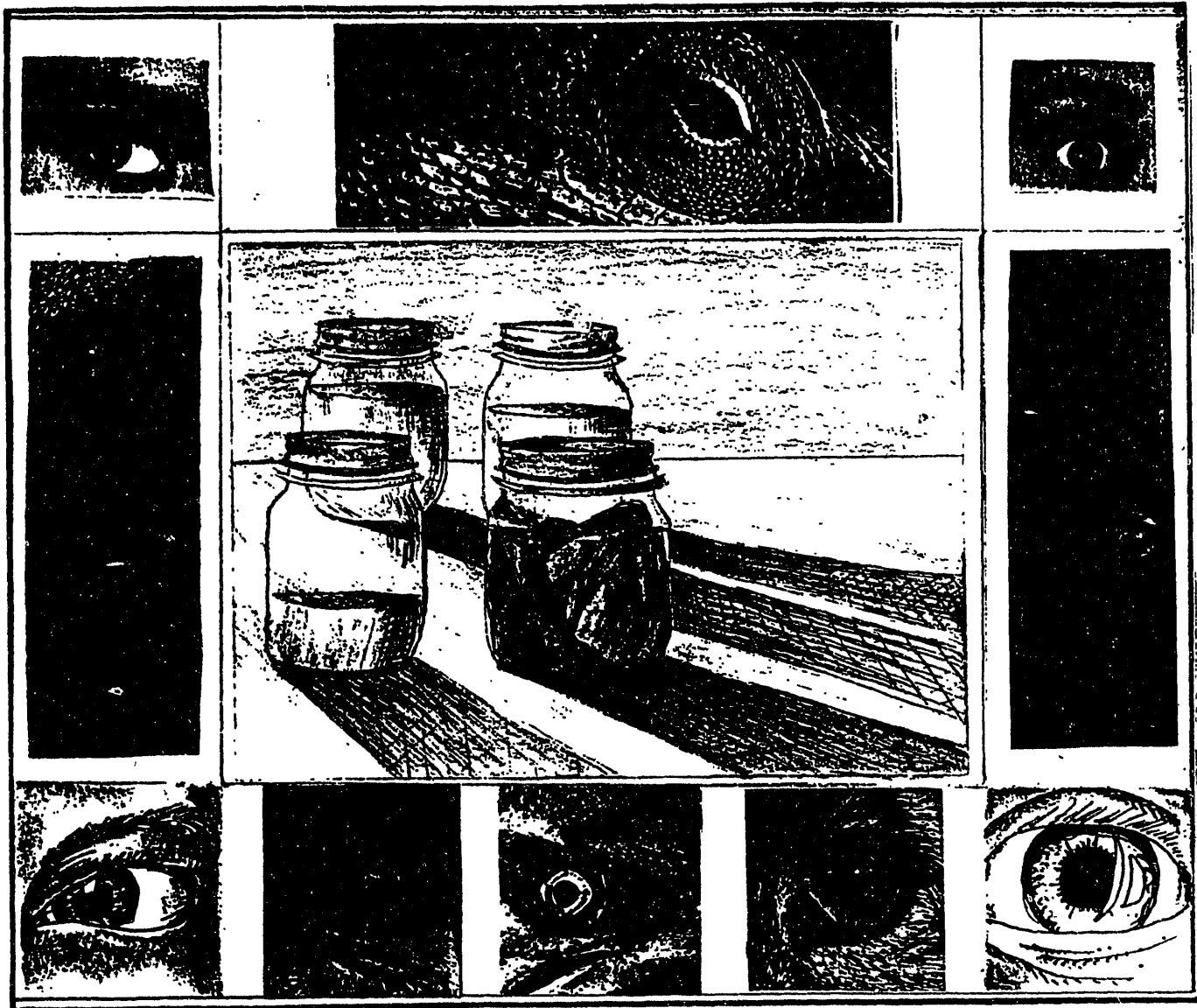
Earliest possible date of adoption: November 15, 1993

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

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Withdrawn Sections

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

TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission

Chapter 43. Tuberculosis

Subchapter A. Cattle

• 4 TAC §43.2

The Texas Animal Health Commission has withdrawn from consideration for permanent adoption a proposed amendment, §43.2 which appeared in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5812). The effective date of this withdrawal is October 6, 1993.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329848

Terry Beale, DVM
Executive Director
Texas Animal Health
Commission

Effective date: October 6, 1993

For further information, please call: (512) 479-6697

TITLE 16. ECONOMIC REGULATION

Part VIII. Texas Racing Commission

Chapter 16. General Provisions

• 16 TAC §303.41

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed amendment, §303.41, which appeared in the March 30, 1993, issue of the *Texas Register* (18 TexReg 1988). The effective date of this withdrawal is October 5, 1993.

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

TRD-9329819

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: October 5, 1993

For further information, please call: (512) 794-8461

Chapter 313. Officials and Rules of Horse Racing

• 16 TAC §§313.501-313.507

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed new, §§313.501-313.507, which appeared in the June 25, 1993, issue of the *Texas Register* (18 TexReg 4174). The effective date of this withdrawal is October 5, 1993.

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

TRD-9329821

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: October 5, 1993

For further information, please call: (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter C. Simulcast Wagering

General Provisions

• 16 TAC §321.204

The Texas Racing Commission has withdrawn from consideration for permanent adoption a proposed amendment, §321.204, which appeared in the March 30, 1993, issue of the *Texas Register* (18 TexReg 1992). The effective date of this withdrawal is October 5, 1993.

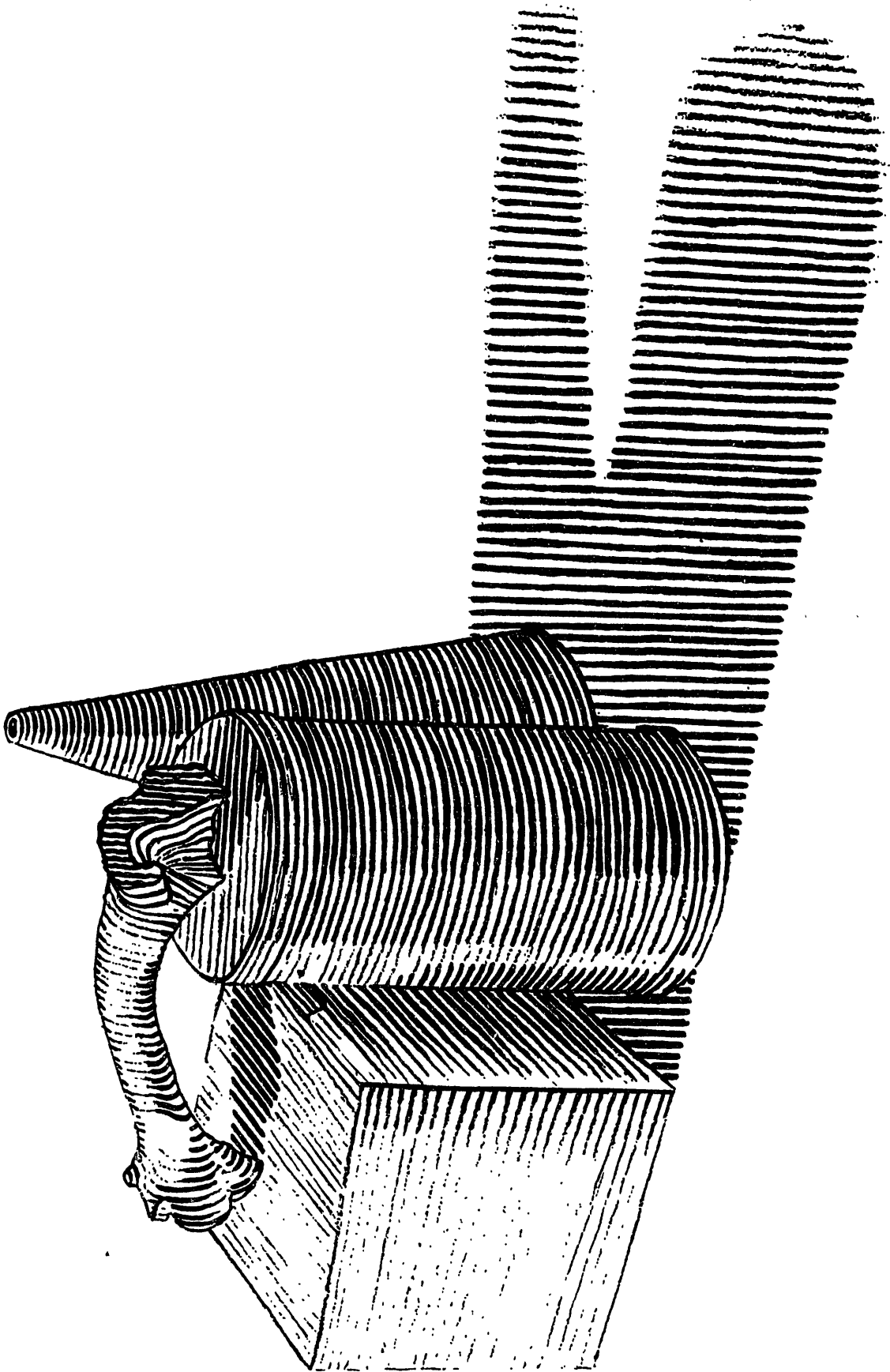
Issued in Austin, Texas, on October 5, 1993.

TRD-9329820

Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: October 5, 1993

For further information, please call: (512) 794-8461



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 1. ADMINISTRATION

Part II. Texas Ethics Commission

Chapter 10. Practice and Procedure

Subchapter B. Forms

- 1 TAC §§10.211, 10.213, 10.215, 10.217, 10.219

The Texas Ethics Commission adopts the repeal of §§10.211, 10.213, 10.215, 10.217, and 10.219, concerning the forms used in the sworn complaint procedure before the commission without changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4269).

The sections are being replaced by §7.1 which allows the executive director to prescribe, revise, and certify new and revised forms which are filed under the authority of the commission.

No comments were received regarding adoption of the repeals.

The repeals of these sections are adopted under Texas Civil Statutes, Article 6252-9d.1, which provide the Texas Ethics Commission with the authority to promulgate, adopt, and repeal rules concerning the filing of reports mandated by any statute administered or enforced by the commission.

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

Issued in Austin, Texas, on September 30, 1993.

TRD-9329985 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: October 28, 1993

Proposal publication date: July 2, 1993

For further information, please call: (512) 463-5800



Chapter 20. Campaign Financing

Subchapter B. Reporting Forms

- 1 TAC §§20.2-20.9, 20.11, 20.13, 20.15, 20.17, 20.19, 20.21, 20.23

The Texas Ethics Commission adopts the repeal of §§20.2-20.9, 20.11, 20.13, 20.15, 20.17, 20.19, 20.21, and 20.23, concerning the forms used in campaign finance disclosure, without changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4270).

The sections are being replaced by §7.1 which allows the executive director to prescribe, revise, and certify new and revised forms which are filed under the authority of the commission.

No comments were received regarding adoption of the repeals.

The repeals of these sections are adopted under Chapter 571, Texas Government Code, which provides the Texas Ethics Commission with the authority to promulgate, adopt, and repeal rules concerning the filing of reports mandated by any statute administered or enforced by the commission.

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

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

TRD-9329986 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: October 28, 1993

Proposal publication date: July 2, 1993

For further information, please call: (512) 463-5800



Chapter 30. Personal Financial Disclosure

Subchapter B. Reporting Forms Financial Statement

- 1 TAC §30.51

The Texas Ethics Commission adopts the repeal of §30.51, concerning the Financial Statement form used by state officers, without changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register*

(18 TexReg 4270).

The section is being replaced by §7.1 which allows the executive director to prescribe, revise, and certify new and revised forms which are filed under the authority of the commission.

No comments were received regarding adoption of the repeal.

The repeal of this section is adopted under Chapter 571, Texas Government Code, which provides the Texas Ethics Commission with the authority to promulgate, adopt, and repeal rules concerning the filing of reports mandated by any statute administered or enforced by the commission.

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

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

TRD-9329987 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: October 28, 1993

Proposal publication date: July 20, 1993

For further information, please call: (512) 463-5800



Chapter 40. Registration and Regulation of Lobbyists

- 1 TAC §§40.17, 40.34, 40.35

The Texas Ethics Commission adopts the repeal of §§40.17, 40.34, and 40.35, concerning the forms used in the registration and regulation of lobbyists, without changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4271).

The sections are being replaced by §7.1 which allows the executive director to prescribe, revise, and certify new and revised forms which are filed under the authority of the commission.

No comments were received regarding adoption of the repeals.

The repeals of these sections are adopted under Chapter 571, Texas Government Code, which provides the Texas Ethics Commission with the authority to promulgate, adopt, and repeal rules concerning the filing of reports mandated by any statute administered or enforced by the commission.

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

Issued in Austin, Texas, on September 30, 1993.

TRD-9329988 Jim Mathieson
Assistant General Counsel
Texas Ethics Commission

Effective date: October 28, 1993

Proposal publication date: July 2, 1993

For further information, please call: (512) 463-5800

TITLE 4. AGRICULTURE

Part II. Texas Animal Health Commission

Chapter 33. Miscellaneous Contagious Diseases and Disinfection

• 4 TAC §33.1

The Texas Animal Health Commission adopts the repeal of §33.1, without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5809).

The rule was replaced with new §§33.1-33.4, which provide a more comprehensive procedure for dealing with ornithosis, hog cholera, and other miscellaneous disease in regard to quarantine, treatment, cleaning, and disinfection.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Agriculture Code, Texas Civil Statutes, Chapter 161, which provide the Commission with authority to adopt rules and sets forth the duties of this Commission to control disease.

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 October 1, 1993.

TRD-9329812 Terry Beals, DVM
Executive Director
Texas Animal Health Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

• 4 TAC §§33.1-33.4

The Texas Animal Health Commission adopts new §§33.1, 33.2, 33.3, and 33.4 without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5809).

The new rules are necessary to provide the manner in which the commission would deal with ornithosis, hog cholera, and other miscellaneous diseases.

Poultry or poultry flocks infected with ornithosis must be immediately quarantined by the commission. The infected flocks are treated with aureomycin at the owner's expense. The poultry can only be moved from quarantined premises to slaughtering establishments that maintain federal or state post-mortem inspection. Dead birds are burned or buried pursuant to provisions of the Texas Agriculture Code. Swine infected with or exposed to hog cholera are immediately quarantined by the commission. The quarantine can be removed from the premises 21 days after the herd is depopulated and proper cleaning and disinfection is completed. Dead hogs must be disposed of in a manner approved by the commission. All animals exposed to or infected with any contagious or infectious disease may be immediately quarantined by the commission. Carcasses must be disposed of pursuant to commission procedures. All animal products taken from infected animals must be thoroughly disinfected. Proper cleaning and disinfecting of vehicles, premises and equipment are required in accordance with commission procedures.

No comments were received regarding adoption of the new sections.

The amendments are adopted under the Agriculture Code, Texas Civil Statutes, Chapter 161, which provide the commission with authority to adopt rules and set forth the duties of this commission to control disease.

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 October 1, 1993.

TRD-9329811 Terry Beals, DVM
Executive Director
Texas Animal Health Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

Chapter 35. Brucellosis Subchapter A. Eradication of Brucellosis in Cattle

• 4 TAC §35.1

The Texas Animal Health Commission adopts an amendment to §35.1, without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5810).

It was necessary to amend the definitions of an official backtag and eartag to state there is a prohibition against reusing an official backtag, and removal of an official eartag from cattle.

An official backtag is an identification tag which is used to uniquely identify each indi-

vidual head of cattle at the time they are tested. An official eartag is one that conforms to the nine-character alphanumeric National Uniform Eartagging System. If these tags are removed from cattle they cannot be traced back to the owner.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provide the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

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 October 1, 1993.

TRD-9329813 Terry Beals, DVM
Executive Director
Texas Animal Health Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

• 4 TAC §35.4

The Texas Animal Health Commission adopts an amendment to §35.4, without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5810).

It was necessary to amend the rule to provide that an entry permit is required for all cattle entering Texas from Mexico rather than just for breeding cattle.

Persons desiring to move cattle from a foreign country to a destination in Texas are required to obtain an entry permit, issued by this agency, prior to the time of movement.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Agriculture Code, Texas Civil Statutes, Chapters 161 and 163, which provide the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

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 October 1, 1993.

TRD-9329814 Terry Beals, DVM
Executive Director
Texas Animal Health Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

Chapter 37. Screwworms

• 4 TAC §37.1, §37.2

The Texas Animal Health Commission adopts the repeal of §37.1 and §37.2, without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5810).

The rule was replaced with new §37.1, and §37.2, which provide the manner in which livestock are handled when screwworm infestations are suspected.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Agriculture Code, Texas Civil Statutes, Chapters 181, which provide the commission with authority to adopt rules and sets forth the duties of this commission to control disease.

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 October 1, 1993.

TRD-9329816 Terry Beale, DVM
Executive Director
Texas Animal Health
Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

The Texas Animal Health Commission adopts new §33.1 and §37.2, without changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5810).

New rules are necessary to provide owners of livestock infested with screwworms with requirements, procedures, and guidelines for treating the affected livestock.

Any area, county, or part of a county may be quarantined if it is determined to be infested with screwworms; all livestock, fowl, or other animals susceptible to screwworm infestation leaving a quarantined area must have a health certificate certifying that the livestock are free from screwworms, screwworm fly eggs and wounds; and any animals that are susceptible to screwworm infestation must be removed from a shipment and they must be permitted to leave the quarantined area only after it is determined the livestock are free of screwworms, or the animals have been treated by an agent of the commission.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Agriculture Code, Texas Civil Statutes, Chapter 181, which provide the Commission with authority to adopt rules and sets forth the duties of this commission to control disease.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel and found to be a valid exercise of the agen-

cy's legal authority.

Issued in Austin, Texas, on October 1, 1993.

TRD-9329815 Terry Beale, DVM
Executive Director
Texas Animal Health
Commission

Effective date: November 1, 1993

Proposal publication date: August 31, 1993

For further information, please call: (512) 479-6697

TITLE 7. BANKING AND SECURITIES

Part V. Office of Consumer Credit Commissioner

Chapter 82. Administration

• 7 TAC §82.1

The Office of Consumer Credit Commissioner of Texas adopts new §82.1, concerning custody of criminal history record information, without changes to the proposed text as published in the July 20, 1993, issue of the *Texas Register* (18 TexReg 4724).

The rule is adopted to insure the proper use, custody, and control of criminal history information obtained by the Office of Consumer Credit Commissioner.

The rule outlines procedures designed to maintain the confidentiality and security of criminal history information by restricting the availability of such information to specified individuals and restricting its use to assisting the commissioner in determining the character and fitness of an applicant for a license issued by the Consumer Credit Commissioner.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 5069-2. 02A(11), which provides the Texas Office of Consumer Credit Commissioner with authority to promulgate rules and regulations necessary to guarantee the confidentiality of criminal information.

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 October 7, 1993.

TRD-9330082 Al Endaley
Consumer Credit
Commissioner
Office of Consumer Credit
Commissioner

Effective date: October 29, 1993

Proposal publication date: July 20, 1993

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

TITLE 16. ECONOMIC REGULATIONS

Part I. Railroad Commission of Texas

Chapter 13. Regulations For Compressed Natural Gas (CNG) Fuel Systems

Subchapter B. General Rules for CNG Equipment Qualifications

• 16 TAC §13.21

(Editor's note: Due to an error as submitted by the agency in the September 21, 1993, issue of the Texas Register, §13.21 is being republished for clarification. The section was published as adopted without changes, but was adopted with changes.)

§13.21. Applicability and Severability.

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

(c) Nothing in these rules shall be construed as requiring, allowing, or approving the unlicensed practice of engineering or any other professional occupation requiring licensure.

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 14, 1993.

TRD-9328893 Mary Ross McDonald
Assistant Director, Legal
Division - Gas Utilities
/ LP Gas
Railroad Commission of
Texas

Effective date: October 15, 1993

Proposal publication date: July 16, 1993

For further information, please call: (512) 463-6949

Part VIII. Texas Racing Commission

Chapter 309. Operation of Racetracks

Subchapter B. Horse Race-tracks

Operations

• 16 TAC §309.199

The Texas Racing Commission adopts an amendment to §309.199, concerning horsemen's bookkeeper, without changes to the proposed text as published in the June 25, 1993, issue of the *Texas Register* (18 TexReg 4171).

The amendment is adopted secure the funds allocated to purses from pari-mutuel wagering.

The amendment establishes procedures for the deposit, segregation, and disbursement of purse funds.

Written comment was received from Sam Houston Race Park, a licensed Class 1 horse racetrack. The comments suggested postponing implementation on some of the procedures established in the amendment, to permit the racetracks to negotiate some of these items in contracts with the horsemen's representatives. The commission disagreed with these comments because the protections delineated by the amendment should be uniform for all pari-mutuel racetracks.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks.

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 October 6, 1993.

TRD-9329862 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: November 1, 1993

Proposal publication date: June 25, 1993

For further information, please call: (512) 794-8961

Chapter 313. Officials and Rules of Horse Racing

Subchapter B. Entries, Declarations, and Allowances

Entries

• 16 TAC §313.103

The Texas Racing Commission adopts an amendment to §313.103, concerning entries, without changes to the proposed text as published in the August 17, 1993, issue of the Texas Register (18 TexReg 5462).

The amendment is adopted to ensure pari-mutuel racing will be safe for the horses.

The amendment authorizes the submission of test results for equine infectious anemia in accordance with rules of the Texas Animal Health Commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting

racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks.

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 October 6, 1993.

TRD-9329863 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: November 1, 1993

Proposal publication date: August 17, 1993

For further information, please call: (512) 794-8461

Chapter 319. Veterinary Practices and Drug Testing

Subchapter B. Treatment of Horses

• 16 TAC §319.110

The Texas Racing Commission adopts an amendment to §319.110, concerning health requirements, without changes to the proposed text as published in the August 17, 1993, issue of the Texas Register (18 TexReg 5463).

The amendment is adopted to ensure pari-mutuel racing will be safe for the horses.

The amendment authorizes the submission of test results for equine infectious anemia in accordance with rules of the Texas Animal Health Commission.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; and §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks.

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 October 6, 1993.

TRD-9329864 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: November 1, 1993

Proposal publication date: August 17, 1993

For further information, please call: (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter C. Simulcast Wagering

General Provisions

• 16 TAC §321.204

The Texas Racing Commission adopts an amendment to §321.204, concerning approval of wagering on simulcast races, with changes to the proposed text as published in the June 25, 1993, issue of the Texas Register (18 TexReg 4175).

The amendment is adopted to streamline the approval process for simulcasting.

The amendment clarifies the procedure for obtaining commission approval of simulcasting. The changes made to the proposed text were suggested by the commission staff to further increase the efficiency of the approval process. The deadline for filing a request for simulcasting was reduced from 30 days to three days, the executive secretary was given authority to approve a simulcasting request for up to 90 days subject to commission rescission, and the procedure for granting approval for races of national or historic interest was simplified.

No written comments were received regarding the proposal. A representative of the Texas Horsemen's Benevolent and Protective Association spoke at the commission meeting held on October 4, 1993, in favor of simplifying the approval process.

The amendment is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §11.011, which authorizes the commission to adopt rules to regulate simulcasting; and Texas Civil Statutes, Article 6252-13a, §4, which authorizes the commission to adopt rules of practice and procedure.

§321.204. Approval of Wagering on Simulcast Races.

(a) To receive approval of the commission for wagering on a simulcast race or program other than a race of national or historic interest, an association must submit a request for the simulcasting to the commission on a form prescribed by the commission.

(b) Except as otherwise authorized by the commission, a request for simulcasting must be filed not later than three days before the first simulcast race covered by the request. The executive secretary may approve a request for simulcasting for a period not to exceed 90 days, subject to rescission of the approval by the commission at its next regular meeting.

(c) The association shall serve a copy of the request on every association

licensed to conduct racing for the same species of race animal as the association. The executive secretary may require the association to submit additional information if the executive secretary determines the additional information is necessary to effectively evaluate the request.

(d) In considering whether or not to approve a simulcasting request, the commission shall consider:

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

(e) (No change.)

(f) At least annually, the executive secretary shall develop a list of races of national or historic interest that are approved for simulcasting purposes and shall distribute the list to all appropriate Texas racetracks. To request permission to conduct pari-mutuel wagering on any simulcast race on the list of races of national or historic interest, an association shall notify the executive secretary in writing of its desire to simulcast the race and submit all documentation required by commission rule or federal law no later than 5:00 p. m. of the third day before the day of the race.

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 October 6, 1993.

TRD-9329865 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: November 1, 1993

Proposal publication date: June 25, 1993

For further information, please call: (512) 794-8461

Chapter 321. Pari-mutuel Wagering

Subchapter C. Simulcast Wagering

Simulcasting at Greyhound Racetracks

• 16 TAC §321.251

The Texas Racing Commission adopts new §321.251, concerning simulcasting fee, without changes to the proposed text as published in the August 17, 1993, issue of the *Texas Register* (18 TexReg 5463).

The section is adopted to facilitate the receipt of simulcasting at greyhound racetracks, which will expand the types of racing product offered for public wagering at greyhound racetracks.

The section establishes a fee for conducting wagering on races simulcast to greyhound racetracks.

No comments were received regarding adoption of the new section.

The section is adopted under the Texas Civil Statutes, Article 179e, §3.02, which authorize the commission to adopt rules for conducting racing with wagering and for administering the Texas Racing Act; §5.01, which authorizes the commission to prescribe reasonable license fees; §6.06, which authorizes the commission to adopt rules relating to the operation of racetracks; §6.18, which authorizes the commission to prescribe a reasonable annual fee for racetrack licensees; and §11.011, which authorizes the commission to adopt rules to license and regulate pari-mutuel wagering on simulcast races.

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 October 1, 1993.

TRD-9329866 Paula Cochran Carter
General Counsel
Texas Racing Commission

Effective date: November 1, 1993

Proposal publication date: August 17, 1993

For further information, please call: (512) 794-8461

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part II. Texas Rehabilitation Commission

Chapter 101. General Rules

• 40 TAC §101.12

The Texas Rehabilitation Commission adopts an amendment to §101.12, without changes to the proposed text as published in the September 10, 1993, issue of the *Texas Register* (18 TexReg 6089).

The purpose of this amendment is to show that the Texas Rehabilitation Commission will receive cooperation from the Texas Department of Criminal Justice and the Texas Department of Public Safety.

No comments were received regarding adoption of the amendment.

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

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 29, 1993.

TRD-9329824 Charles W. Schlessner
Associate Commissioner
for Legal Services
Division
Texas Rehabilitation
Commission

Effective date: October 26, 1993

Proposal publication date: September 10, 1993

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

Chapter 113. Comprehensive Rehabilitation Services

• 40 TAC §113.4

The Texas Rehabilitation Commission adopts an amendment to §113.4, without changes to the proposed text as published in the August 13, 1993, issue of the *Texas Register* (18 TexReg 5392).

The new sections are needed to adopt a more detailed Chapter 13 to increase public awareness of the Comprehensive Rehabilitation Services. A comment was received recommending that "speech therapy" be changed to "speech-language pathology", and the Commission agrees. This comment was not incorporated in §113.4(a)(3).

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

No comments were received regarding adoption of the section.

The amendment is adopted under the Texas Human Resources Code, Title 7, §111.060 which provides the Texas Rehabilitation Commission with authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations subject to this section; as necessary to carry out the purposes of this chapter.

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 28, 1993.

TRD-9329823 Charles W. Schlessner
Associate Commissioner
for Legal Services
Division
Texas Rehabilitation
Commission

Effective date: August 13, 1993

Proposal publication date: August 13, 1993

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 31. [Division of] Public Transportation

General

• 43 TAC §31.3

The Texas Department of Transportation adopts an amendment to §31.3, without changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4493).

The amendment added definition of "like-kind exchange" to explain contemporaneous amendments in §31.57. The amendment is necessary to conform to federal statutory and regulatory changes.

A public hearing was held on July 23, 1993, and no comments were received regarding adoption of the amendment.

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

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 October 6, 1993.

TRD-9329880

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: October 27, 1993

Proposal publication date: July 9, 1993

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

Property Management Standards

• 43 TAC §31.57

The Texas Department of Transportation adopts an amendment to §31.57, without changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4493).

The amendment added language concerning like-kind exchanges on equipment purchases, addressed the Federal Transit Administration's regulations on the transfer of capital assets, and defined how the state and federal contractual interests would be dealt with for these transactions.

The amendment is necessary due to the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the issuance of federal regulations on like-kind exchanges, and the need to adopt consistent state standards whenever possible.

A public hearing was held on July 23, 1993, and no comments were received regarding adoption of the amendment.

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

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 October 6, 1993.

TRD-9329881

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: October 27, 1993

Proposal publication date: July 9, 1993

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

Texas Department of Insurance Exempt Filing

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

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

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

The State Board of Insurance of the Texas Department of Insurance, at a public meeting held at 9:00 a.m. on October 6, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, adopted a filing by the Office of the Secretary of State consisting of new surety bond forms required by the Acts of the 73rd Legislature.

The Veterans Organization Solicitation Bond and the Veterans Organization Solici-

tor's Bond forms are required by the provisions of Acts 1993, 73rd Legislature, Chapter 483, effective September 1, 1993. The Veterans Organization Solicitation Bond is conditioned on the principal conducting his/her business in accordance with the act and that the principal shall not injure any person by any violation of that act. The aggregate liability of the surety shall not exceed the actual damages and shall not exceed on any and all claims the amount stated in the bond. The limit of a bond for an organization chartered by the United States Congress is \$1,000 and if not chartered then the bond amounts are as follows: \$5,000 if the organization does not solicit in more than one county; \$10,000 if more than one but less than six counties, and \$25,000 if more than six counties. Solicitors for a veterans organization must also obtain a Veterans Organization Solicitor's Bond in the same limits depending on the number of counties in which they solicit. This bond has the same conditions as the Veterans Organization Solicitation Bond.

The Public Safety Organization, Independent Promoter Or Public Safety Publication Solicitor's Bond is required by the provisions of Acts 1993, 73rd Legislature, Chap-

ter 920, effective September 1, 1993. Each solicitor for a public safety organization, independent promoter, or public safety publication must file a registration statement with the Secretary of State that is accompanied by a surety bond. The aggregate limit of the bond is \$10,000 and is conditioned on the principal conducting his/her business in accordance with the act.

The Telephone Solicitation Bond is required by the provisions of Acts 1993, 73rd Legislature, Chapter 569, effective September 1, 1993. There are 20 exemptions for telephone solicitors, including licensed insurance agents. The purpose of this act is to protect persons against false, misleading, or deceptive practices in the business of telephone solicitation. The aggregate limit of the bond is \$10,000 and is conditioned on the principal conducting his/her business in accordance with the act. This act further requires that the surety must be a corporate surety licensed to do business in this state.

The Third-Party Debt Collector Bond is required by the addition of § 7A to Texas Civil Statutes Article 5069-11.01. The provisions of this statute apply to any person who for compensation gathers, records, or disseminates information relative to the

creditworthiness, financial responsibility, paying habits, and other similar information, regarding any person, for the purpose of furnishing such information to any other person. The aggregate limit of the bond is \$10,000 and is conditioned on the principal conducting his/her business in accordance with the statute.

All the bonds can be canceled by either the principal or the surety by giving at least 90 day's written notice to the Secretary of State and are written in favor of any person who may be injured by any violation of the appropriate acts or statute.

The Board has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.13, 5.15, and 5.97.

The full text of the form filings entitled "Veterans Organization Solicitation Bond", "Veterans Organization Solicitor's Bond", "Public Safety Organization, Independent Promoter Or Public Safety Publication Solicitor's Bond", "Telephone Solicitation Bond" and "Third-Party Debt Collector Bond" as adopted by the Board are filed with the Chief Clerk under Reference Number 0-0993-19 and are incorporated by reference by Board Order Number 60507.

This notification is made pursuant to the Insurance Code, Article 5.97, which ex-

empts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.

The Texas Department of Insurance hereby certifies that the adopted forms filing referenced herein have been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued in Austin, Texas, on October 7, 1993.

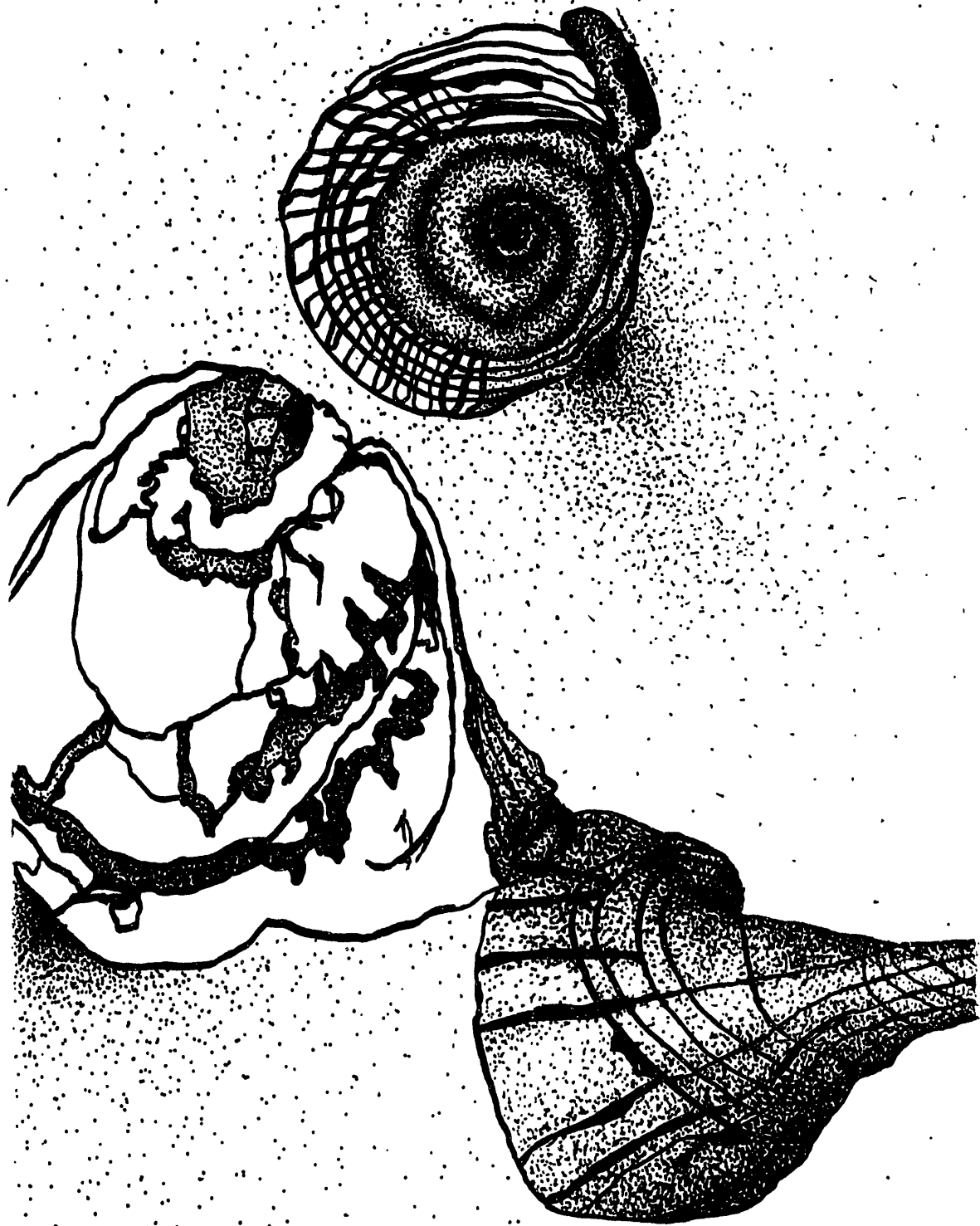
TRD-9329957

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

Effective: October 30, 1993

Filed: October 7, 1993

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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 main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, 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 on Aging (TDoA)

Thursday, October 14, 1993, 7:30 a.m.
1949 South IH-35, Third Floor Small Conference Room
Austin

According to the complete agenda, the Audit and Finance Committee will consider and possibly act on: call to order; minutes of September 9, 1993 meeting; budget report; prior internal audit updates; Department of Information Resources (DIR) Management Information System (MIS) Plan; internal audit of the Texas Department on Aging Support Services-final report; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: October 6, 1993, 2:26 p.m.

TRD-9329869

Thursday, October 14, 1993, 9:30 a.m.
1949 South IH-35, Third Floor Large Conference Room
Austin

According to the complete agenda, the Texas Board on Aging will consider and possibly act on: call to order; minutes of August 11, 1993 meeting; public testimony; executive director's report; citizens advisory council (CAC) chair's report; board committee reports to include audit and finance committee-internal audit of TDoA field operations division-final report; internal audit of TDoA Support Services Section-final report; Department of Information Resources (DIR) Management Information System (MIS) Plan; prior internal audit updates; and budget report; representative from TDoA Board to serve on Health and Human Ser-

vices Commission Long Term Care Task Force; board member travel; executive session to discuss roles and responsibilities of board and executive director; general announcements; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: October 6, 1993, 2:26 p.m.

TRD-9329868

Wednesday, October 20, 1993, 9:30 a.m.
Texas Department on Aging, 1949 South IH-35, Third Floor Small Conference Room
Austin

According to the complete agenda, the Networking/Advocacy/Legislation Committee will consider and possibly act on: call to order; minutes of September 9, 1993 meeting; work session to further develop the direction, composition and focus of an Aging Policy Consortium; and adjourn.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: October 6, 1993, 2:26 p.m.

TRD-9329867

Thursday, October 14, 1993, 9:30 a.m.
Texas Department on Aging, 1949 South IH-35, Third Floor Large Conference Room
Austin

According to the revised agenda summary, the Texas Board on Aging discussed TDoA board travel policy/procedures.

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas 78711, (512) 444-2727.

Filed: October 6, 1993, 3:44 p.m.

TRD-9329896

Texas Agricultural Experiment Station

Wednesday, October 20, 1993, 10:00 a.m.
Room FAC264, Large Animal Hospital, Texas A&M University
College Station

According to the complete agenda, the Texas Equine Research Account Advisory Committee will conduct research proposals submitted for funding consideration and present funding recommendations to the director of the agricultural experiment station; and conduct election of officers for 1994.

Contact: Dr. Robert Merrifield, #113, College Station, Texas 77843-2147, (409) 845-8486.

Filed: October 12, 1993, 9:11 a.m.

TRD-9330260

Texas Department of Agriculture

Thursday, October 28, 1993, 10:00 a.m.
2626 South Loop West, Suite 130
Houston

According to the complete agenda, the Office of Hearings will conduct an administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by T. P. Produce Company as petitioned by Golman-Hayden Company, Inc.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: October 11, 1993, 9:39 a.m.

TRD-9330146

Thursday, October 28, 1993, 11:00 a.m.
2626 South Loop West, Suite 130
Houston

According to the complete agenda, the Office of Hearings will conduct an administrative hearing to review alleged violation of Texas Agriculture Code, §§103.001-103.015 (Vernon 1982) by the Commissary as petitioned by G & D Vegetable Company.

Contact: Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: October 11, 1993, 9:39 a.m.

TRD-9330147

Texas Commission on Alcohol and Drug Abuse

Monday, October 11, 1993, 10:00 a.m.

710 Brazos Street, Suite 800

Austin

According to the complete agenda, the Criminal Justice Issues Committee will call the meeting to order; report on primary treatment; report on transitional treatment centers; report on TCADA Criminal Justice staffing; report on staffing process for Senate Bill 828 IPTC beds; funding processes; TDCJ-fund transfer; report on training; and adjourn.

Reason for Emergency: The emergency status was necessary due to the executive director vacancy, it was imperative that the Criminal Justice Initiative be reviewed by the new members of this committee.

Contact: Ted Sellers, 710 Brazos Street, Austin, Texas 78701, (512) 867-8132.

Filed: October 7, 1993, 2:18 p.m.

TRD-9329940

Monday, October 11, 1993, 4:00 p.m.

710 Brazos Street, Perry Brooks Building, Eighth Floor Conference Room

Austin

According to the complete agenda, the Grant and Contract Review Committee will call the emergency meeting to order; consideration of contracts for areas where clients are currently being served; reallocation of FY 1993 funds; establish enrollment criteria for transitional treatment centers; take action on unsolicited requests for funds received in September; and adjourn.

The emergency status was necessary as action was needed in order to prevent loss of current services to clients.

Contact: Reta Alexander, 710 Brazos

Street, Austin, Texas 78701, (512) 867-8836.

Filed: October 8, 1993, 3:56 p.m.

TRD-9330094

Texas Alcoholic Beverage Commission

Tuesday, October 19, 1993, 9:00 a.m.

5806 Mesa Drive, Room 180

Austin

According to the agenda summary, the commission will call the meeting to order; executive session to interview finalists for administrator's position; (noon-1:30 p.m. recess); approval of minutes; recognition of TABC employees with twenty plus years of service; consideration of petition submitted by the City of Sinton; outplacement activity of TABC personnel; approval of annual audit plan; report and recommendation on authority of TABC to enact rules requested by Luis Ruiz, Sr.; report and recommendation on authority of TABC to enact an emergency rule requested by Ruiz Wholesale Company; discussion and action on renewal of COPS IN SHOPS; public comment; executive session to discuss and review personnel actions, including the position of administrator; and discussion of pending litigation.

Contact: Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

Filed: October 11, 1993, 1:12 p.m.

TRD-9330186

Texas Appraiser Licensing and Certification Board

Friday, October 15, 1993, 10:00 a.m.

Executive Conference Room 235, 1101 Camino La Costa

Austin

According to the complete agenda, the board will call the meeting to order; consideration of the August 27, 1993, meeting; comments and presentations from visitors; public hearing on proposed rules 22 TAC §151 relating to practice and procedure and §153 relating to provisions of the Texas Appraiser Licensing and Certification Act; discussion and possible action to adopt amendments to rules 22 TAC §151 relating to practice and procedure and §153 relating to provisions of the Texas Appraiser Licensing and Certification Act; discussion and possible action concerning the application, certification/licensing or other board procedures, policies and interpretations; discussion and possible response to AQB ex-

posure drafts; discussion and possible action concerning the operating budget and other fiscal matters; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: October 6, 1993, 4:20 p.m.

TRD-9329912

Friday, October 15, 1993, 10:00 a.m.

Executive Conference Room 235, 1101 Camino La Costa

Austin

According to the complete revised agenda, the board will discuss and possibly act to propose an amendment to rule 22 TAC §153.13(e) relating to the educational requirements for the state certified residential real estate appraiser classification.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: October 7, 1993, 2:24 p.m.

TRD-9329947

The State Bar of Texas

Thursday, October 14, 1993, 2:00 p.m.

Bend of the River Ranch, Exit 294B between Belton and Temple

Belton

According to the agenda summary, the Executive Committee will call the meeting to order; take roll call; reports of the chair of the board, president, president-elect, TYLA president, executive director, office of general counsel, immediate past president, and supreme court liaison.

Contact: Pat Hiller, 1414 Colorado, Austin, Texas 78701, (512) 463-1463.

Filed: October 6, 1993, 3:47 p.m.

TRD-9329900

Thursday-Friday, October 14-15, 1993, 9:15 a.m. and 8:30 a.m. respectively.

The Texas Law Center, 1414 Colorado, Suite 206

Austin

According to the agenda summary, the Commission for Lawyer Discipline will call the meeting to order; introductions; approval of minutes; review statistical reports; discuss commission's compliance with State Bar Act, Texas Rules of Disciplinary Procedure and Orders of the Supreme Court; discuss operations and budget of the Office of General Counsel/discuss grievance committees; discuss special counsel program; discuss special counsel who have a grievance filed against them; review organization and budget of commission; closed executive

session, pursuant to Texas Civil Statutes, Article 6251-17(2) (e) and (g): discuss pending litigation; discuss cases before evidentiary panels; discuss special counsel assignments; discuss personnel matters; discuss settlement of pending litigation; discuss settlement of cases before evidentiary panels; discuss special counsel assignments; discuss future meetings; discuss other matters as appropriate; public comment; and adjourn.

Contact: Anne Dorris, P.O. Box 12487, Austin, Texas 78711, (512) 463-1463.

Filed: October 6, 1993, 3:46 p.m.

TRD-9329899

State Board of Barber Examiners

Monday, October 18, 1993, 10:00 a.m.

9101 Burnet Road, Suite 103

Austin

According to the complete agenda, the board members will call the meeting to order; roll call; board will then meet and act to hire a new executive director; and adjourn.

Contact: Linda Lung, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: October 8, 1993, 9:04 a.m.

TRD-9330032

Texas Bond Review Board

Thursday, October 14, 1993, 9:00 a.m.

Room 710, Sam Houston Building, 201 East 14th Street

Austin

According to the complete agenda, the board will call the meeting to order; announcement of executive session; interview of applicants for position of executive director; discussion of applicants; and adjourn.

Contact: Jim Thomassen, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: October 6, 1993, 2:54 p.m.

TRD-9329891

Tuesday, October 19, 1993, 2:00 p.m.

Room 710, Sam Houston Building, 201 East 14th Street

Austin

According to the complete agenda, the board will call the meeting to order; announcement of executive session; interview of applicants for position of executive direc-

tor of Texas Bond Review Board; consideration of applicants for executive director position; and adjourn.

Contact: Jim Thomassen, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: October 7, 1993, 4:04 p.m.

TRD-9329954

Texas Cancer Council

Wednesday-Thursday, October 27-28, 1993, 1:00 p.m. and 8:00 a.m. respectively.

Stouffer Austin Hotel, 9721 Arboretum Boulevard

Austin

According to the agenda, the Board of Directors Planning Retreat will hold a planning work session on FY 1994-95 activities. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Debra Perkins at (512) 463-3190 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily F. Untermeyer, P.O. Box 12097, Austin, Texas 78711, (512) 463-3190.

Filed: October 11, 1993, 3:59 p.m.

TRD-9330213

Children's Trust Fund of Texas Council

Monday, October 11, 1993, 10:30 a.m.

University of Texas Medical Branch, 301 Market Street

Galveston

According to the complete emergency agenda, the Program Design and Implementation Committee made introductions; overview of agenda; review proposed demonstration projects to recommend to council review guidelines for demonstration projects for FY 1994; identify priorities for funding demonstration projects for FY 1994; staff assignments; and adjourned.

Reason for Emergency: The emergency status was necessary as final agenda was not available until October 5, 1993.

Contact: Sarah Winkler, 8929 Shoal Creek Boulevard, #200, Austin, Texas (512) 458-1281.

Filed: October 5, 1993, 10:39 a.m.

TRD-9329817

Coastal Coordination Council (CCC)

Friday, October 15, 1993, 9:00 a.m.

1700 North Congress Avenue, Room 831, Stephen F. Austin Building

Austin

According to the complete agenda, the Executive Committee will call the meeting to order; approve minutes of the August 20, 1993, and September 17, 1993, meetings; review revised timeline for developing the Coastal Management Program; discussion of definitions of Coastal Natural Resource Areas; discussion of uses subject to management, including initial list of state and federal actions and authorizations subject to consistency review; status of the state consistency review process; public comment period; and adjournment.

Contact: Janet L. Fatheree, 1700 North Congress Avenue, Room 831, Austin, Texas 78701, (512) 463-5385.

Filed: October 7, 1993, 4:21 p.m.

TRD-9329966

Credit Union Department

Monday, October 18, 1993, 10:00 a.m.

Howard Johnson Plaza Hotel, Trinity Room, 7800 North IH-35

Austin

According to the complete agenda, the Credit Union Commission will invite: public input for future consideration; receive: minutes of August 23, 1993 meeting; communications; and committee reports from the Texas Share Guaranty Credit Union Oversight, and Task Force Advisory Committees; consider: proposed an amendment to the partial distribution of Texas Share Guaranty Credit Union's equity proposal approved at the August 23, 1993 commission meeting; proposed study of special needs of individuals living in rural area and of other underserved populations; and a resolution concerning retirement of an employee; appoint: a deputy credit union commissioner; conduct: an executive session to discuss credit unions and problem cases; consultation with legal counsel regarding contemplated legal action, existing litigation and administrative actions; and consideration of applicants for the position of deputy commissioner.

Contact: Penny A. Black, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: October 6, 1993, 3:44 p.m.

TRD-9329897

Texas Commission for the Deaf and Hearing Impaired

Friday, October 15, 1993, 5:00 p.m.

TSD, 1102 South Congress Avenue, Building T-2

Austin

According to the complete agenda, the Board for Evaluation of Interpreters (BEI) will call the meeting to order; calendar update; BEI report; executive session to discuss upcoming complaint hearing; review of applicant testing materials; certification, recertification, revocation; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: October 7, 1993, 10:21 a.m.

TRD-9329924

Friday, October 22, 1993, 8:30 a.m.

TRC Planning Facility, #7240, 4900 North Lamar Boulevard

Austin

According to the complete agenda, the Board will call the meeting to order; public comment; chairperson's report; approval of minutes of August 20 and September 13, meetings; executive director's report; direct services report including reallocations of remaining funds for Fiscal Year 1993, recommendations for rules changes, scheduling of public hearing regarding rules changes; recommendations for awarding of Early Intervention Prevention Program contracts, and confirmation of advisory committees; Board for Evaluation of Interpreters report including recommendations for certifications and revocations for disciplinary measures; executive session for discussion of grievances against interpreters pursuant to Article 6252-17, §2(g) of the Open Meetings Act; sharing of information items; scheduling of next commission meeting; and adjournment.

Contact: Loyce Kessler, 4800 North Lamar Boulevard, #310, Austin, Texas 78756, (512) 451-8494.

Filed: October 8, 1993, 9:37 a.m.

TRD-9330034

Texas School for the Deaf

Saturday, October 23, 1993, 9:00 a.m.

601 Airport Boulevard, Board Training Room

Austin

According to the complete agenda, the Budget and Audit Committee will hear annual audit report; peer review of auditor; and evaluation of auditor.

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78767, (512) 440-5332.

Filed: October 11, 1993, 3:20 p.m.

TRD-9330208

Saturday, October 23, 1993, 10:00 a.m.

601 Airport Boulevard, Large Conference Room

Austin

According to the agenda summary, the Governing Board will call the meeting to order; approval of minutes for August 20, 1993; business for information purposes; business requiring board action; executive session; comments by board members; and adjournment.

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78767, (512) 440-5332.

Filed: October 11, 1993, 3:20 p.m.

TRD-9330209

Texas Office for Prevention of Developmental Disabilities

Wednesday, October 20, 1993, 10:00 a.m.

4900 North Lamar Boulevard, Room 1410

Austin

According to the complete agenda, the Bicycle Helmet Coalition will call the meeting to order; introductions; TOP H/SCI Prevention Task Force; TDH bicycle education grant; other presentations as appropriate; strategies discussion; meeting schedule; and adjournment.

Contact: Jerry Ann Robinson, 4900 North Lamar Boulevard, Austin, Texas 78756, (512) 483-5042.

Filed: October 11, 1993, 1:52 p.m.

TRD-9330203

Texas Planning Council for Developmental Disabilities

Friday, October 15, 1993, 9:00 a.m.

4900 North Lamar Boulevard, Room 4240, Texas Rehabilitation Commission

Austin

According to the complete agenda, the Advocacy and Public Information Committee will call the meeting to order; approval of minutes; introductions; federal policy/legislation-DD Act Reauthorization, Health Care Reform, and other federal policy legislation; state policy/legislation-overview of interim studies, and state policy updates; review and discussion of quality of

life initiative; presentations; public information report; and designation of A&PI Committee representative to the nominating committee. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, reader large print or braille, are requested to contact Denese Holman at (512) 483-4087.

Contact: Roger Webb, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4081.

Filed: October 6, 1993, 3:43 p.m.

TRD-9329895

Texas Education Agency

Friday-Saturday, October 15-16, 1993, 1:00 p.m. and 8:30 a.m. respectively.

Wyndham Austin Hotel at Southpark, 4140 Governor's Row

Austin

According to the agenda summary, the Continuing Advisory Committee (CAC) for Special Education will welcome guests; make introductions; organization of TEA and the Division of Special Education and the role of the committee; update on the leadership initiative; update on transition grant; legal issues in special education, including hearing procedures, hearing officer decisions; and inclusion as a legal concept. On Saturday: Early Childhood Intervention (ECI), preschool, promising practices, and preschool evaluation; funding issues; procedures for travel, attendance at conference, attendance at CAC meetings; proposed revisions to 19 TAC Chapter 89, Subchapter G, Special Education; select chairperson of committee; and plan next meeting and tentative agenda.

Contact: Shirley Sanford, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9362.

Filed: October 7, 1993, 2:17 p.m.

TRD-9329936

Wednesday, October 20, 1993, 9:30 a.m.

Diamond Eagle Room, University of North Denton

Austin

According to the complete agenda, the Texas Center for Educational Technology (TCET) Governing Board will discuss: executive director position; research projects for 1993-1994; and review of governing board membership rules; TCET staff will present updates on TCET projects and activities from 1992-1993.

Contact: Delia Duffey, 1701 North Con-

gress Avenue, Austin, Texas 78701, (512) 463-9092.

Filed: October 7, 1993, 2:18 p.m.

TRD-9329941

Thursday, October 21, 1993, 1:00 p.m.

Corpus Christi Marriott Bayfront Hotel, Laguna Madre Room, 900 North Shoreline Drive

Corpus Christi

According to the agenda summary, the Commission on Standards for the Teaching Profession will take roll call; adoption of agenda; approval of minutes of July 15-16, 1993, meeting; introduction of new staff members; report on State Board of Education actions; discussion of work group membership; update on Centers for Professional Development; items relating to certification and standards; individual programs (1987 standards); report on the statewide assessment of teacher preparation standards and certification requirements for mathematics and science for Dwight D. Eisenhower Mathematics and Science Higher Education grants program; discussion of policy research document, "Teacher Supply, Demand and Equity"; briefing on outcomes and assessment; update on certification testing; discussion and possible adoption of proficiency-based documents for teachers and school administrators; and discussion of commission work groups.

Contact: Edward M. Vodicka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9337.

Filed: October 7, 1993, 8:44 a.m.

TRD-9329914

Educational Economic Policy Committee

Thursday, October 14, 1993, 1:00 p.m.

John H. Reagan Building, Room 103

Austin

According to the agenda summary, the purpose of this meeting is to approve minutes; and discuss personal matters, the center transfer to the Legislative Budget Board, budget, Innovative Education Grants, accountability briefing, 1994-1995 research agenda and any other business.

Contact: Nancy Frank, John H. Reagan Building, Third Floor, Austin, Texas 78701, (512) 463-1200.

Filed: October 5, 1993, 2:48 p.m.

TRD-9329831

Texas Employment Commission

Tuesday, October 19, 1993, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the commission will approve prior meeting notes; executive session to consider relocation of agency headquarters; actions, if any, resulting from executive session; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 42; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 11, 1993, 4:06 p.m.

TRD-9330218

Texas State Board of Registration for Professional Engineers

Tuesday, October 19, 1993, 8:00 p.m.

Fifth Season Inn East, 2501 I-40 East

Amarillo

According to the complete agenda, the Executive Director Search Committee meeting convened by Chairman Gloyna at 8:00 p.m.; roll call; recognize and welcome visitors; recess into executive session in accordance with Texas Civil Statutes, §2(g), Article 6252-17, to review the applications for the executive director position; state any action to be taken as a result of the executive session; and adjourn.

Contact: Charles E. Nemir, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: October 11, 1993, 1:45 p.m.

TRD-9330193

Wednesday, October 20, 1993, 7:00 a.m.

Fifth Season Inn East, 2501 I-40 East

Amarillo

According to the complete agenda, the Ad Hoc Committee on Faculty Registration meeting convened by Chairman Johnson at 7:00 a.m.; roll call; recognize and welcome visitors; discuss the results of the meeting with the Advisory Committee on Professional Development; and adjourn.

Contact: Charles E. Nemir, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: October 11, 1993, 1:46 p.m.

TRD-9330194

Wednesday, October 20-21, 1993, 8:30 a.m.

Fifth Season Inn East, 2501 I-40 East, Quarterhorse Room

Amarillo

According to the complete agenda, the Board will receive reports from board members and staff; interview applicants; take action on applications for registration; reading of communications; and other related business in accordance with the agenda.

Contact: Charles E. Nemir, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: October 11, 1993, 1:46 p.m.

TRD-9330195

General Land Office

Tuesday, October 19, 1993, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

According to the complete agenda, the School Land Board will approve previous board meeting minutes; consideration of bids received for the October 5, 1993, oil, gas and other minerals lease sale; report on DCRC Trust; pooling applications, Arroyo Loc Olmos, Starr County; Wildcat Field, Matagorda County; Huff (2,920 feet sand), Refugio County; applications to lease highway rights of way for oil and gas, Henderson County; Lee County; Fayette County; Live Oak County; and Jasper County; consideration of bids received on oil and condensate; consideration of easements for sidewalks to the City of Austin, Central park PUD (MHMR lands); direct land sale, Limestone County; coastal public lands-commercial lease applications, Galveston Bay, Galveston County; Galveston Bay, Chambers County; adjacent to Padre Beach, Section IV, Cameron County; Laguna Madre, Cameron County; commercial lease renewals, Old Brazos River, Brazoria County; San Bernard River, Brazoria County; Laguna Madre, Nueces County; easement applications, Laguna Madre, Cameron County; Mesquite Bay, Calhoun County; and Copano Bay, Aransas County; structure (cabin) permit applications, amendments, renewals and transfers, Laguna Madre, Kennedy County; Laguna Madre, Kleberg County; Laguna Madre, Cameron County; Bastrop Bay, Brazoria County; Espiritu Santo, Calhoun County; Chocolate Bayou, Brazoria County; executive session-land acquisition, Harris County; open session-land acquisition, Harris County; executive

session-land acquisition amendment, El Paso County; open session-land acquisition amendment, El Paso County; and executive session pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 11, 1993, 3:40 p.m.

TRD-9330211

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Texas Department of Health

Tuesday, October 26, 1993, 9:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Drug Use Review Board will discuss approval of the minutes of the July 20, 1993 meeting; discuss and possibly act on: special study on H₂ Antagonists and related drugs; responses to letters on Hydrocodone; six month follow-up profiles on Xanax; educational intervention follow-up on Theophylline; therapeutic criteria and standards; prospective drug use review and electronic billing; selection of targeted drug for next profile review; and scheduling of the next meeting.

Contact: Curtis Burch, Jr., R.Ph., 1100 West 49th Street, Austin, Texas 78756-3199 (512) 338-6943. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 6, 1993, 2:30 p.m.

TRD-9329873

◆ ◆ ◆
Texas High-Speed Rail Authority

Friday, October 15, 1993, 10:00 a.m.

15th Floor Conference Room, Frost Bank Building, 101 East Ninth Street

Austin

According to the agenda summary, the Standing Budget Committee will consider purchase orders over \$500 under provisions of §1.21 of the procurement policy of the proposed operations manual: scoping report printing/distribution bid award per specification 606-4-5; consideration of formal approval of out-of-state travel in accordance with §2.42 of the Travel Policy of the proposed operations manual: September 19, 1993 travel to Washington, D.C.; consideration of interagency contracts for the 1994 Fiscal Year and 1994-1995 biennium: legal services provided by the Office of the Attorney General; accounting and procure-

ment services provided by the Texas Railroad Commission; environmental support services provided by the Texas Department of Transportation; local area network support services provided by the Department of Information Resources.

Contact: Allan Rutter, 823 Congress Avenue, #1502, Austin, Texas 78701, (512) 478-5484.

Filed: October 7, 1993, 2:57 p.m.

TRD-9329948

◆ ◆ ◆
Texas Higher Education Coordinating Board

Thursday, October 28, 1993, 9:00 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the complete agenda, the Research Committee will consider awards to be made under the 1993 advanced research/technology program competition.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:40 a.m.

TRD-9330267

Thursday, October 28, 1993, 9:30 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Universities Committee will consider matters relating to universities.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:40 a.m.

TRD-9330268

Thursday, October 28, 1993, 10:30 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Health Affairs Committee will consider matters relating to health affairs.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:40 a.m.

TRD-9330269

Thursday, October 28, 1993, 11:00 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Community and Technical Colleges Committee will consider matters relating to community and technical colleges.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:41 a.m.

TRD-9330270

Thursday, October 28, 1993, 11:45 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Joint Advisory Committee, Coordinating Board/State Board of Education: a report of the issues discussed at the first meeting of the reconstituted committee (as of September 1, 1993) including membership changes, TASP, coordination with the Council on Work Force and Economic Competitiveness.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:41 a.m.

TRD-9330271

Thursday, October 28, 1993, 1:00 p.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Administration and Financial Planning Committee will consider matters relating to administration and financial planning.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:41 a.m.

TRD-9330272

Thursday, October 28, 1993, 1:30 p.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Access and Equity Committee will give progress report on the development of the Access and Equity 2000 Plan.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:41 a.m.

TRD-9330273

Thursday, October 28, 1993, 1:45 p.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Campus Planning Committee will consider matters relating to campus planning.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:41 a.m.

TRD-9330274

Thursday, October 28, 1993, 3:00 p.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Student Services Committee will consider matters relating to student services.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:42 a.m.

TRD-9330275

Friday, October 29, 1993, 8:30 a.m.

Chevy Chase Office Complex, Building One, Room 1.100, 7700 Chevy Chase Drive Austin

According to the agenda summary, the Board will consider matters relating to the committee on research; committee on universities; committee on health affairs; committee on community and technical colleges; joint advisory committee, coordinating board/state board of education; the committee on administration and financial planning; committee on access and equity; committee on campus planning; committee on student services; and reports to the board.

Contact: Dr. Kenneth H. Ashworth, P.O. Box 12788, Austin, Texas 78711, (512) 483-6101.

Filed: October 12, 1993, 9:42 a.m.

TRD-9330276

Texas Historical Commission

Monday, October 18, 1993, 2:00 p.m.

Carrington-Covert House Library, 1511 Colorado Street

Austin

According to the complete agenda, the Advisory Board of Texas Preservation Trust Fund will introduce development director of the trust fund; overview of fundraising plan; re-appointments/appointments to the advisory board; Texas Historic Preservation Grant Program project: update for FY 1993, selection for FY 1994; and future activities of the Advisory Board, Texas' Ten Most Endangered Historic Properties 1994.

Contact: Stan Graves/Lisa Harvell, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: October 5, 1993, 1:52 p.m.

TRD-9329822

Friday, October 22, 1993, 7:30 a.m.

Coffee Shop, Fredonia Hotel, 200 North Fredonia Street

Nacogdoches

According to the complete agenda, the Main Street Committee will approve 1994 Main Street Cities; and Main Street progress report.

Contact: Cindy L. Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

Filed: October 11, 1993, 1:46 p.m.

TRD-9330198

Friday, October 22, 1993, 7:30 a.m.

The Fredonia Hotel, Restaurant, 200 North Fredonia Street

Nacogdoches

According to the complete agenda, the Executive Committee will discuss strengthening the Governance Structure of THC.

Contact: Cindy Laguna Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: October 11, 1993, 1:46 p.m.

TRD-9330197

Friday, October 22, 1993, 9:00 a.m.

The Fredonia Hotel, Restaurant, 200 North Fredonia Street

Nacogdoches

According to the complete agenda, the Architecture Committee will discuss allocation of 1994 Texas Historic Preservation Grant funds; two-year fundraising plan for the Texas Preservation Trust Fund and other THC grant applications; and re-appointment of five advisory board members of the Texas Preservation Trust Fund.

Contact: Stan Graves, P.O. Box 12276, Austin, Texas 78711, (512) 463-6094.

Filed: October 11, 1993, 1:47 p.m.

TRD-9330199

Friday, October 22, 1993, 9:00 a.m.

The Fredonia Hotel, Convention Room B, 200 North Fredonia Street

Nacogdoches

According to the complete agenda, the Quarterly meeting will: chairman's report; action items; information items; and new business.

Contact: Cindy L. Dally, P.O. Box 12276, Austin, Texas 78711, (512) 463-5768.

Filed: October 11, 1993, 1:46 p.m.

TRD-9330196

Texas Department of Human Services

Thursday, October 14, 1993, at 10 a.m.

Joe C. Thompson Conference Center, U. T. of Austin, 26th at Red River

Austin

According to the complete agenda, the State Advisory Committee on Child Care Programs will consider introductions; approval of agenda; approval of minutes; election of officers; staff reports on child care and development block grant projects for 94/95; advisory committee participation in state plan development and public hearings; child care budget update; implementation of recent rule revisions related to children with disabilities and child care absences; revision of the Child Care Management Services Contractor Manual; and additional staff reports; advisory committee member reports; citizen reports; and adjourn.

Contact: Mary Beth O'Hanlon, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4169.

Filed: October 6, 1993, 2:30 p.m.

TRD-9329871

Friday, October 15, 1993, 11:00 a.m.

701 West 51st Street, Public Hearing Room

Austin

According to the complete agenda, the Texas Board of Human Services will consider approval of minutes of August 6, 1993, meeting; chairman's comments and announcement; changes to LTC/NFR for licensure and medicaid certification; nursing facility requirements regarding oxygen reimbursement; elimination of the pediatric nursing facility experimental class; changes to licensure application rules for nursing facilities and ICFs for persons with mental retardation or related conditions; incorporation of Hepatitis B inoculation costs into the per diem rates for ICF-MR and nursing facility programs; licensure regulations regarding nurse aide training; nursing facility waiver rules changes; report of annual costs necessary to implement the nursing facility waiver; CLASS reimbursement unit rates and administrative expense fee; report on annual costs necessary to add health-related tasks as eligible benefits in the primary home care program; criminal history checks rules on applicants for employment in certain industries that contract with DHS; amendments to child care policies for services to children with disabilities; mandatory participation in SFSP; modification to eligibility criteria for CACFP day care

home sponsors; non-cooperation with child support requirements for recipients in AFDC and medical programs; rate adjustments for prosecutors; amendments to policies and procedures; FY 93-94 budget adjustments; approval of FY 94 internal audit plan; advisory committee rules; and commissioner's report.

Contact: Sherron Heinemann, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3048.

Filed: October 7, 1993, 10:22 a.m.

TRD-9329925

◆ ◆ ◆
Department of Information Resources

Friday, October 15, 1993, 9:00 a.m.

1821 Rutherford Lane, Suite 200

Austin

According to the agenda summary, the Board will hear executive director's report: division summaries; fiscal year 1993 financial report; parity report; adoption of August 20, 1993 and July 15, 1993 board meeting minutes; discussion of comments received and final adoption of revised: 1 TAC §201.1, definitions; 1 TAC §201.3, information resources managers; 1 TAC §201.5, agency planning; repealed 1 TAC §201.7, annual performance reports; revised 1 TAC §201.9, review of acquisition specifications; revised 1 TAC §201.13, informational resources standards; discussion and adoption of state strategic plan for information resources management; discussion and adoption of resolution delegating authority for participation in master lease purchase program; GIS update and adoption of resolution recognizing outgoing members of GIS Planning Council; discussion and adoption of funding for Texas Innovation System (TINS); and discussion and possible action related to the telecommunications and information technology procurement activities of the department.

Contact: John Hawkins, P.O. Box 13564, Austin, Texas 78711, (512) 475-4729.

Filed: October 7, 1993, 4:04 p.m.

TRD-9329955

◆ ◆ ◆
Texas Department of Insurance

Wednesday, October 13, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the Commissioner of Insurance held a public meeting to inform the public of the Com-

missioner's intention to draft proposed rules concerning the Commissioner's role in hearing the comments or testimony and making the final determination in rule making proceedings, pursuant to Texas Government Code, Chapter 2001, Administrative Procedure Act (APA) and Texas Insurance Code, Articles 5.96 and 5.97.

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

Filed: October 5, 1993, 2:21 p.m.

TRD-9329827

Wednesday, October 13, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will consider under Docket #1800 the appointment of members to fill two vacancies on the Quality Assurance Review team, amending Board Order Number 59076, dated September 11, 1991.

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

Filed: October 5, 1993, 4:46 p.m.

TRD-9329840

Monday, October 18, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether Mid-American Indemnity Insurance Company's request for exemption to minimum capital and surplus for surplus insurers should be granted.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330117

Wednesday, October 18, 1993, 1:00 p.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider the request by Liberty Mutual Insurance Company for a hearing regarding the facility's refusal to reimburse payments made to a claimant applicable to Workers' Compensation Insurance.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330118

Tuesday, October 19, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against James Knox Waggoner, Clyde, who holds a Group I, Legal Reserve Life Insurance Agent's license, a Group II Insurance Agent's license, and a Local Recording Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330116

Tuesday, October 19, 1993, 1:00 p.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Marcia Kay Campbell, also known as Marcia Kay Campbell-Korontjis, Plano, who holds a Group I, Legal Reserve Life Insurance Agent's license and a Group II, Insurance Agent's license.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330115

Wednesday, October 20, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether Merchants and Business Men's Mutual Insurance Company's request for exemption to minimum capital and surplus for surplus insurers should be granted.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330114

Wednesday, October 20, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against First American Dental Benefits, Incorporated doing business as American Dental Corporation,

Dallas, which holds a certificate of authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:51 p.m.

TRD-9330113

Wednesday, October 20, 1993, 1:00 p.m.
333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Minnie Elcene Sears, Humble, 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: October 8, 1993, 4:50 p.m.

TRD-9330112

Thursday, October 21, 1993, 9:00 a.m.
333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether disciplinary action should be taken against Danny Melvin Korchenke, Lubbock, 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: October 8, 1993, 4:50 p.m.

TRD-9330111

Friday, October 22, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether Paradigm Insurance Company's request for exemption to minimum capital and surplus for surplus lines insurers should be granted.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 8, 1993, 4:50 p.m.

TRD-9330110

◆ ◆ ◆
**Texas Juvenile Probation
Commission**

Monday, October 18, 1993, 9:00 a.m.

Four Seasons Hotel, 98 San Jacinto Boulevard

Austin

According to the complete agenda, the Board will call the meeting to order; excused absences; approval of September 17, 1993 minutes; discuss the future of juvenile justice in Texas; public comments; schedule next meeting; and adjourn.

Contact: Bernard Licarione, Ph.D., P.O. Box 13547, Austin, Texas 78711-3547, (512) 443-2001.

Filed: October 8, 1993, 1:35 p.m.

TRD-9330076

◆ ◆ ◆
**Lamar University System,
Board of Regents**

Thursday, October 14, 1993, 10:00 a.m.

John Gray Institute, Map Room, 855 Florida

Beaumont

According to the agenda summary, the board will call the meeting to order; invocation; oath of office-organization of board; approval of minutes, chair's report; chancellor's report; executive session, held under provisions of Vernon's Civil Statutes, Article 6252-17, paragraph 2(e); finance and audit committee; personnel committee; building and grounds committee; student relations/services committee; reconvene board of regents meeting; and consider approval of committee reports.

Contact: James A. Norton, P.O. Box 11900, Beaumont, Texas 77710, (409) 880-2304.

Filed: October 8, 1993, 3:57 p.m.

TRD-9330098

◆ ◆ ◆
**Texas Life, Accident, Health
and Hospital Service In-
surance Guaranty Associa-
tion**

Monday, October 18, 1993, 1:00 p.m.

301 Congress Avenue, Suite 500

Austin

According to the agenda summary, the Audit Committee will consider and possibly act on: approval of minutes; independent auditor's reports; state auditor's reports; executive session; matters discussed in executive session; report on policies and procedures manual project; and next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: October 8, 1993, 3:58 p.m.

TRD-9330100

Monday, October 18, 1993, 3:00 p.m.

301 Congress Avenue, Suite 500

Austin

According to the agenda summary, the Assessment Committee will consider and possibly act on: approval of minutes; utilization of premium data base information; November 1993 assessment; review and recalculation of previous assessments; and next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: October 8, 1993, 3:58 p.m.

TRD-9330101

Tuesday, October 19, 1993, 9:00 a.m.

301 Congress Avenue, Suite 500

Austin

According to the agenda summary, the Board of Directors will consider and possibly act on: approval of minutes; review of guaranty association activities; executive session; matters discussed in executive session; financial report; report from audit committee; report from assessment committee; adoption of 1994 strategic plan; adoption of 1994 budget; impaired/insolvent member insurers; disposition committee expense assessments; assessment data task force fees and expenses; conflict of interest for directors; insurance coverage for association and association officers and directors; and next meeting date.

Filed: October 22, 1993, 2:59 p.m.

TRD-9330207

Monday, October 18, 1993, 3:00 p.m.

301 Congress Avenue, Suite 500

Austin

According to the agenda summary, the

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**Texas State Board of Exam-
iners of Marriage and
Family Therapists**

Sunday, October 17, 1993, 3:00 p.m.

VIP Room, Sixth Floor, Doubletree Hotel, 6505 North IH-35

Austin

According to the complete agenda, the Board will discuss and possibly act on development of proposed rules for submission to the *Texas Register*.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 7, 1993, 2:57 p.m.

TRD-9329950

Monday, October 18, 1993, 8:00 a.m.

Room S-400, The Exchange Building, 8407 Wall Street

Austin

According to the complete agenda, the Board will discuss approval of the minutes from the September 21, 1993 meeting; discuss and possibly act on development of proposed rules for submission to the *Texas Register*; other matters not requiring board action; and setting of the board meeting calendar year.

Contact: Bobby Schmidt, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6657. For ADA assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 7, 1993, 2:57 p.m.

TRD-9329951

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**Texas Council on Offenders
with Mental Impairments**

Thursday, October 21, 1993, 1:00 p.m.

TDCJ, Pardons and Paroles Building, 8610 Shoal Creek Boulevard

Austin

According to the complete agenda, the Program Committee will call the meeting to order; hear introductions; public comments; approve minutes; hear a presentation on juvenile issues by Harold Scogin and Linda Reyes; discuss information for the council newsletter; discuss strategies for the development of cross-training among criminal justice and human service agencies; hear an overview of the continuity of care programs; and adjourn.

Contact: Dee Kifowit, 8610 Shoal Creek Boulevard, Austin, Texas 78757, (512) 406-5406.

Filed: October 8, 1993, 4:52 p.m.

TRD-9330120

◆ ◆ ◆
Midwestern State University

Thursday, October 14, 1993, 4:00 p.m.

3410 Taft Boulevard, Hardin Board Room
Wichita Falls

According to the complete agenda, the Board of Regents will discuss the sale of 447 acres of land owned by Midwestern State University.

Contact: Deborah L. Barrow, 3410 Taft

Boulevard, Wichita Falls, Texas 76308,
(817) 689-4212.

Filed: October 11, 1993, 1:51 p.m.

TRD-9330200

◆ ◆ ◆
**Texas National Guard Ar-
mory Board**

Saturday, October 16, 1993, 3:00 p.m.

Armory Board Headquarters Building, 2200 West 35th Street (Building 64, Camp Mabry)

Austin

According to the agenda summary, the board will discuss administrative matters; executive director's update; construction/renovation/maintenance update; property/leases; and establish date of next meeting.

Contact: Sandra Hille, P.O. Box 5426, Austin, Texas 78763, (512) 406-6907.

Filed: October 6, 1993, 1:47 p.m.

TRD-9329857

◆ ◆ ◆
**Texas Natural Resource Con-
servation Commission**

Wednesday, October 13, 1993, 9:00 a.m.

1700 North Congress Avenue

Austin

According to the agenda summary, the commission met in executive session to discuss pending litigation brought under the Texas Clean Air Act, including actions initiated by the prior Texas Air Control Board, as permitted by Texas Civil Statutes Government Code, §551.071.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: October 5, 1993, 4:14 p.m.

TRD-9329838

Wednesday, October 13, 1993, 9:00 a.m.

1700 North Congress Avenue

Austin

According to the revised agenda summary, the commission met in executive session to discuss pending litigation brought under the Texas Clean Air Act, including actions initiated by the prior Texas Air Control Board, as permitted by Government Code, §551.071.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

Filed: October 5, 1993, 4:14 p.m.

TRD-9329837

Friday, October 15, 1993, 8:30 a.m.

12118 North Interstate Highway 35, Building E, Room 201 South

Austin

According to the agenda summary, the commission will hold a policy agenda to consider and discuss: the enforcement report of the Air Quality Program; and regularly scheduled meetings for the TNRCC pursuant to Texas Water Code §5.058(d). The commission will also discuss and be briefed on: the air quality permit processing including air quality preconstruction permits; the status of draft rules relating to the Waste Tire Recycling Fund Program; the status of rules and/or amendments to the air quality, water quality, and waste management programs; and the TNRCC's progress in accomplishing their responsibilities as a designated natural resource trustee. The commission will also consider amendments, proposals, and repeals to rules.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: October 7, 1993, 4:15 p.m.

TRD-9329958

Monday, October 15, 1993, 9:00 a.m.
(Rescheduled from Wednesday, October 13, 1993).

South San Center, Gymnasium, 2031 Quintana Road

San Antonio

Rescheduled from Wednesday, October 13, 1993

According to the agenda summary, the commission will: United States Department of the Air Force, Kelly AFB has applied to the Texas Natural Resource Conservation Commission for renewal of Permit Number HW50115-001 (formerly issued to Defense Reutilization and Marketing Office), which authorizes operation of a container storage area for storage of Class I hazardous and non-hazardous wastes and Class II wastes. The facility is on a 43.909 acre tract of land on east Kelly AFB in San Antonio, Bexar County.

Contact: Cindy Hurd, P.O. Box 13087, Austin, Texas 78711, (512) 908-1773.

Filed: October 6, 1993, 9:33 a.m.

TRD-9329844

Wednesday, October 20, 1993, 9:00 a.m.

1700 North Congress Avenue

Austin

According to the agenda summary, the commission will consider approving the following matters: water quality enforcement; industrial and hazardous waste enforcement; examiner's proposal for decision; 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: October 8, 1993, 4:53 p.m.

TRD-9330122

Wednesday, October 20, 1993, 9:00 a.m.

1700 North Congress Avenue

Austin

According to the agenda summary, the commission will consider approving the following matters: hazardous waste permit and compliance plan; temporary variance; proposed water quality permits; amendment to water quality permits; water quality permit renewals; water right permit; district matters; water utility matters; 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: October 8, 1993, 4:53 p.m.

TRD-9330121

Tuesday, October 26, 1993, 7:00 p.m.

City Council Chambers, 107 South Hill Caldwell

According to the agenda summary, the commission will hold a public meeting with the Commission Staff to consider an application made by ZIA Technology of Texas, Inc. for a proposed Permit Number HW50360 for eight tanks used to store electric arc furnace dust at its Electric Arc Furnace Dust Reclamation Facility in Burleson County. (ZIA has also filed an application to amend the air quality Permit Number 19518 for this facility).

Contact: Enoch Johnbull, P.O. Box 13087, Austin, Texas 78711, (512) 908-6617.

Filed: October 7, 1993, 4:21 p.m.

TRD-9329967

Friday, October 29, 1993, 10:00 a.m.

1701 North Congress North Avenue, William B. Travis Building, Room 1-100

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on assessment of administrative

penalties and requiring certain actions of Associated Milk Producers, Inc.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 7, 1993, 10:35 a.m.

TRD-9329926

Friday, October 29, 1993, 10:00 a.m.

William B. Travis Building, Room 1-100 Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on assessment of administrative penalties and requiring certain actions of Western Litho Plate and Supply Company.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 7, 1993, 10:36 a.m.

TRD-9329927

Friday, October 29, 1993, 10:00 a.m.

1701 North Congress Avenue, William B. Travis Building, Room 1-100

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on assessment of administrative penalties and requiring certain actions of City of Alvarado.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 7, 1993, 10:36 a.m.

TRD-9329928

Friday, October 29, 1993, 10:00 a.m.

1701 North Congress Avenue, William B. Travis Building, Room 1-100

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on assessment of administrative penalties and requiring certain actions of TRACE, Inc.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 7, 1993, 10:36 a.m.

TRD-9329929

Friday, October 29, 1993, 10:00 a.m.

1701 North Congress Avenue, William B. Travis Building, Room 1-100

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on assessment of administrative penalties and requiring certain actions of SC Pipe Services, Inc. doing business as VAM-P.T.S. Company.

Contact: Kerry Sullivan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 7, 1993, 10:36 a.m.

TRD-9329930

Monday, November 1, 1993, 10:00 a.m.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

According to the agenda, summary the Office of Hearing Examiners will hold a hearing on Romark Utility Company's water rate increase effective July 25, 1993, for its service area in Polk County. Docket Number 30076-G.

Contact: Bill Zukauckas, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 11, 1993, 9:43 a.m.

TRD-9330149

Monday, November 8, 1993, 7:00 p.m.

Holiday Inn, Conference Rooms C & D, 1601 IH-45 South

Conroe

According to the agenda summary, the commission will consider an application by Western Waste Industries, Inc. for Proposed Permit Number MSW2188 authorizing a Type I (landfill) permit to receive municipal solid waste and a Type IX permit for a gas recovery site. The waste management facility is to be approximately one mile southeast of the intersection of FM 1484 (Airport Road) and SH Loop 336, and adjacent to the north side of SH Loop 336 in Montgomery County.

Contact: Ann Scudday or Charles Stavley, P.O. Box 13087, Austin, Texas 78711, (512) 908-6688.

Filed: October 11, 1993, 1:33 p.m.

TRD-9330192

Tuesday, November 9, 1993, 9:00 a.m.

Rains County Public Library, 803 Lennon Street (Highway 69)

Emory

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing to consider an application made by Steamboat Shores Owner's Association for proposed Permit Number 13659-001 to authorize a discharge of treated domestic wastewater effluent from a plant site serving a recreational park. The effluent is discharged into Lake Fork Reservoir in the Sabine River Basin.

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

Filed: October 7, 1993, 4:22 p.m.

TRD-9329968

Wednesday, November 10, 1993, 9:00 a.m.

Marshall Civic Center, Caddo Room, 2501 East End Boulevard (U.S. 59)

Marshall

According to the revised agenda summary, the commission will: public hearing notice has been revised to reflect the correct limit of average flow of waste discharge per day: 2,000,000 gallons. This replaces the incorrect figure of 20,000 cited near the end of the first sentence of the notice of public hearing.

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

Filed: October 6, 1993, 9:33 a.m.

TRD-9329845

Wednesday, November 10, 1993, 9:00 a.m.

Stephen F. Austin Building, Room 1149B, 1700 North Congress Avenue

Austin

According to the agenda, summary the Office of Hearing Examiners will hold a prehearing conference on the City of Dallas' Application Numbers 08-2457D (revised) and 5414 (new). Application Number 08-2457D (Revised) has been withdrawn in its entirety. Application Number 5414 requests authorization to make beneficial use of excess flows in the Elm Fork of the Trinity River watershed, Trinity River Basin, by diverting water for municipal purposes in Dallas County. Applicant requests this additional water usage be charged to Dallas' annual municipal authorizations in the Lewisville Lake water right (Certificate Number 08-2456, as amended). Under any permit granted for Application Number 5414, the City of Dallas will be limited to a maximum diversion of 40,000 acre-feet of water per annum, with a normal diversion of approximately 10,000 acre-feet.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 11, 1993, 9:44 a.m.

TRD-9330151

Wednesday, November 17, 1993, 9:00 a.m.

Stephen F. Austin Building, Room 118, 1700 North Congress Avenue

Austin

According to the agenda, summary the commission will hold a hearing on an application for dissolution of the White Oak/FM 1960 Municipal Utility District submitted by Centennial Homes, Inc., a majority landowner in the district.

Contact: Gloria Vasquez, P.O. Box 13087,

Austin, Texas 78711-3087, (512) 908-6161.

Filed: October 11, 1993, 9:44 a.m.

TRD-9330150

Texas Board of Pardons and Paroles

Monday-Wednesday, October 18-20, 1993, 1:30 p.m.

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: October 8, 1993, 11:45 a.m.

TRD-9330065

Thursday-Friday, October 21-22, 1993, 9:00 a.m.

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) 406-5863.

Filed: October 8, 1993, 11:46 a.m.

TRD-9330066

Thursday, October 21, 1993, 9:30 a.m.

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: October 8, 1993, 11:46 a.m.

TRD-9330068

Thursday-Friday, October 21-22, 1993, 9:00 a.m.

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 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: October 8, 1993, 11:46 a.m.

TRD-9330069

Monday, October 18, 1993, 1:30 p.m.

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: October 8, 1993, 11:46 a.m.

TRD-9330067

Texas State Board of Examiners of Psychologists

Tuesday, November 2, 1993, noon, and Wednesday-Thursday, November 3-4, 1993, 8:30 a.m.

9101 Burnet Road, Suite 212

Austin

According to the agenda summary, the Board will consider public comments; minutes; reports from the acting executive di-

rector, chair, budget, written examination, oral examination, personnel, search, newsletter, continuing education, reciprocity, public information and complaint and enforcement committees; applications; proposed and adopted rules; agreed orders and complaints; opinion letters; policies and procedures; planning issues; and legislative matters.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: October 11, 1993, 1:33 p.m.

TRD-9330190

Friday, November 5, 1993, 9:00 a.m.

TPA Convention, San Marcos Room Stouffer Austin Hotel, 9721 Arboretum Boulevard

Austin

According to the complete agenda, the Board will meet for a conversation hour at the Texas Psychological Convention from 9:00 a.m. to 11:00 a.m. This meeting will be a continuation of the November 2-4, 1993 board meeting held at the Board's offices, 9101 Burnet Road, Suite 212, Austin.

Contact: Rebecca E. Forkner, 9101 Burnet Road, Suite 212, Austin, Texas 78758, (512) 835-2036.

Filed: October 11, 1993, 1:33 p.m.

TRD-9330191

Texas Public Finance Authority

Monday, October 11, 1993, 8:15 a.m.

26th and Red River Streets, Room 1.122
Austin

According to the emergency revised agenda summary, the Planning Session will change in meeting location from 8212 Barton Club Drive, Austin to 26th and Red River Streets, Room 1.122, Austin. Agenda remains the same.

Reason for Emergency: The emergency status was necessary due to change in meeting location. Persons with disabilities, who have special communication or other needs, who are planning to attend the meeting should contact Brett Larson or Evelyn Casper at (512) 463-5544. Requests should be made as far in advance as possible.

Contact: Michell Frazier, 300 West 15th Street, Suite 411, Austin, Texas 78701, (512) 463-5544.

Filed: October 8, 1993, 4:39 p.m.

TRD-9330258

Texas Department of Public Safety

Monday, October 18, 1993, 11:00 a.m.

DPS Regional Office, 350 West IH-30

Garland

According to the complete agenda, the Public Safety Commission will approve minutes; budget matters; internal audit report; personnel matters; pending and contemplated litigation; real estate matters; public comment; miscellaneous and other unfinished business.

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

Filed: October 8, 1993, 9:27 a.m.

TRD-9330033

Public Utility Commission of Texas

Friday, October 15, 1993, 1:00 p.m.

7800 Shoal Creek Boulevard, HR "D"

Austin

According to the complete agenda, the Relay Texas Advisory Committee was appointed by the Public Utility Commission pursuant to House Bill 174, passed by the 71st Texas Legislature. At this meeting, the committee will elect a new chairperson; consider minutes; schedule date for Dallas meeting; PUC report, Certificate of Appreciation; observe guidelines; Relay Texas Outage; Sprint report; Ambassador Project Report and public comment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 6, 1993, 2:27 p.m.

TRD-9329870

Tuesday, October 19, 1993, 8:55 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete revised agenda, the Administrative Division will discuss: consideration and decision regarding economic and regulatory policy division director job posting.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 11, 1993, 4:30 p.m.

TRD-9330254

Tuesday, October 19, 1993, 8:55 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Administrative Division will discuss: reports, discussion and action on Outstanding employees of the quarter; telecommunications infrastructure issues; advisory committee for integrated resource planning (IRT) rule preparation; guidelines for participation and review of information on Texas Utilities Electric Co.'s IRF project; Texas-New Mexico Power Company's internal revenue service letter ruling request; monitoring and handling federal issues; naming staff chair of National Association of Regulatory Utility Commissioners Strategic Issues subcommittee; Texas Department of Public Safety Division of Emergency Management's Emergency Support function; El Paso Electric Company bankruptcy case in U.S. Bankruptcy Court; Gulf States Utilities merger with Entergy Services case at the Federal Energy Regulatory Commission; legislative reporting requirements; fiscal year 94 operating budget; budget and fiscal matters; adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 11, 1993, 1:31 p.m.

TRD-9330189

Friday, October 19, 1993, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Commissioners will consider the following dockets: P-12098, P-12105, P-12322, P-12334, P-12353, 12084, 12125, 11542, 12016, 11977, 11585, 12160, 11822, 11892, and 11000.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 11, 1993, 10:57 a.m.

TRD-9330185

Wednesday, November 3, 1993, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12381-Complaint of Darwin D. Bryant against Southwestern Bell Telephone Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 8, 1993, 3:23 p.m.

TRD-9330087

Thursday, November 4, 1993, 9:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12362-Tex-La Electric Cooperative of Texas, Inc. complaint against Texas Utilities Electric Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 7, 1993, 2:19 p.m.

TRD-9329946

Monday, November 11, 1993, 10:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12330-Petition of Metropolitan Fiber Systems of Dallas, Inc. and Metropolitan Fiber Systems of Houston, Inc. for a declaratory ruling clarifying that tenants in tenant service buildings have equivalent access to all authorized, facilities-based providers of telephone access and other telecommunications services.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 5, 1993, 2:21 p.m.

TRD-9329826

Tuesday, November 16, 1993, 10:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the agenda summary, the Hearings Division will hold a prehearing conference in Docket Number 11771-application of Southwestern Bell Telephone Company for approval of a customer-specific contract for billing and collection services for TelAmerica.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 7, 1993, 2:18 p.m.

TRD-9329843

Monday, November 16, 1993, 10:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the agenda summary, the commission will hold a joint prehearing conference in Docket Number 11773-application of Southwestern Bell Telephone Company for approval of a customer-

specific contract for billing and collection service with OAN Services, Inc.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 7, 1993, 2:18 p.m.

TRD-9329942

Railroad Commission of Texas

Monday, October 18, 1993, 9:30 a.m.

1701 North Congress Avenue, First Floor
Conference Room 1-111

Austin

According to the agenda summary, the commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified. 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: October 8, 1993, 11:23 a.m.

TRD-9330060

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: October 8, 1993, 11:23 a.m.

TRD-9330059

According to the complete agenda, the commission will consider and act on the administrative 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: October 8, 1993, 11:23 a.m.

TRD-9330058

According to the complete agenda, 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: October 8, 1993, 11:23 a.m.

TRD-9330057

According to the complete agenda, 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: October 8, 1993, 11:23 a.m.

TRD-9330056

According to the complete agenda, 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: October 8, 1993, 11:22 a.m.

TRD-9330055

According to the complete agenda, the commission will consider and act on the personnel division director's report on division administrations, 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: October 8, 1993, 11:22 a.m.

TRD-9330054

According to the complete agenda, the following matters will be taken up for consideration and/or decision by the Commission: commission 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, may discuss 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: Eileen Latham, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-7274.

Filed: October 8, 1993, 11:22 a.m.

TRD-9330053

According to the complete agenda, the commission will consider category determinations under Sections 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: October 8, 1993, 11:22 a.m.

TRD-9330052

According to the complete agenda, 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: October 8, 1993, 11:22 a.m.

TRD-9330051

According to the complete agenda, the commission will hold its monthly statewide hearing on oil and gas to determine the lawful market demand for oil and gas and to consider and/or take action on matters listed on the agenda posted with the Secretary of State's Office.

Contact: Paula Middleton, P.O. Box 12967, Austin, Texas 78711, (512) 463-6729.

Filed: October 8, 1993, 11:21 a.m.

TRD-9330050

Texas Senate

Thursday, October 14, 1993, 2:00 p.m.

300 West 15th Street, Committee Room One

Austin

According to the agenda summary, the Senate Interim Committee on Sludge will have its organizational meeting and hear from the Texas Natural Resource Conservation Commission on bio-solids.

Contact: Carol McGarah, P.O. Box 12068, Austin, Texas 78711, (512) 463-0390.

Filed: October 6, 1993, 10:53 a.m.

TRD-9329851

Council on Sex Offender Treatment

Sunday, October 10, 1993, 10:00 a.m.

Eliaberg Room, Criminal Justice Center, 16th and Avenue I

Huntsville

According to the agenda summary, the Council will convene, Chairman Dr. Collier Cole; adoption of minutes; executive director's report; report from the credential work group; MHMR appointee; other business; and adjourn.

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711, (512) 463-2323.

Filed: October 5, 1993, 8:46 a.m.

TRD-9329802

Monday, October 11, 1993, 1:30 p.m.

Sam Houston State University, Room A205, Criminal Justice Center

Huntsville

According to the complete agenda, the Policy and Procedures Committee will convene, chair, Pam Rodgers; review and discuss need for legal counsel to direct implementation of Senate Bill 1130; other business; and adjourn.

Contact: Eliza May, P.O. Box 12546, Austin, Texas 78711, (512) 463-2323.

Filed: October 5, 1993, 8:46 a.m.

TRD-9329803

Texas State Soil and Water Conservation Board

Monday, October 18, 1993, 11:00 a.m.

Lubbock Civic Center, 1501 Sixth Street, Room 111

Lubbock

According to the complete agenda, the Board will review and take appropriate action on the following: district director appointments; subdivision boundary changes for Eldorado Divide Soil and Water Conservation District #247; adopt memorandum of agreement with Texas Natural Resources Conservation Commission, adopt as emergency rule, propose as new rule; application for assistance under Public Law 566 for Nolan River in Johnson County; authorize employees to approve purchase vouchers on annual state meeting fund account; reauthorization of the Federal Clean Water Act; next regular board meeting-November 17, 1993.

Contact: Robert G. Buckley, P.O. Box 658, Temple, Texas 76503, (817) 773-2250, TEX-AN 820-1250.

Filed: October 5, 1993, 4:14 p.m.

TRD-9329839

South Texas Community College

Wednesday, October 13, 1993, 4:00 p.m.

3201 West Pecan Boulevard

McAllen

According to the agenda summary, the Board of Trustees will discuss articulation agreements with other schools; authorize

STCC to belong to different Rio Grande Valley organizations; to discuss the allied health program status; and other agenda items.

Contact: Carmen Villalobos, 3201 West Pecan Boulevard, McAllen, Texas 78501, (210) 631-4922.

Filed: October 8, 1993, 4:29 p.m.

TRD-9330107

Boards for Lease of State-owned Lands

Tuesday, October 9, 1993, 2:30 p.m.

General Land Office, SFA Building, 1700 North Congress Avenue, Room 833

Austin

According to the complete agenda, the Board for Lease of Texas Department of Criminal Justice will approve previous board meeting minutes; consideration of bids received for the October 5, 1993, oil, gas and other minerals lease sale. p>Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 11, 1993, 3:40 p.m.

TRD-9330212

Stephen F. Austin State University

Monday, October 18, 1993, 1:30 p.m.

Stephen F. Austin Campus, Room 307, Austin Building

Nacogdoches

According to the agenda summary, the Board of Regents will meet in open session; executive session to discuss report on pending litigation; personnel matters regarding specific university employees; and open discussion of Tuesday Board items.

Contact: Dr. Dan D. Angel, P.O. Box 6078, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: October 11, 1993, 9:23 p.m.

TRD-9330138

Tuesday, October 19, 1993, 9:00 a.m.

Stephen F. Austin Campus, Room 307, Austin Building

Nacogdoches

According to the agenda summary, the Board of Regents will meet in open session; executive session to discuss report on pending litigation; personnel matters regarding specific university employees; approval of July 20, 1993, minutes; personnel; aca-

ademic and student affairs; financial affairs; buildings and grounds; and SFA 98 plan.

Contact: Dr. Dan D. Angel, P.O. Box 6078, SFA Station, Nacogdoches, Texas 75962, (409) 568-2201.

Filed: October 11, 1993, 9:23 p.m.

TRD-9330137

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Texas Guaranteed Student Loan Corporation

Tuesday, October 19, 1993, 9:30 a.m.

12015 Park 35 Circle, Suite 300

Austin

According to the complete agenda, the Executive Committee will approve minutes of the September 16, 1993 meeting; executive session: facility lease negotiation discussion; approval of facility lease; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Suite 300, Austin, Texas 78761, (512) 835-1900.

Filed: October 8, 1993, 3:58 p.m.

TRD-9330102

◆ ◆ ◆
Teacher Retirement System of Texas

Friday, October 22, 1993, 2:00 p.m.

1000 Red River Street, Fifth Floor Board Room

Austin

According to the complete agenda, the Retirees Advisory Committee: opening; introduction of visitors; approval of minutes of March 5, 1993 meeting; legislative update; review of President Clinton's health care proposal; report of Summer 1993 open enrollment results; TRS Coordinated Care Hospital Network update; TRS Coordinated Care Physician Network update; TRS-Care Fund status update; review of public school active employee health insurance study (House Bill 2711); review of public school health insurance certification mandate (House Bill 2711); public comment; administrative remarks; and adjourn.

Contact: Stanford Blake, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6394.

Filed: October 12, 1993, 9:20 a.m.

TRD-9330261

The Texas A&M University System, Board of Regents

Tuesday, October 19, 1993, 10:00 a.m.

Conference Room, Building 277, Texas Engineering Extension Service Office, HemisFair Plaza

San Antonio

According to the complete agenda, the Committee for Service Units will tour the Texas Engineering Extension Service facilities at HemisFair Plaza and South Press and to meet with representatives of Mesquite regarding the facilities and programs. This will be a joint meeting with the Committee for Academic Campuses.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: October 12, 1993, 9:39 a.m.

TRD-9330265

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Wednesday, October 20, 1993, 9:30 a.m.

CRSS Architects, Inc., 1177 West Loop South, Caudill Room

Houston

According to the complete agenda, the Facilities Planning and Building Committee will receive a presentation by the architects and engineers on the design for the George Bush Presidential Library Building.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: October 8, 1993, 10:24 a.m.

TRD-9330043

◆ ◆ ◆
Texas Department of Transportation

Wednesday, October 27, 1993, 9:00 a.m.

200 East Riverside Drive, Building 200, Room 101

Austin

According to the agenda summary, the Environmental Advisory Committee will approve minutes; introduce staff members; preliminary review of proposed rulemaking concerning procedures for development of statewide transportation improvement pro-

gram and concerning Texas Transportation Commission approval of Texas Turnpike Authority projects; briefing on current status of rules previously reviewed by committee; staff presentation of new TxDOT organizational structure.

Contact: Dianna Noble, 125 East 11th Street, Austin, Texas 78701, (512) 475-0701.

Filed: October 11, 1993, 4:44 p.m.

TRD-9330257

Wednesday, October 27, 1993, 1:00 p.m.

200 East Riverside Drive, Room 102

Austin

According to the agenda summary, the Public Transportation Advisory Committee will approve minutes; briefing on commission meetings and October items; resolution of Section 9 funding issues; preliminary review of proposed rulemaking concerning the statewide transportation improvement program; waiver or deferral of final review of proposed rulemaking concerning the statewide transportation improvement program; preliminary review of proposed rulemaking concerning the state management plans for Sections 16 and 18 grant programs; and state issues facing metropolitan transit authorities.

Contact: Richard Christie, 125 East 11th Street, Austin, Texas 78701, (512) 483-3650.

Filed: October 11, 1993, 4:43 p.m.

TRD-9330255

Monday, November 1, 1993, 10:00 a.m.

200 East Riverside Drive, Room 102

Austin

According to the agenda summary, the Bicycles Rules Advisory Committee will: open remarks and introduction of committee members; approve minutes; elect officers; briefing on project development process; consideration of alternatives, and the Texas Manual on Uniform Traffic Control Devices; and preliminary review of proposed rulemaking concerning bicycle road use on the state highway system.

Contact: Paul Douglas, 125 East 11th Street, Austin, Texas 78701, (512) 416-3125.

Filed: October 11, 1993, 4:44 p.m.

TRD-9330256

University of Houston System

Tuesday, October 12, 1993, 3:00 p.m.

Conference Room One, 1600 Smith, 34th Floor, University of Houston System Offices

Houston

According to the complete agenda, the Board of Regents Facilities Planning and Building Committee discussed the following: executive session; project program guide and schematic design for the adaptive reuse of the development arts building-UH-Clear Lake; program guide for the student/life academic building and the Fitness/Recreation Center-UH-Downtown; schematic architectural design and revised project program for the music building-University of Houston; and the construction contract for the athletic alumni facility.

Contact: Peggy Cervenka, 1600 Smith, 34th Floor, Houston, Texas 77002, (713) 754-7442.

Filed: October 7, 1993, 10:38 a.m.

TRD-9329931

University Interscholastic League

Sunday-Tuesday, October 17-19, 1993, 8:00 a.m.

Omni Hotel, Eighth and San Jacinto Streets
Austin

According to the agenda summary, the Legislative Council will: policy, athletic, music and academic related items will be presented by individuals to the 24 member Legislative Council and referred to standing committees; final action will be taken by the Legislative Council on Tuesday on items brought forth; and the council will consider and then take action on items listed on agenda.

Contact: Bonnie Northcutt, 2622 Wichita Street, Austin, Texas 78705, (512) 471-5883.

Filed: October 11, 1993, 3:30 p.m.

TRD-9330210

The University of Texas at Austin

Monday, October 11, 1993, 3:30 p.m.

Ex-Students' Association, Moffett Library, Alumni Center, 21st and San Jacinto Streets, University of Texas

Austin

According to the agenda summary, the Council for Intercollegiate Athletics for

Women will call the meeting to order; approval of minutes of previous meeting; old business; new business; announcements/information reports; executive session; and adjournment.

Contact: Jody Conradt, UT Austin, BEL 718, 33800, Austin, Texas 78712, (512) 471-7693.

Filed: October 8, 1993, 1:29 p.m.

TRD-9330074

Regional Meetings

Meetings Filed October 5, 1993

The Austin Travis County Mental Health Mental Retardation Center Board of Trustees, Human Resources Committee met at 1430 Collier Street, Board Room, Austin, October 13, 1993, at 4:30 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 440-4031. TRD-9329841.

The Brazos Valley Development Council Executive Committee met at the Council Board Room, 1706 East 29th Street, Bryan, October 11, 1993 at 1:30 p.m. Information may be obtained from Tom Wilkinson, Jr., P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9329829.

The Colorado County CAD Board of Directors met at the Colorado County Courthouse, 400 Spring, Columbus, October 12, 1993, at 1:30 p.m. Information may be obtained from Billy Youens, P.O. Box 10, Columbus, Texas 78934, (409) 732-8222. TRD-9329825.

The Concho Valley Council of Governments Executive Committee met at 5014 Knickerbocker Road, San Angelo, October 13, 1993, at 7:00 p.m. Information may be obtained from Robert R. Weaver, P.O. Box 60050, San Angelo, Texas 76906, (915) 944-9666. TRD-9329832.

The Elm Creek Water Supply Corporation Board will meet at the Willow Grove Baptist Church, Willow Grove, October 11, 1993, at 7:00 p.m. Information may be obtained from Paulette Richardson, Route 1 Box 538, Moody, Texas 76557. TRD-9329830.

The Lavaca County Central Appraisal District Appraisal Review Board met at 113 North Main Street, Hallettsville, October 14, 1993, at 9:00 a.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9329842.

The Texas Planning Council for Developmental Disabilities Planning and Evaluation Committee will meet at the Texas Re-

habilitation Commission, 4900 North Lamar Boulevard, Room 4240, Austin, Texas 78751, (512) 483-4081. TRD-9329828.

Meetings Filed October 6, 1993

The Canyon Regional Water Authority Regular Board met at the Guadalupe Fire Training Facility, Route 2 Lakeside Pass Drive, New Braunfels, October 11, 1993, at 7:00 p.m. Information may be obtained from David Davenport, Route 2 Box 654 W, New Braunfels, Texas 78130-9579. TRD-9329872.

The Cass County Appraisal District Board of Review met at the Cass County Appraisal District Office, 502 North Main Street, Linden, October 13, 1993, at 9:00 a.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9329892.

The Education Service Center, Region VI Board met at the Briarcrest Country Club, Bryan, October 14, 1993, at 5:00 p.m. Information may be obtained from Bobby Roberts, 3332 Montgomery Road, Huntsville, Texas 77340, (409) 295-9161. TRD-9329859.

The Grand Parkway Association met at 5757 Woodway, Suite 140 East Wing, Houston, October 14, 1993, at 8:15 a.m. Information may be obtained from Jerry L. Coffman, 5757 Woodway, 140 East Wing, Houston, Texas 77057, (713) 782-9330. TRD-9329861.

The Lometa Rural Water Supply Corporation Board of Directors met at 506 West Main, Lometa, October 11, 1993, at 7:00 p.m. Information may be obtained from Levi G. Cash or Tina L. Hodge, P.O. Box 158, Lometa, Texas 76853, (512) 752-3505. TRD-9329852.

The Permian Basin Regional Planning Commission Board of Directors met at 2910 LaForce Boulevard, Midland International Airport, Midland, October 13, 1993, at 1:30 p.m. Information may be obtained from Terri Moore, P.O. Box 60660, Midland, Texas 79711, (915) 563-1061. TRD-9329855.

The Rio Grande Council of Governments Board of Directors will meet at 1100 North Stanton, Main Conference Room, El Paso, October 15, 1993, at 9:30 a.m. Information may be obtained from Lidia Flynn, 1100 North Stanton, Suite 610, El Paso, Texas 79902, (915) 533-0998. TRD-9329893.

The San Patricio County Appraisal District Board of Directors met at 1146 East Market, Sinton, October 14, 1993, at 10:00 a.m. Information may be obtained from Kathryn Vermillion, P.O. Box 938, Sinton,

Texas 78387, (512) 364-5402. TRD-9329860.

The Shackelford Water Supply Corporation Regular Monthly Directors met at the Fort Griffin Restaurant, Albany, October 13, 1993, at Noon. Information may be obtained from E. D. Funcher, Box 1295, Albany, Texas 76430, (915) 762-2519. TRD-9329843.

The South Franklin Water Supply Corporation Board of Directors met at the Office of South Franklin Water Supply Corporation, Highway 115 South, Mount Vernon, October 12, 1993, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9329853.

The Trinity River Authority of Texas Denton Creek Regional Wastewater System Right-of-Way Committee met at 5300 South Collins, Arlington, October 13, 1993, at 9:30 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9329898.

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Meetings Filed October 7,
1993

The Aqua Water Supply Corporation Board of Directors met at 305 Eskew, Aqua Office, Bastrop, October 11, 1993, at 7:30 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas 78602, (512) 321-3943. TRD-9329956.

The Austin Transportation Study Policy Advisory Committee met at 26th and Red River, Room 2.102, Joe C. Thompson Conference Center, Austin, October 12, 1993, at 6:00 p.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088, Austin, Texas 78767, (512) 499-6441. TRD-9329933.

The Bi-County WSC met at the Bi-County WSC Office, FM Road 2254, Pittsburg, October 12, 1993, at 7:00 p.m. Information may be obtained from Freeman Phillips, P.O. Box 848, Pittsburg, Texas 75686, (903) 856-5840. TRD-9329938.

The Brown County Appraisal District Board of Directors met at 403 Fisk Avenue, Brownwood, October 11, 1993, at 7:00 p.m. Information may be obtained from Doran E. Lemke, 403 Fisk Avenue, Brownwood, Texas 76801, (915) 643-5676. TRD-9329913.

The Central Appraisal District of Taylor County Appraisal Review Board will meet at 1534 South Treadaway, Abilene, November 4, 1993, at 1:30 p. m. Information may be obtained from Richard Petree, P.O. Box 1800, Abilene, Texas 79604, (915) 676-9381. TRD-9329922.

The El Oso Water Supply Corporation Board of Directors met at their Office, FM 99, Karnes City, October 12, 1993, at 7:30 p.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9329932.

The Hays County Appraisal District Appraisal Review Board will meet at 632A East Hopkins, Municipal Building, San Marcos, October 14, 1993, at 9:00 a.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. (TRD-9329937.

The Hays County Appraisal District Board of Directors will meet at 632A East Hopkins, San Marcos, October 14, 1993, at 3:30 p.m. Information may be obtained from Lynnell Sedlar, 632A East Hopkins, San Marcos, Texas 78666, (512) 754-7400. TRD-9329923.

The Lower Rio Grande Valley Tech Prep Consortium Board of Directors met at the TSTC Short Course Center, 2424 Boxwood, Harlingen, October 13, 1993, at 3:00 p.m. Information may be obtained from Pat Bubb, TSTC Short Course Center, Harlingen, Texas 78550-3697, (210) 425-0729. TRD-9329949.

The South Plains Association of Governments Executive Committee met at 1323 58th Street, Lubbock, October 12, 1993, at 9:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9329915.

The South Plains Association of Governments Board of Directors met at 1323 58th Street, Lubbock, October 12, 1993, at 10:00 a.m. Information may be obtained from Jerry D. Casstevens, P.O. Box 3730, Lubbock, Texas 79452-3730, (806) 762-8721. TRD-9329916.

The Sulphur-Cypress Soil and Water Conservation District Number 419 met at 1809 West Ferguson, Suite B, Mt. Pleasant, October 14, 1993, at 8:30 a.m. Information may be obtained from Beverly Amerson, 1809 West Ferguson, Suite B, Mt. Pleasant, Texas 75455-2921. TRD-9329917.

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The Aqua Water Supply Corporation Board of Directors met in the Cecil B. Long Community Room, 1028 Main Street, Bastrop, October 12, 1993, at 7:00 p.m. Information may be obtained from Adlinie Rathman, P.O. Drawer P, Bastrop, Texas 78602, (512) 321-3943. TRD-9330099.

The Atascosa County Appraisal District

Appraisal Review Board met at Fourth and Avenue J, Poteet, October 14, 1993, at 8:00 a.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065, (210) 742-3591. TRD-9330064.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors (Executive session) met at 1124-A Regal Row, Austin, October 12, 1993, at 3:00 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, 282-8441, Fax 282-7016. TRD-9330075.

The Barton Springs/Edwards Aquifer Conservation District Board of Directors met at 1124-A Regal Row, Austin, October 14, 1993, at 5:30 p.m. Information may be obtained from Bill E. Couch, 1124-A Regal Row, Austin, Texas 78748, 282-8441, Fax 282-7016. TRD-9330077.

The Bexar Appraisal District Appraisal Review Board will meet at 535 South Main Street, San Antonio, October 15, 1993, at 9:00 a.m. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, (210) 224-8511. TRD-9330090.

The Blanco County Appraisal District Board of Directors met at the Courthouse Annex, Avenue G and Seventh Street, Johnson City, October 12, 1993, at 5:00 p.m. Information may be obtained from Hollis Boatright, P.O. Box 338, Johnson City, Texas 78636, (512) 868-4013. TRD-9330079.

The Carson County Appraisal District Board of Directors met at 102 Main Street, Panhandle, October 13, 1993, at 8:00 a.m. Information may be obtained from Donita Herber, Box 970, Panhandle, Texas 79068, (806) 537-3569. TRD-9330119.

The Cash Water Supply Corporation Cash Water Board met at the Administrative Office, FM 1564, East, Greenville, October 12, 1993, at 7:00 p. m. Information may be obtained from Glenda Haynes, P.O. Box 8129, Greenville, Texas 75404, 1 (800) 883-4045. TRD-9330073.

The Cass County Appraisal District Board of Directors met at the Cass County Appraisal District Office, 502 North Main Street, Linden, October 14, 1993, at 7:00 p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9330108.

The Coleman County Water Supply Corporation Board of Directors met at the Corporation Office, 214 Santa Anna Avenue, Coleman, October 13, 1993, at 1:30 p.m. Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9330072.

The Dallas Area Rapid Transit Bylaws Ad Hoc Committee met at 1401 Pacific Avenue, DART Conference Room "B", Dallas, October 12, 1993, at 11:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330047.

The Dallas Area Rapid Transit Committee of the Whole met at 1401 Pacific Avenue, DART Conference Room "C", Dallas, October 12, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330046.

The Dallas Area Rapid Transit (Revised agenda) Committee of the Whole met at 1401 Pacific Avenue, DART Conference Room "C", Dallas, October 12, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330091.

The Dallas Area Rapid Transit Board of Directors met at 1401 Pacific Avenue, DART Board Room, First Floor, Dallas, October 12, 1993, at 6:30 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330045.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at Iris and Anne Howard Civic Center, Loop 505, Newton, October 28, 1993, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9330078.

The Deep East Texas Private Industry Council, Inc. Executive Committee met at 118 South First Street, Lufkin, October 12, 1993, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkin, Texas 75901, (409) 634-4432. TRD-9330086.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, October 20, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904. TRD-9330096.

The Denton Central Appraisal District Appraisal Review Board will meet at 3911 Morse Street, Denton, October 27, 1993, at 9:00 a.m. Information may be obtained from John Brown, 3911 Morse Street, Denton, Texas 76202, (817) 566-0904. TRD-9330095.

The Eastland County Appraisal District Board of Directors will meet in the Commissioners' Courtroom, Eastland County Courthouse, Eastland, October 20, 1993, at 1:00 p.m. Information may be obtained from Steve Thomas, P.O. Box 914,

Eastland, Texas 76448, (817) 629-8597. TRD-9330081.

The Golden Crescent Private Industry Council Planning Committee met at 2401 Houston Highway, Victoria, October 12, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9330093.

The Gonzales County Appraisal District Board of Directors met at 928 St. Paul Street, Gonzales, October 14, 1993, at 6:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9330109.

The Henderson County Appraisal District Board of Directors will meet at 1751 Enterprise, Athens, October 18, 1993, at 7:30 p.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9330063.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise, Athens, October 21, 1993, at 9:30 a.m. Information may be obtained from Lori Fetterman, 1751 Enterprise, Athens, Texas 75751, (903) 675-9296. TRD-9330062.

The Hickory Underground Water Conservation District Number One Board and Advisors met at 2005 South Bridge Street, Brady, October 14, 1993, at 7:00 p.m. Information may be obtained from Lorna Moore, P.O. Box 1214, Brady, Texas 76825, (915) 597-2785. TRD-9330089.

The Hockley County Appraisal District Board of Directors met at 1103-C Houston Street, Levelland, October 11, 1993, at 7:00 p.m. Information may be obtained from Nick Williams, P.O. Box 1090, Levelland, Texas 79336, (806) 894-9654. TRD-9330092.

The Hunt County Appraisal District Board of Directors met at the Hunt County Appraisal District Board Room, 4801 King Street, Greenville, October 14, 1993, at 6:30 p.m. Information may be obtained from Shirley Smith, 4801 King Street, Greenville, Texas 75401, (903) 454-3510. TRD-9330070.

The Johnson County Rural Water Supply Corporation Tariff Committee met at the JCRWSC Office, Highway 171 South, Cleburne, October 13, 1993, at 1:30 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9330044.

The Lower Colorado River Authority Planning and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Conference Room, Austin, October 12, 1993, at 10:00 a.m. Information

may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9330085.

The Lower Colorado River Authority Retirement Benefits Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, October 12, 1993, at 1:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3283. TRD-9330084.

The Manville Water Supply Corporation Board of Directors met at the Manville Office, Off Highway 95 on Spur 277, Coupland, October 14, 1993, at 7:00 p.m. Information may be obtained from LaVerne Rohlack, P.O. Box 248, Coupland, Texas 78615, (512) 272-4044. TRD-9330097.

The Region IV Education Service Center Board of Directors met at the Columbia Lakes Resort and Conference Center, Board Room, 188 Freeman Boulevard, West Columbia, October 13, 1993, at 10:00 a.m. Information may be obtained from W. L. McKinney, 7145 West Tidwell, Houston, Texas 77092, (713) 744-6534. TRD-9330071.

The Region V Education Service Center Board of Directors will meet in the ESC Boardroom, Delaware Street, Beaumont, October 20, 1993, at 1:15 p.m. Information may be obtained from Robert E. Nicks, 2295 Delaware Street, Beaumont, Texas 77703, (409) 835-5212. TRD-9330080.

The Riceland Regional Mental Health Authority Board of Trustees met at 3007 North Richmond Road, Conference Room, Wharton, October 14, 1993, at Noon. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9330061.

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The Education Service Center, Region XIII Board of Directors will meet at the ESC, Region XIII, Computer Lab, 5701 Springdale Road, Austin, October 18, 1993, at 10:30 a.m. Information may be obtained from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 939-1300. TRD-9330156.

The Education Service Center, Region XVI Board of Directors will meet at the Amarillo Club, Seventh and Tyler Streets, Amarillo, October 15, 1993, at 1:00 p.m. Information may be obtained from Jim Holmes, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9330157.

The Galveston Bay National Estuary Program Management Committee will meet at the University of Houston-Clear Lake Forest Room, 2700 Bay Area Boulevard, Hous-

ward, Houston, October 20, 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-9330143.

The Lamb County Appraisal District Appraisal Review Board will meet at 330 Phelps Avenue, Littlefield, November 2, 1993, at 8:00 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 552, Littlefield, Texas 79339, (806) 385-6474. TRD-9330206.

The Lower Neches Valley Authority Industrial Development Corporation will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 19, 1993, at 10:00 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9330253.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 19, 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-9330152.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 19, 1993, at 10:30 a.m. (Revised agenda). Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-93301252.

The Middle Rio Grande Development Council Personnel Policies Committee held an emergency meeting at the MRGDC Central Office, 1904 North First, Carrizo Springs, October 13, 1993, at 9:00 a.m. The emergency status was necessary to discuss revisions prior to board meeting in order to make changes for presentation to the Board of Directors. Information may be obtained from Paul A. Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9330202.

The Middle Rio Grande Development Council Private Industry Council will meet at 101 North Main Street, Cotulla, October 20, 1993, at 1:00 p.m. Information may be obtained from Paul Edwards, P.O. Box 1199, Carrizo Spring, Texas 78801, (210) 876-3533. TRD-9330184.

The Palo Pinto Appraisal District Board of Directors will meet at the Palo Pinto County Courthouse, Palo Pinto, October 20, 1993, at 3:00 p.m. Information may be obtained from Jackie F. Samford, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1234. TRD-9330154.

The Region III Education Service Center Board of Directors will meet at the Ramada Inn, 3901 Houston Highway, Victoria, Oc-

tober 18, 1993, at 11:30 a.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9330188.

The Region III Education Service Center Board of Directors will meet at 1905 Leary Lane, Victoria, October 18, 1993, at 1:30 p.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9330187.

The Region IX Education Service Center Board of Directors will meet at the Region IX Education Service Center, 301 Loop 11, Wichita Falls, October 20, 1993, at 12:30 p.m. Information may be obtained from Dr. Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9330236.

The Region 14 Education Service Center Board of Directors will meet at 1850 Highway 351, Abilene, October 21, 1993, at 5:30 p.m. Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8608. TRD-9330204.

The Sabine Valley Center Finance Committee met at the Administration Building, Judson Road, Longview, October 14, 1993, at 6:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9330140.

The Sabine Valley Center Care and Treatment Committee met at the Administration Building, Judson Road, Longview, October 14, 1993, at 6:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9330142.

The Sabine Valley Center Personnel Committee met at the Administration Building, Judson Road, Longview, October 14, 1993, at 6:30 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9330141.

The Sabine Valley Center Board of Trustees met at the Administration Building, Judson Road, Longview, October 14, 1993, at 7:00 p.m. Information may be obtained from Mack Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9330139.

The San Antonio River Authority Board of Directors will meet at 100 East Guenther Street, Board Room, San Antonio, October 20, 1993, at 2:00 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9330144.

The South East Texas Regional Planning Commission Executive Committee will meet in the City of Beaumont Council

Chambers, Beaumont, October 20, 1993, at 7:00 p.m. Information may be obtained from Jackie Vice, P. O. Drawer 1387, Nederland, Texas 77627, (409) 727-2384. TRD-9330153.

The Tax Appraisal District of Bell County Board of Directors will meet at the Tax Appraisal District Building, 411 East Central Avenue, Belton, October 20, 1993, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513-0390, (817) 939-5841, Ext. 29. TRD-9330205.

The Trinity River Authority of Texas Utility Services Committee will meet at 5300 South Collins, Tarrant County, Arlington, October 18, 1993, at 10:00 a.m. Information may be obtained from James L. Murphy, 5300 South Collins, Arlington, Texas 76018, (817) 467-4343. TRD-9330201.

The San Antonio River Authority Audit Committee will meet at 100 East Guenther Street, Boardroom, San Antonio, October 20, 1993, at 1:15 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (210) 227-1373. TRD-9330145.

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The Burnet County Appraisal District Board of Directors will meet at 110 Avenue H, Suite 106, Marble Falls, October 21, 1993, at noon. Information may be obtained from Barbara Ratliff, P.O. Drawer E, Burnet, Texas 78611, (512) 756-8291. TRD-9330266.

The Central Counties Center for Mental Health and Mental Retardation Services Board of Trustees will meet at 304 South 22nd Street, Temple, October 19, 1993, at 7:45 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9330262.

The Johnson County Rural Water Supply Corporation Financial Committee will hold an emergency meeting at the JCRWSC Office, Highway 171 South, Cleburne, October 15, 1993, at 9:00 a.m. The emergency status is necessary as did not meet the 72-hour deadline. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9330263.

The South Texas Private Industry Council, Inc. will meet at the Zapata County Public Library, Zapata, October 28, 1993, at 4:00 p.m. Information may be obtained from Myrna V. Herbst, P.O. Box 1757, Laredo, Texas 78044-1757, (512) 722-0546. TRD-9330264.

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In Addition

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

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

Texas School for the Blind and Visually Impaired

Notice of Award

The Texas School for the Blind and Visually Impaired (TSBVI) provides this notice of consulting services contract awards for the Social Network Pilot Project for Students with Visual Impairments. The notice for request for proposal was published in the August 31, 1993, issue of the *Texas Register*.

Description of Services. The contractors will provide information regarding how visually impaired adolescents and young adults (16-22 years old) spend their time engaged in academic, social, daily living, and vocational pursuits in order to determine factors that may contribute to successful and unsuccessful adult living and working experiences for students with visual impairments. The following major products will be produced: Progress Report-September 30, 1994; Final Report-March 31, 1995.

Effective Date and Value of Contract. The contract will be effective from October 1, 1993 until September 30, 1994. The total cost of the contracts are: \$29,315 and \$23,559.

Name of the Contractors. The contracts have been awarded to San Jose State University Foundation, P.O. Box 720130, San Jose, California 95172-0130 and to Karen E. Wolffe, P.O. Box 341, Manchaca, Texas 78652.

Persons who have questions concerning this award may contact Dr. Phil Hatlen, Texas School for the Blind and Visually Impaired, 1100 West 45th Street, Austin, Texas 78756, (512) 454-8631.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329854 Dr. Phil Hatlen
Superintendent
Texas School for the Blind and Visually Impaired

Filed: October 6, 1993

Comptroller of Public Accounts Consultant Contract Awards

In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human services recommendation related to selective contracting for the Texas Medicaid Program, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency is implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to KPMG Peat Marwick, 303 East Wacker Drive, Chicago, Illinois 60601. The total dollar value of the contract is not to exceed \$30,000. The contract was executed October 7, 1993, and extends through November 1, 1995. KPMG Peat Marwick, is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 11, 1993.

TRD-9330125 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 11, 1993

In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human services recommendation related to developing an approach for intensive family preservation services, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency is implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to the Institute for Human Services Management, Inc., 7303 MacArthur Boulevard, Suite #214, Bethesda, Maryland 20816. The total dollar value of the contract is not to exceed \$63,875. The contract was executed October 1, 1993, and extends through November 1, 1995. The Institute for Human Services Management, Inc., is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 11, 1993.

Arthur F. Lorton TRD-9330127
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 11, 1993



In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human services recommendation related to developing a Healthy Start-type program for preventing child abuse, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency's implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to the Institute for Human Services Management, Inc., 7303 MacArthur Boulevard, Bethesda, Maryland 20816. The total dollar value of the contract is not to exceed \$39,900. The contract was executed October 1, 1993, and extends through November 1, 1995. The Institute for Human Services Management, Inc., is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 11, 1993.

TRD-9330128 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 11, 1993



In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the October 30, 1992, issue of the *Texas Register* (17 TexReg 7685).

The consultants will perform services relating to the review of various aspects of outgoing shipping procedures for selected state agencies in a multiphase project.

The contract is awarded to RTC Logistics, Inc., 314 Highland Mall Boulevard, Suite #352, Austin, Texas 78752. The total amount of the contract for all phases is not to exceed \$50,000. The contract was executed October 7, 1993, and extends through August 31, 1994. RTC Logistics Inc., is to present a final report on or about March 17, 1994, of conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 11, 1993.

TRD-9330129 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 11, 1993



Correction of Error

The Comptroller of Public Accounts proposed an amendment to 34 TAC §3.180, concerning signed statement for purchasing diesel fuel tax free. The rule appeared in the October 1, 1993, *Texas Register* (18 TexReg 6732).

Due to an inputting error on the part of the *Texas Register* §3.180(c) was incorrect. It should have read "(c)-(e) (No change.)".



Notices of Consultant Contract Award

In accordance with the provisions of Chapter 2254, Subchapter B of the Texas Government Code, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5670).

The consultant will perform a disparity/capacity study regarding the state's procurement and contracting processes, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include an overall evaluation and summary of each aspect of the project, and the final report shall document the facts necessary to determine whether or not Historically Underutilized Businesses (HUBs) have adequate access to the state's procurement and contracting processes and provide recommendations outlining the parameters for the development of a remedial HUB program for the State.

The contract is awarded to Capital Ideas. The total dollar value of the contract is not to exceed \$969,047. The contract was executed on October 8, 1993, and extends through May 31, 1995. Capital Ideas, is to present a final report on or about May 16, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330103 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 8, 1993



In accordance with the provisions of Chapter 2254, Subchapter B of the Texas Government Code, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human

services recommendation related to expanding the Early and Periodic Screening, Diagnosis, and Treatment Program, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency's implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to MAXIMUS, Inc., 1356 Beverly Road, McLean, Virginia 22101. The total dollar value of the contract is not to exceed \$59, 995. The contract was executed on October 8, 1993, and extends through November 1, 1995. MAXIMUS, Inc., is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330104 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 8, 1993



In accordance with the provisions of Chapter 2254, Subchapter B of the Texas Government Code, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human services recommendation related to maximizing federal funds received for indirect costs, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency's implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to MAXIMUS, Inc., 1356 Beverly Road, McLean, Virginia 22101. The total dollar value of the contract is not to exceed \$53, 990. The contract was executed on October 8, 1993, and extends through November 1, 1995. MAXIMUS, Inc., is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330105 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 8, 1993



In accordance with the provisions of Chapter 2254, Subchapter B of the Texas Government Code, the Comptroller of Public Accounts announces this notice of consultant contract award.

The consultant proposal request was published in the August 6, 1993, issue of the *Texas Register* (18 TexReg 5262).

The consultant will provide technical assistance in implementing a Texas Performance Review health and human services recommendation related to maximizing federal funds received for Title IV-A (at risk) and Title IV-F (child care and employment) Programs, and to produce periodic progress reports and a final report on the implementation of this recommendation. These reports shall include analyses of any problems and opportunities encountered during the agency's implementation of the recommendation, and the final report shall include an analysis of the savings achieved by the implementation of the recommendation.

The contract is awarded to MAXIMUS, Inc., 1356 Beverly Road, McLean, Virginia 22101. The total dollar value of the contract is not to exceed \$63, 975. The contract was executed on October 8, 1993, and extends through November 1, 1995. MAXIMUS, Inc., is to present a final report on or about December 1, 1994, on conclusions reached from the services performed under said contract.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330106 Arthur F. Lorton
Senior Legal Counsel, General Law
Section
Comptroller of Public Accounts

Filed: October 8, 1993



**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer ⁽¹⁾/Agricultural/ Commercial ⁽²⁾ thru \$250,000</u>	<u>Commercial⁽²⁾ over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	10/11/93-10/17/93	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

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

TRD-9329856

Al Endsley
Consumer Credit Commissioner

Filed: October 6, 1993

◆ ◆ ◆
Texas Department of Criminal Justice
Request for Consultant Services

Pursuant to authority to grant by the Texas Government Code, §§492.013(b), 493.006, and 2254.021 et seq, the Texas Department of Criminal Justice hereby requests all interested parties to submit a proposal for consulting services to assist the Board of Criminal Justice in the search, review and selection process for an Executive Director for the agency.

The consultant will be expected to conduct a nationwide search for qualified candidates; assist in the review and verification of qualifications of both those candidates identified through the search process and those candidates who have already expressed interest in the position; interviewing of candidates; screening of candidates to a short-list for interview by members of the Board; and providing evaluations of the qualifications of short-listed candidates. In addition, the consultant will be asked to provide recommendations to the Chairperson of the Board's Subcommittee for Personnel regarding those candidates most qualified for the position of Executive Director. It is expected that the consultant will be extensively involved throughout the selection process and will act as a facilitator on behalf of the Board Subcommittee.

To be considered for the requested consultant services, interested parties must submit eight copies of their proposals containing statements of interest, listing of qualifications and past experience in conducting national searches for executive management positions. The Board Subcommittee for Personnel is particularly interested in firms with a demonstrated history of conducting executive searches in the criminal justice field, particularly in adult corrections, adult probation and/or adult parole services at the state level.

Proposals must be received no later than 3:00 p.m. on October 29, 1993, at the following address: Art Mosley, Assistant Director for Personnel and Training, Texas Department of Criminal Justice, P.O. Box 99, Huntsville, Texas 77342-0099.

All proposals must be sealed and clearly marked Executive Search Consultant Services. Questions relating to this request for consulting services should be addressed to Mr. Mosley at (409) 291-4023.

Proposals will be reviewed by the Board Subcommittee for Personnel who will select the consultant whom they deem most qualified to provide the requested services. Factors serving as the basis for selection will be the firm's qualifications, expertise and past experience in conducting executive searches within the criminal justice profession. A contract will then be negotiated with the selected consultant. The determination of the most qualified consultant shall be the sole discretion of the Board Subcommittee for Personnel.

Issued in Austin, Texas, on October 11, 1993.

TRD-9330126

Carl Reynolds
General Counsel
Texas Board of Criminal Justice

Filed: October 11, 1993

◆ ◆ ◆
Interagency Council on Early
Childhood Intervention

Public Hearings for Early Childhood
Intervention Application for Funding
under Part H of the Individuals With
Disabilities Act

The Interagency Council on Early Childhood Intervention (ECI) announces public hearings on the plan for the federal fiscal year 1993 expenditure of the \$15 million allocated through the United States Department of Education. The money is supplemental to state dollars that fund programs for infants and toddlers with developmental delays. The proposal will be available prior to the hearings at the local ECI programs or at the state office. Should you have questions, call Mary Elder, Executive Director, (512) 502-4900, or write to the Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756. Written comments will be accepted until November 19, 1993.

The hearing dates are as follows:

at 10:30 a.m., Friday, November 12, 1993, at the Interagency Council on Early Childhood Intervention, 4412 Spicewood Springs Business Center, Suite 600, Conference Room, Austin, Texas, (Rosalind Nelson, (512) 502-4900); and

at 10:30 a.m., Monday, November 15, 1993, at the Easter Seal Rehabilitation Center, 2203 Babcock Road, San Antonio, Texas (John Delgado, PACES Program, (210) 532-5158 and Linda Bishop, Easter Seal Rehabilitation Center, (210) 614-3911).

Issued in Austin, Texas, on October 6, 1993.

TRD-9329902

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on Early Childhood
Intervention

Filed: October 6, 1993

◆ ◆ ◆
Texas Employment Commission
Contract Awards

In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the June 15, 1993, issue of the *Texas Register* (18 TexReg 3888).

Description of Service. The contractor will provide statewide training and technical assistance to local school age child care programs.

Name of Contractor. The contractor selected is Texas School Age Child Care Network, 3628 50th Street, Lubbock, Texas 79413. Contact: Debora Sue Phillips, (806) 796-0734.

Amount of Contract. The amount of the contract is \$87,500.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329903 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will expand the resource and referral database which provides assistance in locating quality child care.

Name of Contractor. The contractor selected is the Child Care Group, 1221 River Bend Drive, Suite 250, Dallas, Texas 75247. Contact: Madeline Ann Mandell, (214) 630-7911.

Amount of Contract. The amount of the contract is \$50,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329904 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will expand and automate an existing I&R program to a five-county area.

Name of Contractor. The contractor selected is Kleberg County Human Services, 720 East Lee, Kingsville, Texas 78363. Contact: Ben Figueria, (512) 595-8577.

Amount of Contract. The amount of the contract is \$34,500.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329905 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will design and produce a manual to be used as a guide by programs serving children with disabilities.

Name of Contractor. The contractor selected is Dependent Care Management Group, Inc., 1405 North Main, Suite 102, San Antonio, Texas 78212. Contact: Nancy L. Hard, (210) 225-0276.

Amount of Contract. The amount of the contract is \$50,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329906 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will develop a model for an integrated system of Dependent Care I&R services that can be marketed to Texas employers.

Name of Contractor. The contractor selected is Austin Families, Inc., 3307 Northland Drive, Suite 460, Austin, Texas 78731. Contact: Michael A. Rush, (512) 225-0232.

Amount of Contract. The amount of the contract is \$41,000.

Due Date. The contract period is October 1, 1993 to August 31, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329907 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will establish an after-school program that teaches life skills through play.

Name of Contractor. The contractor selected is Houston Adventure Play Associates, 3131 West Alabama, Suite 523, Houston, Texas 77098. Contact: Halcyon Reese-Learned, (713) 522-8971.

Amount of Contract. The amount of the contract is \$50,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329808 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will provide care before, after and during school breaks to school age children in three locations.

Name of Contractor. The contractor selected is Child Care, Inc., 1000 Lamar Boulevard, Suite 432, Wichita Falls, Texas 76301. Contact: Margaret H. Stewart, (817) 766-4332.

Amount of Contract. The amount of the contract is \$31,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329909 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will expand the extended day program to before, after and year round school child care services in elementary schools.

Name of Contractor. The contractor selected is Ed White Youth Center, P.O. Box 992, Seabrook, Texas 77586. Contact: Vicki Ann Hargrove, (713) 474-2853.

Amount of Contract. The amount of the contract is \$42,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329910 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



In accordance with Texas Civil Statutes, Article 5221g-1, the Texas Employment Commission (TEC) furnishes this notice of a contract award. The request for proposals was published in the April 30, 1993, issue of the *Texas Register* (18 TexReg 2875).

Description of Service. The contractor will develop and distribute a software package to school age child care

centers to help manage food and nutrition programs for school age children.

Name of Contractor. The contractor selected is Advance Child Care, Inc., 523 West First Avenue, Corsicana, Texas 75110. Contact: Debbie Jane Taylor, (903) 872-6781.

Amount of Contract. The amount of the contract is \$20,000.

Due Date. The contract period is October 1, 1993 to September 30, 1994.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329911 J. Ferris Duhon
Legal Counsel
Texas Employment Commission

Filed: October 6, 1993



Governor's Office, Criminal Justice Division

Crime Victims Assistance

Under the provisions of the Victims of Crime Act of 1984 (VOCA), as amended, Texas will receive a federal grant to continue the funding of a Crime Victims Assistance Program. The Governor has designated the Criminal Justice Division, Office of the Governor, to continue to administer that program in the form of grants to units of local government and to non-profit organizations. The Criminal Justice Division (CJD) is now accepting grant applications for eligible projects.

The Crime Victims Assistance Program is intended to start or expand projects that provide assistance (but not compensation) to victims of crime for needs resulting directly from the crime and to assist in their participation in criminal justice proceedings. Projects presently receiving VOCA grant funding are not required to start or expand services further to be eligible for continuation funding, but are required to achieve and sustain the presently approved annualized levels/scope of service and to maintain the existing annualized level of matching cash contribution.

Eligible Projects. Only those projects that provide services to victims of crime are eligible for grant funding. Such services must directly benefit individual crime victims; must address needs directly resulting from the crime; and may include the required coordination of those services and the training of service provider staff and volunteers. Additionally, to be eligible, each project must, if it is a new project, receive at least 35% of its budget in cash or in-kind contributions from sources other than state grants/contracts or federal grants for categorical programs; or, if it is an existing project, must have a record of providing not less than one completed year of effective services, in a cost-effective manner, to victims of crime, and must receive at least 20% of its total budget from either in-kind contributions or in cash from sources other than state grants/contracts or federal grants for categorical programs (exceptions are permitted for projects operated on Indian reservations); be operated by a state agency, unit of local government, or non-profit organization; utilize volunteers, unless a waiver of this requirement based on compelling justification is requested by the applicant and is approved by the director of the CJD; promote, within the community served, coordinated public and private efforts to aid crime victims; and assist victims in seeking

available benefits under the Texas Crime Victims Compensation Program.

Significant Restrictions and Special Requirements. Crime victims must be the sole or primary beneficiaries of the project; individual grants are limited to \$40,000; funds may not be used to replace federal, state, or local funds that would have been available for crime victims' assistance in the absence of VOCA funds; and funds may not be used for crime prevention, witness management, general criminal justice system improvements, management training, advocating particular legislation or administrative reform, for services to perpetrators, for legal assistance/representation in civil law issues, or for physicians, or counselors on a case-by-case fee basis.

All applications must comply with the program criteria and applicable rules of the CJD, and must be submitted in the form prescribed by the CJD. The CJD reserves the right to negotiate modification to improve the quality and cost-effectiveness of any proposed project and to recommend to the Governor the acceptance, acceptance with modification, or rejection of any grant application. This announcement in no way obligates the CJD to award grant funds or to pay any costs incurred by applicants as a result of responding to this announcement.

Deadline. Applications must be received by CJD by 5:00 p.m., Friday, February 4, 1994. Applicants need to submit copies of applications to the Regional Planning Councils or the Governor's Budget and Planning Office for review under the Texas Review and Comment System (TRACS). In addition, the Office of the Governor, Criminal Justice Division, will conduct regional workshops November 3, 1993-December 16, 1993, to provide assistance in preparing applications. Further information will be distributed with the application kits.

Application Forms and Information. Application forms, guidelines, and workshop information will be provided by the CJD upon request. Requests should be directed to the

Victim Assistance Grant Section, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

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

TRD-9329952

David A. Talbot, Jr.
General Counsel
Office of the Governor

Filed: October 7, 1993

◆ ◆ ◆
Texas Department of Health
Correction of Error

The Texas Department of Health proposed an amendment and new section to 25 TAC §157.41 and §157.45. The rule appeared in the September 28, 1993, *Texas Register* (18 TexReg 6608).

Due to a publishing error, in §157.45(f)(4), language had been changed from the department's submission. The paragraph should read: "After verification by the department...a candidate who meets the requirements in paragraphs (1), (2), or (3) of this subsection shall be..."

◆ ◆ ◆
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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Houston	Houston Advanced Research Center	L04707	The Woodlands	0	09/27/93
Richardson	Rockwell International Corporation	L04709	Richardson	0	09/10/93
Throughout Texas	Steve Hulsey	L04686	Liberty	0	09/16/93
Throughout Texas	Construction Consulting Laboratory, Inc.	L04651	Houston	0	09/20/93
Throughout Texas	Red's Inspection Service, Inc.	L04716	Odessa	0	09/23/93

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Amarillo	The Don and Sybil Harrington Cancer Center	L03053	Amarillo	20	09/14/93
Amarillo	Panhandle Nuclear Rx, Ltd.	L04683	Amarillo	1	09/20/93
Amarillo	Syncor International Corporation	L03398	Amarillo	13	09/20/93
Arlington	Metroplex Hematology Oncology Associates	L03211	Arlington	34	09/22/93
Austin	St. David's Community Hospital	L00740	Austin	54	09/23/93
Austin	Austin Diagnostic Clinic	L00868	Austin	45	09/27/93
Baytown	Baycoast Medical Center	L02462	Baytown	13	09/22/93
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	69	09/14/93
Dallas	Syncor International Corporation	L04576	Dallas	3	09/20/93
El Paso	Syncor International Corporation	L01999	El Paso	77	09/20/93
Fort Worth	William C. Conner Research Center	L01281	Fort Worth	32	09/21/93
Houston	Texas Biotechnology Corporation	L04568	Houston	2	09/15/93
Houston	Gulf Nuclear of Louisiana, Inc.	L03378	Deer Park	6	09/15/93
Houston	Rosewood Medical Center	L01239	Houston	40	09/20/93
Houston	Mallinckrodt Medical, Inc.	L03008	Houston	32	09/20/93
Lubbock	Syncor International Corporation	L02737	Lubbock	35	09/20/93
McAllen	Valley Nuclear Incorporated	L04521	McAllen	2	09/20/93
Midland	West Texas Nuclear Pharmacy, Partners	L04573	Midland	5	09/20/93
Palestine	National Scientific Balloon Facility	L04717	Palestine	1	09/14/93
Pasadena	Pasadena Bayshore Medical Center	L00153	Pasadena	44	09/21/93
Port Arthur	Texaco Chemical Company	L04067	Port Arthur	6	09/16/93
Port Arthur	Texaco Chemical Company	L04067	Port Arthur	5	09/14/93
Rockdale	Alcoa Power Plant	L04386	Rockdale	3	09/15/93

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

San Antonio	Metropolitan Hospital	L02232	San Antonio	27	09/14/93
San Antonio	Southwest General Hospital	L02689	San Antonio	13	09/21/93
San Antonio	Village Oaks Medical Center	L03810	San Antonio	11	09/21/93
San Antonio	Syncor International Corporation	L02033	San Antonio	67	09/20/93
San Antonio	Cancer Therapy and Research Center	L01922	San Antonio	34	09/20/93
San Antonio	Cancer Therapy and Research Center	L01922	San Antonio	35	09/27/93
San Antonio	Santa Rosa Health Care Corporation	L02237	San Antonio	31	09/27/93
Throughout Texas	Conam Inspection, Inc.	L00478	Houston	61	09/16/93
Throughout Texas	Applied Standards Inspection, Inc.	L03072	Beaumont	40	09/16/93
Throughout Texas	Big State X-Ray	L02693	Odessa	19	09/16/93
Throughout Texas	Blazer Inspection	L04619	Texas City	3	09/14/93
Throughout Texas	Halliburton Logging Services, Inc.	L02113	Houston	73	09/14/93
Throughout Texas	The Terracon Companies, Inc.	L04632	Dallas	1	09/14/93
Throughout Texas	H & G Inspection Company Inc.	L02181	Houston	76	09/14/93
Throughout Texas	NDE, Inc.	L02355	Fort Worth	16	09/15/93
Throughout Texas	Computalog Wireline Services, Inc.	L04286	Houston	20	09/17/93
Throughout Texas	Schlumberger Technology Corporation	L01833	Houston	90	09/17/93
Throughout Texas	BIX Testing Laboratories	L02143	Baytown	57	09/20/93
Throughout Texas	Halliburton Logging Services, Inc.	L02113	Houston	74	09/20/93
Throughout Texas	Technical Welding Laboratory, Inc.	L02187	Pasadena	85	09/21/93
Throughout Texas	Phillips Petroleum Company	L02480	Borger	24	09/21/93
Throughout Texas	Nordion International, Inc.	L00721	Kanata, Ontario,CA	35	09/21/93
Throughout Texas	Desert Industrial X-Ray	L04590	Odessa	2	09/21/93
Throughout Texas	Professional Service Industries, Inc.	L00203	Longview	64	09/15/93
Throughout Texas	Radiation Consultants, Inc.	L02179	Houston	28	09/21/93
Throughout Texas	Winn Environmental Services	L04142	Longview	5	09/20/93
Throughout Texas	Houston Department of Health and Human Services	L00149	Houston	49	09/24/93
Throughout Texas	Global X-Ray & Testing Corp.	L03663	Aransas Pass	30	09/24/93
Throughout Texas	METCO	L03018	Houston	28	09/24/93
Throughout Texas	Raba-Kistner Consultants, Inc.	L01571	San Antonio	32	09/23/93
Throughout Texas	Berger Materials Engineering, Inc.	L03332	Bryan	15	09/27/93
Throughout Texas	The Western Company of North America	L01323	Houston	52	09/27/93
Throughout Texas	SGS Industrial Services	L04460	Seabrook	13	09/21/93
Tyler	NuTech Inc.	L04274	Tyler	10	09/20/93
Waller	Progressive Metals	L02831	Waller	32	09/27/93
Webster	Diagnostic Systems Laboratories, Inc.	L03084	Webster	17	09/20/93
Wichita Falls	Wichita General Hospital	L00350	Wichita Falls	47	09/21/93
Winnsboro	Presbyterian Hospital of Winnsboro	L03336	Winnsboro	9	09/27/93

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Arlington	City of Arlington	L01956	Arlington	6	09/15/93
Baytown	Exxon Chemical Americas	L01135	Baytown	48	09/15/93
Bedford	Northeast Community Hospital	L03455	Bedford	14	09/22/93
Brownwood	Brownwood Regional Hospital, Inc.	L02322	Brownwood	21	09/21/93
Crosby	Energy Technology, Inc.	L03400	Crosby	12	09/16/93
Del Rio	Val Verde Memorial Hospital	L01967	Del Rio	10	09/14/93
Gainesville	Gainesville Memorial Hospital	L02585	Gainesville	13	09/14/93
Garland	Baylor Medical Center at Garland	L02398	Garland	7	09/14/93

RENEWALS OF EXISTING LICENSES ISSUED CONTINUED:

Hamlin	Hamlin Memorial Hospital	L03418	Hamlin	7	09/22/93
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	33	09/14/93
Houston	Miles, Inc.	L00236	Houston	16	09/21/93
Longview	Longview Regional Hospital	L02882	Longview	14	09/23/93
Lufkin	Memorial Medical Center of East Texas	L01346	Lufkin	49	09/14/93
Lufkin	Texas Foundries, Inc.	L00357	Lufkin	23	09/22/93
Port Arthur	AMI Park Place Medical Center	L01707	Port Arthur	25	09/22/93
Richmond	Polly Ryon Hospital Authority	L02406	Richmond	16	09/14/93
Snyder	Cogdell Memorial Hospital	L02409	Snyder	16	09/14/93
Throughout Texas	Rone Engineers	L02356	Dallas	12	09/17/93
Throughout Texas	MQS Inspection Incorporated	L00087	Houston	59	09/16/93
Tyler	East Texas Medical Center	L00977	Tyler	58	09/22/93
Victoria	Citizens Medical Center	L00283	Victoria	48	09/27/93

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Houston	General Foods Corporation	L01612	Houston	8	09/16/93
Odessa	City of Odessa	L02183	Odessa	8	09/15/93
Throughout Texas	AGP Laboratories	L04529	Arlington	1	09/27/93

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with Texas Regulations for Control of Radiation in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the Texas Regulations for Control of Radiation.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and

state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, from 8:00 a. m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on October 1, 1993.

TRD-9329785 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: October 4, 1993



Notice of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Cease and Desist Order issued September 16, 1993, to Bayshore Medical Center, 3229 Plainview, Pasadena, Texas, 77504, holder of Certificate of Registration Number R01381.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on October 7, 1993.

TRD-9329918 Susan K. Steeg
General Counsel, Office of General
Counsel
Texas Department of Health

Filed: October 7, 1993

Texas Higher Education Coordinating Board

Consultant Proposal Request

This request for consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11c. The Texas Higher Education Coordinating Board invites public and private offers of consulting services for the 1993-1994 evaluation of Eisenhower higher education grants program. This contract may be extended to include future years.

The 1988 Dwight D. Eisenhower Mathematics and Science Act (Public Law 100-297) provides for grants to higher education/school partnerships for inservice, preservice, and retraining of k-12 mathematics and science teachers and for programs to improve student understanding and performance. Since 1985 more than 500 grants totaling approximately \$20 million have been awarded to higher education/school partnerships throughout the State. The purpose of this study is: to describe and summarize long term and ongoing projects funded under the Eisenhower Mathematics and Science Act by examining processes and results of collaborative planning, implementation and administration; to advise the Coordinating Board in regards to the best practices and successful operating plans of projects by examining participation by underrepresented groups, curriculum, personnel and staffing patterns, relationship of projects to assessed instructional needs to teachers, and selected teacher and student performance based outcomes; and to make recommendations on how to assist local higher education/school partnerships and agency staff in facilitating technical assistance and improvement.

The consulting services desired relate to 1990 evaluation services provided to the SRI International National Study of the Eisenhower Mathematics and Science Education Program. The choice of a consultant will be based on demonstrated competence and previous substantive experience in the conduct of national or statewide assessment of the Eisenhower program, as well as knowledge qualifications and reasonableness of the proposed fee for the services. Primary consideration will be given to a consultant with prior participation in the conduct of the 1990 National Study. If primary considerations are equal, preference may be given to a consultant whose principal place of business is within the State, or who will manage the consulting engagement from one of its offices within the State.

Any public or private consultant who intends to make an offer should contact: Nan A. Broussard, Director, Texas Higher Education Coordinating Board, Universities and Health Affairs, 7745 Chevy Chase Drive, Building V, Austin, Texas, 78752, (512) 483-6224.

The closing date for the receipt of offers is October 1, 1993. Proposals will be reviewed and recommended for approval by agency staff. The award of the consulting services contract will be made by the Commission of Higher Education or his designee if a least one offer is found satisfactory and if contract negotiations are successful. It is anticipated that the award will be made on or about October 30, 1993.

The Coordinating Board encourages proposals from minority and female owned firms.

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

TRD-9329846

James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board

Filed: October 6, 1993

Texas Department of Human Services Public Notice-Open Solicitation

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg. 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days (starting the date of this public notice) for the construction of a 90-bed nursing facility in Bosque county, county #018, identified in the September 3, 1993, issue of the *Texas Register* (18 TexReg 5914). That county is also listed in this public notice. Potential contractors desiring to construct a 90-bed nursing facility in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Certification, Provider Enrollment and Billing Services, Long Term Care- Regulatory, Mail Code (Y-976), P.O. Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m., November 15, 1993, the last day of the open solicitation period. Potential contractors will be allowed 90 days to qualify and qualified potential contractors will be placed on a secondary-selection waiting list in the order that their applications are received. To qualify, potential contractors must demonstrate an intent and ability to begin construction of a facility and to complete contracting within specified time frames. They must submit a letter of application to TDHS with the following documentation: First, there must be acceptable written documentation showing the ownership of or an option to buy the land on which the proposed facility is or will be located. Second, documentation must include a letter of finance from a financial institution. Third, documentation must include a signed agreement stating that, if selected, the potential contractor will pay liquidated damages if the 180-day and/or 18-month deadline(s) described in 40 TAC §19.2004(q) are not met. The signed agreement must also require the potential contractor to provide, within ten working days after the date of selection, a surety bond or other financial guarantee acceptable to TDHS ensuring payment in the event of default. If the 180-day deadline is not met, liquidated damages are 5.0% of the estimated total cost of the proposed or completed facility. If the 18-month deadline is not met, liquidated damages are 10% of the estimated total cost of the proposed or completed facility. Fourth, there must be acceptable written documentation that the preliminary architectural plans for the proposed or completed facility have been submitted to the Texas Department of Health (TDH). Each application must be complete at the time of its receipt. TDHS accepts the first qualified potential contractor on the secondary-selection waiting list. If no potential contractors submit replies during this open solicitation period, TDHS will place another public notice in the *Texas Register* announcing the reopening of the open solicitation period until a potential contractor replies.

Occupancy rates for identified threshold counties are listed below:

County Number	County Name	Number of Months Over	MAR	APR	MAY	JUN	JUL	AUG
018	Bosque	6	93.5	93.8	94.3	93.3	93.4	93.6

Issued in Austin, Texas, on October 11, 1993.

TRD-9330133 Nancy Murphy
Section Manager, Policy and Document Support
Texas Department of Human Services

Filed: October 11, 1993

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2004, in the September 11, 1990, issue of the *Texas Register* (15 TexReg. 5315), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for Kent county, county #132, identified below, where Medicaid contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of five months in the continuous March-August 1993, six-month period. Potential contractors seek-

ing to contract for existing beds which are currently licensed as nursing home beds or hospital beds in the county identified in this public notice must submit a written reply (as described in 40 TAC §19.2004) to TDHS, Gary L. Allen, Recertification, Provider Enrollment & Billing Services, Long Term Care- Regulatory, Mail Code (Y-976), Post Office Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m., November 15, 1993, the last day of the open solicitation period. Potential contractors will be placed on a waiting list for the primary selection process in the order in which the Texas Department of Health originally licensed the beds that are being proposed for Medicaid participation. The primary selection process will be completed on November 26, 1993. If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 80%, TDHS will place a public notice in the *Texas Register* announcing an additional open solicitation period for those individuals wishing to construct a facility.

County Number	County Name	Number of Months Over	MAR	APR	MAY	JUN	JUL	AUG
132	Kent	6	92.8	94.1	98.0	98.3	99.7	93.5

Issued in Austin, Texas on October 11, 1993.

TRD-9330134 Nancy Murphy
Section Manager, Policy and Document Support
Texas Department of Human Services

Filed: October 11, 1993

Texas Department of Insurance Company License

The following applications have been filed with the Texas Department of Insurance and are under consideration.

Application for name change in Texas for Greater Amarillo Health Plan, Inc., a domestic health maintenance organization. The proposed new name is Southwest Health Alliances, Inc. The home office is in Amarillo.

Application for name change in Texas for Transamerica Insurance Corporation of America, a foreign fire and casualty company. The proposed new name is TIG Insurance Corporation of America. The home office is in Battle Creek, Michigan.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329847 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 6, 1993

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Correction of Error

The Texas Department of Insurance submitted a notification printed in the "In Addition Section". The notice was published in the September 21, 1993, *Texas Register* (18 TexReg 6483). Due to a typographical error by the Texas Department of Insurance, Item Number 2 should read as follows: "FCE Health and Welfare Fund, Inc. (assumed named for Federal Contract Employees Health and Welfare Fund, Inc.), a foreign third party administrator. The home office is in Foster City, California."

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Notices of Public Meeting

The State Board of Insurance of the Texas Department of Insurance and the Commissioner of Insurance, at a public meeting scheduled for 9:00 a.m., November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider a Texas Department of Insurance staff petition proposing adoption of mandatory endorsements to amend the refusal to renew provisions (Insurance Code, Article 21.49-2B, §7(d)) of the homeowners, dwelling, farm and ranch, and farm and ranch owners policies; amendments to Texas Personal Lines Manual rules regulating the insurer's nonrenewal notification; and the withdrawal of the current Board prescribed nonrenewal notification form. The proposed endorsements and manual rule amendments are necessary because of amendments to the Insurance Code, Article 21.49-2B, §7(d), enacted under House Bill 1461 by the 73rd Texas Legislature, which became effective on September 1, 1993.

The proposed endorsements amend the refusal to renew provisions of the homeowners, dwelling, farm and ranch, and farm and ranch owners policies to provide that if an insured files two or more claims in a period of less than three years, the insurer may notify the insured in writing that if a third claim is filed during the three-year period, the insurer may refuse to renew the policy. The proposed endorsements also include notice of the recent statutory change to §7(d) of Article 21.49-2B that if the insurer fails to notify the insured of the possible declination to renew after the second claim, the insurer may not refuse to renew the policy because of losses. The proposed amendments to the Texas Personal Lines Manual Rules clarify that the notice to an insured regarding the refusal to renew a policy after the second loss in a period of less than three years must contain statutorily required information, including a list of the policyholder's claims. Concomitantly, the Board will consider withdrawal of the existing promulgated notice of nonrenewal because of the amendment to §7(d) of Article 21.49-2B deleting the requirement that the notice must be in a form approved by the Board.

Copies of the full text of the mandatory endorsements and manual rule amendments are available for review in the office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the endorsements and rule amendments, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number P-0993-20-I).

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

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

TRD-9329790 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 4, 1993

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The State Board of Insurance of the Texas Department of Insurance and the Commissioner of Insurance, at a public hearing under Docket Number 2066, scheduled for 9:00 a.m., November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider a staff petition proposing adoption of new and revised Windstorm, Hurricane, and Hail Exclusion Agreement endorsements to various residential property policies to provide for the exclusion of coverage of direct and certain indirect losses caused by windstorm or hail and new and revised Texas Personal Lines Manual rules to govern the use of these endorsements and determine rate credits. The proposed new and revised endorsements and new and amended personal lines manual rules are necessary because of recent revisions to the Texas Catastrophe Property Insurance Pool Act (Insurance Code, Article 21.49) enacted under House Bill 1461 by the 73rd Texas Legislature, which require the Texas Catastrophe Property Insurance Association (TCPIA) to provide coverage for indirect losses caused by windstorm or hail when a companion policy issued in the voluntary market specifically excludes coverage for these indirect losses. These legislative changes became effective on September 1, 1993. The TCPIA provides windstorm and hail insurance to residents in 14 coastal counties who are unable to obtain such coverage in the voluntary market.

Four existing endorsements (HO-140, TDP-001, TFR 051, and FRO-440) are proposed to be revised and four new endorsements (HO-140A, HO-140B, TDP-001A, and TFR-051A) are proposed for adoption to provide for the exclusion of coverage of direct and certain indirect losses caused by windstorm or hail from certain homeowners, dwelling, farm and ranch, and farm and ranch owners policies. Rule changes and additions to the Texas Personal Lines Manual are proposed to govern the attachment of these endorsements and the appropriate rate credit to be provided to policyholders when indirect loss coverage is excluded from these policies.

In other closely related but separate matters, the Board will consider in separate proceedings to be conducted under the Administrative Procedure Act (Texas Civil Statutes, Article 6252-13a; 73rd Legislative, Regular Session, Chapter 268, §1, 1993, Texas General Laws 737, 738 (to be codified at Government Code, Title 10, Chapter 2001)) nine new endorsements to TCPIA policies to provide for certain indirect loss coverages excluded in the companion voluntary market policy; amendments to TCPIA policy

forms; and a revised TCPIA Manual, including incorporation of previous Board adopted changes, the addition of new rating rules based on new House Bill 1461 provisions, and the addition of rules and rates for the new indirect loss coverages.

Copies of the full text of the proposed endorsements and Texas Personal Lines Manual rules and rule amendments are available for review in the office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies, please contact Angie Arizpe at (512) 322-4147 (refer to Reference Number P-0993-21-I).

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

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

TRD-9329789

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

Filed: October 4, 1993



The State Board of Insurance, of the Texas Department of Insurance and the Commissioner of Insurance, under Docket Number 2069, will hold a public hearing scheduled for 9:00 a.m. on November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, to consider the adoption of an amendment to the Texas Automobile Insurance Plan of Operation (formerly referred to as TAIP, now TAIPA). The amendment is proposed in accordance with Article 5.96, which authorizes the Board to adopt standard and uniform manual rules and rating plans for motor vehicle insurance. New Article 21.81, §3(f), of House Bill 1461 of the Texas Insurance Code mandates the creation of a competitive limited assignment distribution (LAD) to be in place not later than December 31, 1993. House Bill 1461 directs TAIP to continue to operate in accordance with Texas Civil Statute, Article 670h (§35) as it existed immediately before the effective date of the Act until the Texas Automobile Insurance Plan Association established in the Act is operational. Because §35 prior to September 1, 1993, required Board approval of the Plan amendments, TAIP is seeking the Board's approval of this amendment. However, because House Bill 1461, §1.23, provides that on September 1, 1993, the effective date of the Act, the Commissioner of Insurance shall assume authority over all areas of activity of the Texas Department of Insurance except rate and policy form authority, TAIP is also seeking approval of the Commissioner. The petitioner provides that the seeking of dual approval of both the Board and the Commissioner is to provide comfort that the amendment has received all proper regulatory approval.

Under the amendment, "in return for the payment of a fee, a LAD Servicing Carrier assumes all automobile assigned risk responsibility for another company, called the Excused Company. The amended LAD program permits the Excused Company and LAD Servicing Carrier to negotiate the LAD fee and other contractual matters, subject to minimum contract requirements." The petitioner is seeking approval of the amendment for policies assigned on and after January 1, 1994. The petition covers the eligibility requirements to be eligible as a servicing carrier; the LAD agreement, assignments and Quotas, renewal and non-renewal provisions, and assessments. The Board recom-

mended that TAIP also consider providing a condition that the LAD agreements including the actual buy out fee, once executed, be filed for informational purposes with the Texas Department of Insurance. The Board may also consider other matters relating to the creation of the LAD.

The Board invites the general public and any interested persons to provide written comments to the Board by filing them with the Chief Clerk's Office no later than November 8, 1993, with a copy to Lyndon Anderson, Associate Commissioner, Property and Casualty, P.O. Box 149104, MC #103-1A, Austin, Texas 78714-9104

Copies of the petition and the full text of the amendment are available for review in the Office of the Chief Clerk of the State Board of Insurance, 333 Guadalupe Street, Austin, Texas, 78714-9104. For further information or to request copies of the amendment please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number A-0993-22).

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

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

TRD-9329788

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

Filed: October 4, 1993



The State Board of Insurance of the Texas Department of Insurance and the Commissioner of Insurance, at a public hearing under Docket Number 2063, scheduled for 9:00 a.m. November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider proposed amendment to §5.4201, concerning nine new endorsements for windstorm and hail insurance written by the Texas Catastrophe Property Insurance Association (TCPIA) and a revised TCPIA replacement cost endorsement for household goods. The new extensions of coverage for windstorm and hail endorsements, which must be attached to the TCPIA policy, are necessary to provide coverage for certain indirect losses caused by windstorm or hail. Recent amendments to Article 21.49 of the Insurance Code, enacted under House Bill 1461 by the 73rd Texas Legislature, mandate that the TCPIA provide coverages for indirect losses caused by windstorm or hail when those coverages are excluded in the companion policy being issued in the voluntary market.

The amendments are proposed pursuant to the Insurance Code, Articles 21.49 and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 21.49, §5A authorizes the State Board of Insurance to issue any orders which it considers necessary to carry out the purposes of Article 21.49. Article 21.49, §7 requires the State Board of Insurance to prepare endorsements and forms applicable to the standard policies which it has promulgated providing for the deletion of coverages available through the Texas Catastrophe Property Insurance Association (TCPIA) and to promulgate the applicable reduction of premiums and rates for the use of such endorsements and forms. Article 21.49, §8 authorizes the State Board of Insurance to approve every manual of classifications, rules, rates, rating plans, and every modification of any of the foregoing for use by the TCPIA. Article 21.49, §8B requires the TCPIA to provide coverage for indirect losses caused by wind-

storm or hail when a companion policy issued in the voluntary market specifically excludes such coverage and authorizes the promulgation of rules. Section 1.23 of House Bill 1461 enacted by the 73rd Texas Legislature provides that as of September 1, 1993, that the State Board of Insurance relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and rules related to these activities and that the Board may exercise such authority until no later than September 1, 1994. Texas Civil Statutes, Article 6252-13a, § 4 and § 5 (Administrative Procedure Act, 73rd Legislative, Regular Session, Chapter 268, §1, 1993, Texas General Laws 737, 738 (to be codified at Government Code, Title 10, Chapter 2001)) authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

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

TRD-9329787 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 4, 1993



The State Board of Insurance of the Texas Department of Insurance and the Commissioner of Insurance, at a public hearing under Docket Number 2064, scheduled for 9:00 a.m. November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider proposed amendment to §5.4501, concerning the adoption by reference of a new manual of rules governing the writing of windstorm and hail insurance through the Texas Catastrophe Property Insurance Association (TCPIA). The new manual is necessary to incorporate new rules into the TCPIA manual based on recent amendments to the Insurance Code, Article 21.49, enacted in House Bill 1461 by the 73rd Texas Legislature, that amended the rating for residential risks insured through the TCPIA and mandated that the association provide coverages for indirect losses caused by windstorm and hail. The proposed manual changes reflect the proper method of rating an association policy when insuring a dwelling risk using the board approved benchmark rates with an added factor not greater than +30%, but not less than +25%. The proposed manual changes also provide for the attachment of endorsements providing coverages for indirect losses caused by windstorm and hail and provide the appropriate rating for such coverages. In addition, the manual has been revised to incorporate all changes in the manual rules that have previously been approved by the State Board of Insurance and reformatted and simplified. The new manual as amended would become effective December 1, 1993. The amendments are proposed pursuant to the Insurance Code, Articles 21.49 and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 21.49, §5A authorizes the State Board of Insurance to issue any orders which it considers necessary to carry out the purposes of Article 21.49. Article 21.49, §7 requires the State Board of Insurance to prepare endorsements and forms applicable to the standard policies which it has promulgated providing for the deletion of coverages available through the Texas Catastrophe Property Insurance Association (TCPIA) and to promulgate the applicable reduction of premiums and rates for the use of such endorsements and forms. Article 21.49, §8 authorizes the

State Board of Insurance to approve every manual of classifications, rules, rates, rating plans, and every modification of any of the foregoing for use by the TCPIA. Article 21.49, §8B requires the TCPIA to provide coverage for indirect losses caused by windstorm or hail when a companion policy issued in the voluntary market specifically excludes such coverage and authorizes the promulgation of rules. Section 1.23 of House Bill 1461 enacted by the 73rd Texas Legislature provides that as of September 1, 1993, that the State Board of Insurance relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and rules related to these activities and that the Board may exercise such authority until no later than September 1, 1994. Texas Civil Statutes, Article 6252-13a, §4 and §5 (Administrative Procedure Act, 73rd Legislative, Regular Session, Chapter 268, §1, 1993 Texas General Laws 737, 738 (to be codified at Government Code, Title 10, Chapter 2001)) authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

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

TRD-9329786 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 4, 1993



Notice of Public Hearing

The State Board of Insurance of the Texas Department of Insurance and the Commissioner of Insurance, at a public hearing under Docket Number 2065, scheduled for 9:00 a.m. November 10, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, will consider proposed amendment to §5.4101, concerning the adoption by reference of an amended Texas Catastrophe Property Insurance Policy for windstorm and hail. The proposed amendments to the application portion of the policy form are necessary to incorporate recent legislative changes to the Insurance Code, Article 21.49, relating to indirect loss coverages to be provided by the Texas Catastrophe Property Insurance Association (TCPIA), to obtain zip code information, to remove obsolete provisions, and to reduce paperwork for claim reporting. The proposed amendments do not change any currently approved policy provisions. It is proposed that the application portion of the policy be changed to provide proper references to the type of companion policy being issued in the voluntary market that excludes windstorm and hail coverages. Recent amendments to Article 21.49 of the Insurance Code, enacted in House Bill 1461 by the 73rd Texas Legislature, mandate that the TCPIA provide coverages for indirect losses caused by windstorm and hail when those coverages are excluded in the companion policy being issued in the voluntary market. It is necessary for the TCPIA to have specific information regarding the type of companion policy issued in the voluntary market in order for the proper indirect loss coverage endorsement to be attached to the TCPIA policy. In addition, the application form is being revised to provide a space for a zip code for purposes of analysis of location of risks, to delete part 2 of Question III on the application regarding the property being behind the seawall because the existence of a sea-

wall no longer has a bearing on risks insured through the TCPIA, and to add an additional carbon copy of the application to be used as a claim reporting form to eliminate the need for an agent to issue a separate notice of loss with policy information to be submitted to the company. The proposed amendments also include updating the memorandum copy of the policy by replacing obsolete policy provisions on the back of the memorandum copy of the policy declaration page. The new policy form as amended would become effective December 1, 1993.

The amendments are proposed pursuant to the Insurance Code, Articles 21.49 and 1.04 and Texas Civil Statutes, Article 6252-13a, §4 and §5. Article 21.49, §5A authorizes the State Board of Insurance to issue any orders which it considers necessary to carry out the purposes of Article 21.49. Article 21.49, §7 requires the State Board of Insurance to prepare endorsements and forms applicable to the standard policies which it has promulgated providing for the deletion of coverages available through the Texas Catastrophe Property Insurance Association (TCPIA) and to promulgate the applicable reduction of premiums and rates for the use of such endorsements and forms. Article 21.49, §8 authorizes the State Board of Insurance to approve every manual of classifications, rules, rates, rating plans, and every modification of any of the foregoing for use by the TCPIA. Article 21.49, §8B requires the TCPIA to provide coverage for indirect losses caused by wind-storm or hail when a companion policy issued in the voluntary market specifically excludes such coverage and authorizes the promulgation of rules. Section 1.23 of House Bill 1461 enacted by the 73rd Texas Legislature provides that as of September 1, 1993, that the State Board of Insurance relinquish authority over all areas of activity of the Texas Department of Insurance except the promulgation and approval of rates and policy forms and endorsements and rules related to these activities and that the Board may exercise such authority until no later than September 1, 1994. Texas Civil Statutes, Article 6252-13a, §4 and §5 (Administrative Procedure Act, 73rd Legislative, Regular Session, Chapter 268, §1, 1993 Texas General Laws 737, 738 (to be codified at Government Code, Title 10, Chapter 2001)) authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

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

TRD-9329791 Linda K von Quintus-Dorn
Chief Clerk
Texas Department of Insurance

Filed: October 4, 1993

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**Texas Natural Resource Conservation
Commission**
Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding the City of Chico (Permit Number 10023-01) on September

24, 1993, assessing \$3,000 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Geoffrey Petrov, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8075.

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

TRD-9329874 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

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Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding E-Z Mart Stores, Inc. (TNRCC Facility ID 10263) on September 24, 1993, assessing \$600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-2047.

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

TRD-9329875 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

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Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding the City of Freeport (Permit Numbers 10882-01/02) on September 24, 1993, assessing \$20,040 in administrative penalties with \$4,040 deferred.

Information concerning any aspect of this order may be obtained by contacting Vic Ramirez, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8090.

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

TRD-9329876 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

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Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day

after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding Joyce Holmes (TNRCC Facility ID 59716) on September 24, 1993, assessing \$540 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2047.

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

TRD-9329877 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding J M Huber Corporation (Permit Number 00737) on September 24, 1993, assessing \$49,800 in administrative penalties. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Raymond Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2053.

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

TRD-9329878 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the tenth day after the date on which the decision is adopted, the following information is submitted.

An agreed enforcement order was entered regarding Jim's Foodmart (TNRCC Facility ID 48973) on September 24, 1993, assessing \$540 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2047.

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

TRD-9329879 Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 6, 1993

Notice of Application For Waste Disposal Permits

Notices of Applications for waste disposal permits are as follows. These notices were issued during the period of October 4-8, 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).

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. 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 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 Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

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.

City of Brownfield; wastewater treatment facility and irrigation site; approximately 5,200 feet south and 3,600 feet east of the intersection of U.S. Highway 62 and Second Street in the City of Brownfield in Terry County; amendment; 10677-01.

Larry R. Buck, Eagle Mountain R.V. Park; wastewater treatment facilities; north of the intersection of Bud Cross Drive and McRee Street, approximately 1.75 miles northwest of the intersection of FM Road 1220 (Morris-Ditto-Newark Road) and East Peden Road in Tarrant County; renewal; 12909-01.

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.

Cypress-Klein Utility District; wastewater treatment facilities; on Cypresswood Boulevard, approximately 1,500 feet

north of Cypress Creek and 3, 500 feet north of the intersection of Stuebner-Airline Road and Strack Road in Harris County; renewal; 11366-01.

Del Lago Estates Utility Company; wastewater treatment plant; east of Waldon Road approximately one mile north of State Highway 105 in Montgomery County; renewal; 12686-01.

Ethyl Corporation; the Houston Plant which manufactures industrial organic and inorganic chemicals; at 1000 N. South Street in the City of Pasadena, Harris County; amendment; 00492.

City of Freeport; wastewater treatment facilities; in the City of Freeport at 123 Slaughter Road, north of State Highway 36 in Brazoria County; renewal; 10882-02.

Town of Hackberry; wastewater treatment plant; at the southern end of Maxwell Road in the Town of Hackberry in Denton County; renewal; 13434-01.

Harris County Fresh Water Supply District Number 61; Plant Number 2, Hastings Green Wastewater Treatment Facilities; on the southern bank of Whiteoak Bayou, approximately 2,000 feet north of FM Road 1960 and 6,000 feet east of Huffmeister Road in Harris County; renewal; 10876-02.

Harris County Municipal Utility District Number 254; wastewater treatment plant; approximately 2,400 feet east of the intersection of FM Road 1960 and FM Road 149 and 850 feet north FM Road 1960 on the west side of the F.W. & D. Rock Island Railroad in Harris County; renewal; 12736-01.

City of Lometa; the Kirby Creek Wastewater Treatment Facility; approximately 4,500 feet southeast of the intersection of FM Road 581 and U.S. Highway 190, west of Kirby Creek and south of the City of Lometa, in Lampasas County; renewal; 11982-01.

City of Lubbock; the Holly Avenue Steam Electric Station; at 3500 East Slaton Highway in the City of Lubbock, Lubbock County; renewal; 01895.

Northwest Harris County Municipal Utility District Number 29; wastewater treatment plant; approximately 4,600 feet east-southeast of the intersection of U.S. Highway 290 and FM Road 1960 and 800 feet west of the Addicks-Fairbanks Road in western Harris County; renewal; 12795-01.

Phillips Petroleum Company; a petrochemical and plastics manufacturing plant; on the south side of the Houston Ship Channel and approximately 0.5 mile west of the mouth of Greens Bayou, Harris County; renewal; 00815.

Phillips Petroleum Company; a petroleum refinery, a natural gas liquids processing center, and a chemical manufacturing plant; adjacent to State Highway 119, approximately one mile north of the intersection of State Highway 246 and State Highway 119 near the City of Borger, Hutchinson County; renewal; 01064.

Texana Tank Car and Manufacturing, Inc.; a landfill which receives wastes from a rail tank cars manufacturing and repair facility; approximately 2.3 miles west of the City of Nash, Bowie County; new; 03609.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330148

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 11, 1993

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**Notices of Receipt of Applications and
Declaration of Administrative
Completeness for Municipal Solid
Waste Applications**

Notices of Receipt of Applications and Declaration of Administrative Completeness for municipal solid waste permits issued during the period of October 5-8, 1993, are as follows.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on such evaluation.

These notices are issued pursuant to the Texas Health and Safety Code, §361.0665. Any person who may be affected by the facility is entitled to request a hearing from the Commission. The Commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

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.

American Wastewater Limited; Houston; Type V; 250 Gellhorn, Houston, Harris County; new; MSW2334.

U.S.A. Waste Services, Inc.; Dallas, Type I; 3.2 miles south of the intersection of FM 878 and IH-45, Dallas, Ellis County; new; MSW1745.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330123

Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: October 8, 1993

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Public Hearing Notices

The Texas Natural Resource Conservation Commission (Commission) will conduct a public hearing beginning at 10:00 a.m., December 7, 1993, Room 101, John H. Reagan Building, 105 West 15th Street, Austin, in order to receive testimony concerning the revisions to the Continuing Planning Process (CPP) document. The public hearing shall be conducted in accordance with the Texas Water Code, §26.011 and §26.012.

Required by the Federal Clean Water Act, §303(e), the Continuing Planning Process constitutes policies and pro-

cedures by which the Commission operates water quality management programs. As the primary water quality management agency in the state, the Commission develops programs to control water pollution, using regulations contained in the Clean Water Act and Texas Water Code as guidance. The Commission has a certain amount of flexibility in interpreting these regulations and in determining management processes. The narratives contained in the CPP document are more descriptive in nature rather than prescriptive; they describe programs rather than provide detail on each required program action. Further detail on individual programs contained in this document is available from the Commission, upon request.

The public is encouraged to attend the hearing and to present relevant evidence or opinions concerning the Continuing Planning Process. Written testimony which is submitted prior to or during the public hearing will be included in the record. The Commission would appreciate receiving a copy of all written testimony at least five days before the hearing. Copies of written testimony and questions concerning the public hearing should be addressed to Linda Brookins, Texas Natural Resource Conservation Commission, Environmental Assessment Division, P.O. Box 13087, Austin, Texas 78711-3087, or call (512) 463-8452.

A limited number of copies of the draft Continuing Planning Process are available for review in the Texas Natural Resource Conservation Commission Library, Room B-20 of the Stephen F. Austin Building, 1700 North Congress Avenue, Austin; or may be obtained by writing to Dahna G. Branyan, Environmental Assessment Division, P.O. Box 13087, Austin, Texas 78711-3087, or calling (512) 463-8452. There are no charges for the pre-hearing draft copies of the Continuing Planning Process, however, a fee will be charged for the finalized post-hearing copies.

Issued in Austin, Texas, on October 7, 1993.

TRD-9329961 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: October 7, 1993

The Texas Natural Resource Conservation Commission (Commission) will conduct a public hearing to receive public comment and testimony on proposed new §290.51 as published in the October 15, 1993, issue of the *Texas Register*.

Section 290.51 concerns fees for services to public water systems. The Commission is proposing this new section in response to significant increases in federal monitoring requirements under the Safe Drinking Water Act. These mandates require a significant increase in regulatory involvement with public water systems. Currently, the TNRCC staff schedules and collects most federally mandated drinking water samples. For this service to continue, additional staff and funding are required. Failure to secure additional funding will result in this burden being shifted to public water suppliers. The new section proposes fees similar in structure to the existing fees. Due to the expanded regulatory scheme mandated by the Safe Drinking Water Act, including the additional inspection and sampling requirement, the existing fee structure is insufficient to meet the needs of the program. As a result, the proposed new section is designed to provide the Commission with necessary additional revenue.

The commission has scheduled the public hearing to be held on October 28, 1993, at 10:00 a.m. in Room 103 of the John H. Reagan State Office Building, Austin.

If you have any questions concerning this public hearing you may contact Irene Montelongo, Legal Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or call (512) 463-8069.

Issued in Austin, Texas, on October 7, 1993.

TRD-9329960 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: October 7, 1993

Public Notice

The Texas Natural Resource Conservation Commission (the Commission) is required under the Texas Solid Waste Disposal Act, Health and Safety Code, Chapter 361, as amended (the Act), to identify and assess facilities that may constitute an imminent and substantial endangerment to public health and safety or to the environment due to a release or threatened release of hazardous substances into the environment. Pursuant to §361.184(a), the Commission must publish in the *Texas Register* those facilities which are identified as eligible for listing on the state registry. The most recent registry listing was published in the March 30, 1993, issue of the *Texas Register* (18 TexReg 2159).

The following is a facility or area that the executive director of the Texas Natural Resource Conservation Commission has determined eligible for listing and which the Executive Director proposes to list on the state registry. Also specified is the general nature of the potential endangerment to public health and safety or the environment as determined by information currently available to the Executive Director.

The American Zinc Company site (the site) is located in Moore County, approximately 3.5 miles north on U.S. 287 and five miles east on FM 119 from the City of Dumas. The site is located on approximately 160 acres. The site was in operation from the late 1930's until the late 1960's or early 1970's. Operating as a zinc smelter and generating all heavy metal wastes typical to that process, the site played a role in the war effort during World War II. Potential hazards at the American Zinc site include groundwater, surface water and soil contamination, due to numerous slag piles containing concentrations of lead and cadmium located throughout the area.

A public meeting has been scheduled regarding the proposed listing of the site. It will be legislative in nature and not a contested case hearing under the Texas Administrative Procedure and Texas Register Act (Session Laws of 73rd Legislative Session, Volume 6, Chapter 268). Persons desiring to comment on the proposed listing of this site may do so in the context of this meeting either orally or in writing. Written comments may also be submitted to the attention of Charles Epperson, Pollution Cleanup Division, Superfund Investigation Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087; (512) 908-2498. All comments must be received by the Commission on or before November 30, 1993.

The public meeting has been scheduled for the following time and place: 7: 30 p.m. to 9:30 p.m., November 16, 1993, City Hall, Commissioner's Room, 124 West Sixth Street, Dumas.

The executive director of the Texas Natural Resource Conservation Commission has prepared the Chronology of Events for the American Zinc Company. The Chronology of Events as well the public records for the site, are available for inspection and copying during regular business hours at the Killgore Memorial Library, 124 Bliss Street in Dumas. Copies of the complete public record file may be obtained during regular business hours of the Texas Natural Resource Conservation Commission by contacting Beth Wigham, Central Records Center, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087; (512) 908-2920. Copying of file information is subject to payment of a fee.

Issued in Austin, Texas, on October 11, 1993.

TRD-9330135 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: October 11, 1993

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Texas Department of Protective and Regulatory Services

Notice of Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Protective and Regulatory Services (PRS) announces this notice for group consultation services (RFP) contracts to be awarded under PRS' Protective Services for Families and Children Division.

Description of Services: The aim of the Group Services Project is to improve the effectiveness of the services provided to clients by making group services available to abusive/neglectful families who have been brought to the attention of Child Protective Services.

Geographic Limitation: Services will be provided in San Antonio.

Eligible Applicants: Eligible offerors include public agencies, private non-profit, and private agencies, including professional corporations, partnerships, and individuals. Historically Underutilized Businesses are encouraged to submit proposals.

Terms and Total Value: The effective dates of any contract awarded under this RFP will be March 1, 1994, through February 28, 1995. A maximum of \$15, 000 is available to fund this contract.

Limitations: Funding of the selected proposal will be dependent upon available appropriations. PRS reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of PRS.

Deadlines: All proposal and proposal modifications that are to be considered for funding through this RFP must be received by 12:00 p.m., November 10, 1993. Proposals received after this deadline will be accepted only if post-marked no later than November 9, 1993.

Evaluation and Selection: A panel of program and administrative staff from PRS will rank and score proposals. The

evaluation method and criteria will be specified in advance.

Contact Person: To obtain a complete copy of this RFP, please contact John F. Avant, Procurement Specialist, or Victoria Sandoval, Contract Technician, Protective Services for Families and Children, Texas Department of Protective and Regulatory Services, P.O. Box 23990, San Antonio, Texas 78223-0990, (210) 491-2703 or (210) 491-2747.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329901 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Protective and
Regulatory Services

Filed: October 6, 1993

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Public Utility Commission of Texas

Notices of Intent to File Pursuant to Public Utility Commission Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Shell Oil Company, Houston.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Shell Oil Company pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12357.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Shell Oil Company. The geographic service market for this specific service is the Houston area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, October 5, 1993.

TRD-9329833 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 5, 1993

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Mercy Regional Medical Center, Laredo.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Mercy Regional Medical Center pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12352.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Mercy

Regional Medical Center. The geographic service market for this specific service is the Laredo area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, October 5, 1993.

TRD-9329834 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 5, 1993



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Southwestern Bell Custom Service, San Antonio.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Southwestern Bell Custom Service pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12351.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Southwestern Bell Custom Service. The geographic service market for this specific service is the San Antonio area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, October 5, 1993.

TRD-9329835 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 5, 1993



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Huntsville Independent School District, Huntsville.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Huntsville Independent School District pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12350.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Huntsville Independent School District. The geographic service market for this specific service is the Huntsville area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at

7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, October 5, 1993.

TRD-9329836 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 5, 1993



Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for Amarillo National Bank, Amarillo.

Docket Title and Number. Application of Southwestern Bell Telephone Company for Approval of Plexar-Custom Service for Amarillo National Bank pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12371.

The Application. Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Amarillo National Bank. The geographic service market for this specific service is the Amarillo area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, October 6, 1993.

TRD-9329894 John M. Renfrow
Secretary of the Commission
Public Utility Commission of Texas

Filed: October 6, 1993



Notice of Proceeding for Approval of Extended Area Service

Notice is given to the public of the filing with the Public Utility Commission of Texas of a joint petition on September 30, 1993, seeking approval of extended area service (EAS) pursuant to §23.49(i) of the Public Utility Commission of Texas substantive rules. The following is a summary of the joint petition.

Project Title and Number. Joint Petition of Southwestern Bell Telephone Company, GTE Southwest Incorporated, and the Wills Point Exchange to Provide Extended Area Service (EAS) from the Wills Point Exchange to the Dallas, Terrell, and Forney Exchanges, Project Number 12366, before the Public Utility Commission of Texas.

The Joint Petition. In Project Number 12366, the Wills Point Exchange, which is served by Southwestern Bell Telephone Company (SWB), has requested flat-rate, one-way calling to the Dallas, Terrell, and Forney Exchanges. SWB serves the Terrell and Forney exchanges, as well as portions of the Dallas Exchange. The Carrollton, Garland, Irving, Lewisville, Dallas-Fort Worth Airport, Plano, Rowlett, and Wylie zones of the Dallas Metropolitan Exchange are served by GTE Southwest Incorporated (GTESW). Customers residing in the Wills Point Ex-

change electing to subscribe to the optional, one-way, extended area service (EAS) will pay a flat-rate monthly additive in addition to the basic local exchange charges, as follows:

Residence per line-\$15; Business per line-\$30.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Office at (512) 458-0256 by December 14, 1993. The telecommunications device for the deaf (TDD) number for the Public Information Office is (512) 458-0221.

Issued in Austin, Texas, October 7, 1993.

TRD-9329953

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

Filed: October 7, 1993

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Notice of Proposed Rulemaking

The Public Utility Commission of Texas is considering a proposal of a rule that would address the guidelines and requirements for trusts associated with postretirement benefits other than pensions that are subject to the requirements of Statement of Financial Accounting Standards Number 106 (SFAS 106).

The commission seeks comments from interested persons on all aspects of the appropriate guidelines and requirements for the trusts associated with SFAS 106, and in particular, the following questions:

Can substantive Rule §23.59(a), duties of electric utilities, apply to postretirement benefits other than pensions (OPEB) trusts as well as Decommissioning trusts, or is a separate subsection of the rule necessary?

How does §23.59(a) need to be modified to apply to OPEB trusts?

Can substantive Rule §23.59(b), Agreements between the electric utility and the institutional trustee or investment manager, apply to postretirement benefits other than pensions (OPEB) trusts as well as Decommissioning trusts, or is a separate subsection of the rule necessary?

How does §23.59(b) need to be modified to apply to OPEB trusts?

Can substantive Rule §23.59(c), trust agreements, apply to postretirement benefits other than pensions (OPEB) trusts as well as Decommissioning trusts, or is a separate subsection of the rule necessary?

How does §23.59(c) need to be modified to apply to OPEB trusts?

What are the applicable federal laws governing OPEB trusts?

Does the Internal Revenue Service determine the amount eligible for investment in qualified funds (as defined in the rule concerning OPEB)?

Are any additional investment restrictions needed, other than those in §23.59(c)(2), for OPEB trusts? If so, what are they?

Are any of the current guidelines or investment restrictions in §23.59 too restrictive for an OPEB trust? If so, how should they be changed?

Should there be investment guidelines for short-term trust investments as well as for permanent trust investments? If so, what should they be?

The current rule does not address life insurance investment products. Should the rule allow these types of investments for OPEB trusts and/or decommissioning trusts?

If so, should there be a restriction on how much of the fund can be invested in these types of vehicles?

Should there be a sharing mechanism between ratepayers and shareholders for investments that produce greater benefits with additional risks, such as the life insurance investments?

Should there be restrictions on the financial strength of the insurance company providing these types of investments? If so, what should they be?

Should the utilities be required to report at least annually on the status of the trust balances?

Should the general counsel, or any affected person, be able to initiate a proceeding to review the status of the OPEB trust?

Please make any other comments you feel would be helpful to the commission regarding the addition of general trust management and investment guidelines for OPEB trusts to its rules.

Interested persons should file 15 copies of their comments with the commission within 30 days of the date of publication of this notice. Persons should refer to Project Number 12267 when filing documents. Interested persons are asked to notify the commission in writing in advance of filing comments of their intent to file comments. The commission will use these filings to prepare an official service list for this rulemaking proceeding. Persons that file comments should serve a copy of their comments on the other parties on this service list.

Issued in Austin, Texas, October 8, 1993.

TRD-9330088

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

Filed: October 8, 1993

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**Texas Racing Commission
Notice of Changes to Texas-Bred
Incentive Program Rules for
Greyhounds**

On October 4, 1993, the Texas Racing Commission, Greyhound Racing Section, approved changes to the Texas Bred Incentive Program Rules for greyhounds as promulgated by the Texas Greyhound Association. Pursuant to Texas Civil Statutes, Article 179e, §10.05, the Texas Greyhound Association is the officially designated breed registry for greyhounds in Texas and is authorized to adopt rules to implement the Texas-Bred Incentive Program for greyhounds, subject to the approval of the Commission. These rules have been adopted by reference in 16 TAC §303.102, and are on file at the Texas Racing Commission. A copy of the rules may be obtained by contacting Paula Cochran Carter, General Counsel, Texas Racing

Commission, 9420 Research Blvd., Echelon III, Suite 200,
Austin, Texas 78759 (512) 794-8461.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329921 Paula Cochran Carter
General Counsel
Texas Racing Commission

Filed: October 7, 1993

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Texas Rehabilitation Commission
Intent to Award Grant

The Developmental Disabilities Assistance and Bill of Rights Act of 1990 (Public Law 100-496), authorizes funds to be provided for studies, analysis, development of model policies, and technical assistance to providers with respect to "priority area activities" adopted by the Council, and information dissemination to local, state, and federal policymakers. Consistent with that authorization, on behalf of the Council as its designated state agency, the Texas Rehabilitation Commission intends to award a grant to Advocacy, Incorporated, to continue to provide staff and other support for the Disability Policy Consortium. The Consortium is a group of 20 state-wide organizations formed to support public policy advocacy for people with developmental disabilities.

Description of Project. This project conducts activities for the Consortium that include: establish and maintain administrative support for the Consortium; develop and maintain a system for identification, tracking, and dissemination of public policy information; support Consortium activities in monitoring, analysis, development, and distribution of public policy issue statements; provide support for the active involvement of consumers and family members in providing testimony and input on state level public policy issues.

Criteria for Award. Performance of these activities are limited to an organization whose governing board has voted to adopt the guiding principles and goals of the Consortium and has become a member of the Consortium. The consensus of a Consortium working group is that Advocacy, Inc., has the best expertise and resources to support and carry out the goals and activities of this project for the Consortium. By this notice of intent, any organization that has joined the Consortium may submit a proposal in writing indicating its qualifications to carry out this activity on or before October 29, 1993.

Terms and Funding. The initial budget period will begin on December 1, 1993-May 31, 1994. The level of funding is expected to be in the range of \$260,000 annually for three years. Funding will be based on an annual review and evaluation of effectiveness by the Council. Funding for this project is contingent on allocation of federal funds to the State of Texas. Members of the Consortium are expected to contribute resources to Consortium activities based on individual organization ability.

For information on any aspect of this announcement, contact: Director of Grants Management, Texas Planning Council for Developmental Disabilities, 4900 North Lamar Boulevard, Austin, Texas 78751-2399, (512) 483-4088.

Issued in Austin, Texas, on October 6, 1993.

TRD-9329935 Charles Schlessler
Associate Commissioner for Legal Services
Texas Rehabilitation Commission

Filed: October 7, 1993

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San Antonio-Bexar County
Metropolitan Planning Organization
Request for Proposals

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to undertake a study of potential for High Occupancy Vehicle (HOV) improvements on freeways and in major transportation corridors to address the long range mobility needs of the San Antonio-Bexar County study area. This study is to be developed in conjunction with the Long Range Transportation Plan.

A copy of the Request for Proposals (RFP) may be requested by calling the Metropolitan Planning Organization at (210) 227-8651. Anyone wishing to submit a proposal must do so by 12:00 p.m. (CST), November 5, 1993, at the MPO office: Heritage Plaza Building, 434 South Main, Suite 205, San Antonio, Texas 78204.

A pre-proposal meeting has been scheduled for 2:00 p.m., Friday, October 15, 1993, in Building 2 at the Texas Department of Transportation, 4615 Northwest Loop 410, San Antonio.

The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the study's public/private oversight committee. The High Occupancy Vehicle Study Oversight Committee will review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$170,000, is contingent upon the availability of Federal and State funding from the Federal Highway Administration, Federal Transit Administration, and the Texas Department of Transportation.

Issued in San Antonio, Texas, on October 7, 1993

TRD-9330155 Charlotte A. Roszelle
Office Manager/Grants Coordinator
San Antonio-Bexar County Metropolitan
Planning Organization

Filed: October 11, 1993

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Office of the Secretary of State
Posting of Open Meeting Notices

Effective October 15, 1993, the *Texas Register* will post notices of open meetings filed with the Office of the Secretary of State on a bulletin board located in the lobby of the James Earl Rudder State Office Building, 1019 Brazos. The Rudder Building is the main office of the Secretary of State. The posted notices are accessible through the main doors of the building or through the wheelchair entrance on Brazos. A security guard in the lobby will allow access to the bulletin board after regular office hours, on weekends, and on state holidays.

Texas Department of Transportation Request for Applications

Pursuant to Title 49, United States Code, §1612, of the Federal Transit Act, the Texas Department of Transportation (TxDOT) issues this notice for solicitation of proposals and/or applications from private and public nonprofit organizations serving elderly and/or disabled persons to utilize funds available under the §16 grant program, administered by TxDOT.

Notice of Invitation. The Texas Department of Transportation (TxDOT) is issuing this request for applications for the §16 grant program. The §16 grant program provides capital assistance to nonprofit organizations which provide transportation services to elderly and/or disabled persons in Texas.

Funding for the §16 grant program is appropriated by the Federal government under the Federal Transit Act as described in FTA Circular 9070.1C, December 23, 1992. Fiscal year 1994 appropriations for §16 grant program are expected to be announced in October.

Eligible capital expenses under the §16 grant program include the replacement of vehicles such as buses, vans, trolleys, etc., currently used to transport elderly and/or disabled persons, and such auxiliary equipment as is normally acquired with vehicles of this type; the purchase of vehicles for service expansions and new services to elderly and/or disabled persons, and such auxiliary equipment as is normally acquired with vehicles of this type; and the purchase of radio equipment only, i.e. equipment that is not part of a vehicle allowed categories 1 and 2 of this paragraph. Section 16 funds must be used for transportation projects serving elderly and/or disabled persons.

Each project will be evaluated in the appropriate category in accordance with the stated selection criteria. However, TxDOT reserves the right to establish minimum required scores.

Projects must meet Federal funding criteria included in Circular 9070.1C and must also comply with property management standards set out in Title 43, Chapter 31.57, of the Texas Administrative Code, relative to the replacement of vehicles. To be eligible for consideration, each §16 proposal must include the following documents and information:

- (1) successful completion of the pre-application interview and an on-site visit with the District public transportation coordinator;
- (2) a complete §16 grant application, copies of which are available at TxDOT District offices. Applicants requesting funds for multiple projects should group them within the application by funding category (replacement vehicles, expansion vehicles, new starts, and radios). The narrative should demonstrate the need for the equipment, the capability to maintain and operate the equipment, and the involvement of the applicant and the community in requesting funding for the equipment;
- (3) a budget for each category of equipment which shows the unit cost of each item and total equipment costs. The federal dollars and local match dollars provided by the applicant should be noted;
- (4) compliance with the Americans with Disabilities Act to provide transportation services that are accessible to disabled persons;

(5) provide proof of demonstrated coordination efforts with other transit systems within the applicant's immediate service area in the application;

(6) proof of local match ability to pay a minimum of 20% of funding for said equipment. No federal dollars may be used as local match unless authorized by the federal agency that awards those monies;

(7) the latest annual one-way passenger trip figures for the applicant agency, with the source of the information shown (such as TxDOT reports, etc.);

(8) the latest annual administrative/operating budget for the transportation services provided by the applicant agency. Equipment costs should not be included; and

(9) the latest population estimates for the applicant's authorized service area and agency clientele served, with source of the information shown.

Agencies requesting §16 funds for the purchase of vehicles (replacement or expansion) must also submit the following information:

(a) A complete inventory of the current vehicle fleet, with the following information provided for each vehicle: type (bus, van, etc.); license or serial number; size (length); passenger capacity; special equipment on board (radio, lift, ramps, etc.); model year; and odometer reading, date of odometer reading, and whether vehicle is a spare or is used regularly to provide service.

Agency Contact. Questions concerning the request for proposals should be referred to the Public Transportation Coordinator with the local TxDOT District Office.

Response Date. Written proposals must be received by the Public Transportation Coordinator, Texas Department of Transportation, District Office for your area on or before January 18, 1994. A listing of public transportation coordinators follows: Paris, P.O. Box 250, Paris, Texas 75460, Don Pace, (903) 892-3031; Fort Worth, P.O. Box 6868, Fort Worth, Texas 76115, Pauline Bloyd, (817) 370-6627, Sonja Whitehead, (817) 370-6567; Wichita Falls, P.O. Box 660, Wichita Falls, Texas 76307, Carolyn Proffitt, (817) 720-7712; Amarillo, P.O. Box 2708, Amarillo, Texas 79105, Bill Harvey, (806) 356-5253; Lubbock, P.O. Box 771, Lubbock, Texas 79408, Anne Polk, (806) 748-4480; Odessa, 3901 East Highway 80, Odessa, Texas 79761, Gary Watson, (915) 333-9266; San Angelo, P.O. Box 5500, San Angelo, Texas 76902, Mark Tomlinson, P.E., (915) 659-0264; Abilene, P.O. Box 150, Abilene, Texas 79604, Joe Clark, (915) 676-6812; Waco, P.O. Box 1010, Waco, Texas 76703, Bill Krause, P.E., (817) 867-2745; Tyler, P.O. Box 2031, Tyler, Texas 75710, Danny Aylor, P.E., (903) 510-9232, Scott Sopchack, (903) 510-9119, Sonja Swenson, (903) 510-9121; Lufkin, P.O. Box 280, Lufkin, Texas 75902, Tina Walker, P.E., (409) 634-4433, Ext. 229, Carolyn Blackburn, (409) 634-4433, Ext. 237; Houston, P.O. Box 1386, Houston, Texas 77251, Gayle Walker, (713) 802-5317; Yoakum, P.O. Box 757, Yoakum, Texas 77995, Wanda Carter, (512) 293-4395; Austin, P.O. Box 15426, Austin, Texas 78761, Jenny Peterman, (512) 832-7039; San Antonio, P.O. Box 29928, San Antonio, Texas 78229, Carolyn Goodall, (512) 615-5924; Corpus Christi, P.O. Box 9907, Corpus Christi, Texas 78469, Jesus Chavez, P.E., (512) 808-2329; Bryan, P.O. Box 3249, Bryan, Texas 77805, Sara Chamberland, (409) 778-9755; Dallas, P.O. Box 3067, Dallas, Texas 75221, Bonnie Beck, (214) 320-6153, Willie Parker, (214) 320-5473; Atlanta, P.O. Box 1210, Atlanta, Texas 75551, Carrell Burleson, (903) 799-1310, Sonya Hudson, (903)

799-1310; Beaumont, P.O. Box 3468, Beaumont, Texas 77704, Lucy Henry, (409) 898-5785; Pharr, P.O. Drawer EE, Pharr, Texas 78577, Irma Flores, (210) 702-6149; Brownwood, P.O. Box 1549, Brownwood, Texas 76804, Tammy Swan, (915) 643-0440; El Paso, P.O. Box 10278, El Paso, Texas 79994, Mary Telles-Goins, (915) 774-1324, Judy Ramsey, (915) 774-1322; Childress, P.O. Box 900, Childress, Texas 79201, Pat Crews-Weight, P.E., (817) 937-2178.

Selection Criteria. TxDOT will select projects for \$16 funding on quantitative measures such as demonstrated coordination efforts, ability to operate present equipment on an annual basis where applicable, local match ability, ability to meet service needs of elderly and/or disabled persons based on passengers trips per vehicle per month in urban or rural areas, hours of services, ability to maintain equipment, average fleet mileage where applicable, and average fleet age where applicable. Only those measures appropriate to a specific funding category will be used in evaluating projects within that category.

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

TRD-8329883

Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: October 6, 1993

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Request for Proposals

Notice of Invitation. The Texas Department of Transportation (TxDOT) requests engineering services proposals for a study to develop potential projects along U.S. 59 to connect Laredo through Houston to the vicinity of Texarkana. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), §1105(b) has allocated funds for this study as part of the National Highway System High Priority Corridors program. The purpose of this program is to identify potential projects that will better serve the travel and economic development needs of the region.

Purpose of the Study. Pursuant to the Government Code, Chapter 2254, Subchapter A, it is the intent of TxDOT to contract for the services of qualified individuals or firms for the preparation of a long range plan and feasibility study for highway U.S. 59 from Laredo through Houston to the vicinity of Texarkana. This study should identify the potential projects, locations where loops, bypasses, or realignment might be feasible, and which potential environmental impacts would be associated with each project. The consultant would then prioritize the projects based on possible development timeframes and maintaining logical systems.

Scope of Work. This study is envisioned as a needs assessment for the corridor based on a systems planning perspective with a coordinated and supported report containing a recommendation of potential projects and their priority and will include a justification for the preference of any recommended alignment changes. The limits of the

potential projects should be listed by departmental control and section number. This information will be available through the department's Design Division. Supporting documentation should include a study of all surface modes of passenger and commodity transportation within and through the region, both public and private. The feasibility study must identify the need, establish basic design parameters, and estimate the general costs for the project. The resulting study should identify the study boundaries with a clearly detailed map accompanied by a written description.

A pre-submittal conference will be held at 2:00 p.m. on October 26, 1993, in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin. Questions regarding this request for proposal may be submitted before and after the pre-submittal conference written or telefacsimile communication to the following location: Texas Department of Transportation, Transportation Planning and Programming Division, Attention: Contract Manager, P.O. Box 5051, Austin, Texas 78763, FAX number: (512) 467-3952, Attention: Peggy Thurin, P.E., (512) 467-3790.

Answers to questions that significantly alter the content or form of proposal requirements will be sent to all firms who have been requested to submit a proposal. Questions must be received at least six working days prior to the proposal response date.

Agency Contact. Additional information or copies of the complete request for proposals may be obtained by contacting Peggy Thurin, P.E., at the previously stated address.

Response Date. In order to be considered, ten hard copies of the proposal must be received by Texas Department of Transportation, Transportation Planning and Programming Division, Building One, Room 326, 40th and Jackson Streets, Austin, Texas 78731, no later than 4:00 p.m. on November 22, 1993. Proposals should be marked "Proposal for the U.S. 59 Study. Attention: Peggy Thurin, P.E." Proposals submitted by facsimile will not be considered.

Selection Procedures. Proposals will be evaluated by the consultants review committee and any other TxDOT personnel as needed. The consultants review committee will make a recommendation to the TxDOT administration. No selection will be made until the Texas Transportation Commission has indicated its consent pursuant to Commission Minute Order 102218. Proposal evaluations will be based on a two-tier system. All consultants will be evaluated on the first tier of criteria listed herein. This initial list will then be reduced to the top three firms which will be further evaluated on the second tier of criteria. The first tier of criteria is as follows: documented experience in similar studies of this magnitude, including experience in engineering as well as environmental assessments and public involvement-40 points; demonstrated understanding of study requirements-30 points; qualifications of the individuals assigned to the project-20 points; experience of subcontractors-10 points; maximum possible-100 points.

The second tier of criteria is as follows:

				=	Rating
• Total Rating score from first tier				=	
• Percent of work on this project to be performed in Texas	5	x	(1)	=	
• Present work load with Department	5	x	(2)	=	
• Extent of DBE Participation	5	x	(3)	=	_____
Total Rating					

(1) Work to be performed in Texas: 0-10%=1, 10-20%=2, 20-30%=3, etc., 90-100%=10.

(2) Present Work Load with Department: \$0-2M=10, \$2-4M=9, \$4-6M=8, etc., over \$20M=0.

(3) DBE participation: 0-10%=1, 10-20%=2, 20-30%=3, etc., 90-100%=10.

TxDOT reserves the right to contact a firm for clarification of information submitted, to contact references, to obtain information regarding performance reliability and integrity of the study proposal, or any other matter deemed appropriate for the evaluation. TxDOT will consider only transactions which are in writing and signed by an officer of the firm. The completed study must be delivered by February 1, 1994. A contract is anticipated to be awarded by January 19, 1994.

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

TRD-9329882 Diane L. Northam
 Legal Administrative Assistant
 Texas Department of Transportation

Filed: October 6, 1993

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In accordance with the Government Code, Chapter 2254, Subchapter B, the Texas Department of Transportation (TxDOT) requests proposals for consulting services for purposes of developing favorable policy actions and evidence in support of coping with the infrastructure related impacts of increased international trade. The department and other Texas state agencies face an immediate need to accurately assess the likely impact of increased trade with Mexico and the North American Free Trade Agreement (NAFTA) on border infrastructure requirements. Additionally, Texas Civil Statutes, Article 6673j-1, provides that the department review its proposed road projects annually to determine whether they are adequate to handle the projected volume of highway traffic resulting from international trade over the next five years. The assessment of the impact of increased trade necessitates examining transportation and other types of infrastructure, trade flows, and related infrastructure requirements. We need to be prepared to deliver evidence, specifically in the NAFTA debates, in support of obtaining adequate funding and favorable policy actions to assist the department, and the State of Texas, in coping with the infrastructure related impacts of increased trade.

The initial phase of this work was performed by Shiner, Moseley and Associates, Inc., under a professional services contract between November 25, 1992 and April 30, 1993, and this contract will be awarded to this consultant unless a better offer is submitted.

Project description. The consultant selected will assist the department in developing a position paper on the likely impact of the North American Free Trade Agreement (NAFTA) and increased trade with Mexico on infrastructure requirements along the U.S. Border with Mexico in Texas with emphasis on: transportation and trade flows, environmental (water, wastewater, municipal solid waste, air, hazardous wastes), education (public and higher), worker retraining, worker care, and housing. In addition, the consultant will conduct analyses and provide support through the Governor's Office, Office of State-Federal Relations, the department, and any other state agencies in preparing and delivering evidence in support of obtaining adequate funding and favorable policy actions intended to assist Texas in coping with the infrastructure related impacts of increased trade and NAFTA. Special assistance may include the preparation of targeted analyses on issues/questions that may be raised as the issue of increased trade with Mexico, approval of NAFTA, and implementing legislation come before the Congress, and preparation of briefing papers and testimony based on new and prior analysis for use by Texas' witnesses.

Contact. Requests for additional information regarding submission of proposals should be addressed to Mary Anne Griss, Staff Services, 125 East 11th Street, Austin, Texas 78701, (512) 463-6276. The deadline for submission of proposals will be 5:00 p.m. on November 15, 1993.

Issued in Austin, Texas, on October 8, 1993.

TRD-9330124 Diane L. Northam
 Legal Administrative Assistant
 Texas Department of Transportation

Filed: October 11, 1993

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Board of Vocational Nurse Examiners

Correction of Error

The Board of Vocational Nurse Examiners adopted amendment to 22 TAC §235. 47, concerning issuance of licenses. The rules appeared in the October 5, 1993, *Texas Register* (18 TexReg 6838).

Due to an error on the part of the *Texas Register* the agency name was omitted from the heading. It should read "Part XII Board of Vocational Nurse Examiners."

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1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week preceding publication. No issues will be published on July 30, November 5, November 30, and December 28. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19

65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 *Friday, September 10	Friday, September 3	Tuesday, September 7
70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

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