

# Texas Register

Volume 18, Number 82, October 29, 1993

Page 7497-7584

## In This Issue...

### **Proposed Sections**

#### **Texas Department of Agriculture**

##### General Procedures

4 TAC §1.81.....7507

##### Texas Agricultural Diversification Program: Matching Grants [Grant and Loan Program Rules]

4 TAC §§29.2, 29.6, 29.7, 29.9, 29.12, 29.13.....7508

#### **Texas Council on Workforce and Economic Competitiveness**

##### Local Workforce Development Boards

10 TAC §252.1.....7509

#### **Railroad Commission of Texas**

##### Practice and Procedure

16 TAC §§1.27, 1.30..... 7510

#### **Texas Appraiser Licensing and Certification Board**

##### Provisions of the Texas Appraiser Licensing and Certification Act

22 TAC §153.13.....7511

#### **Texas Department of Insurance**

##### Life, Accident, and Health Insurance and Annuities

28 TAC §§3.501-3.512 .....7512

##### Corporate and Financial Regulation

28 TAC §§7.201, 7.202, 7.205, 7.210 ..... 7522

##### Small Employer Health Insurance Regulations (See Part II and III Issues)

28 TAC §§26.1-26.27.....7587

#### **Comptroller of Public Accounts**

##### Funds Management (Fiscal Affairs)

34 TAC §5.22..... 7526

#### **Texas Department of Human Services**

##### Special Nutrition Programs

40 TAC §§12.14, 12.15, 12.26 .....7526

40 TAC §12.115, §12.123.....7527

40 TAC §12.204 .....7528

40 TAC §12.304 .....7528

40 TAC §12.404 .....7528

Texas Register



a section of the Office of the Secretary of State P.O. Box 13824 Austin, TX 78711-3824 (512) 463-5561 FAX (512) 463-5569

Secretary of State John Hannah, Jr.

Director Dan Procter

Assistant Director Dee Wright

Circulation/Marketing Roberta Knight Jill S. Ledbetter

TAC Editor Dana Blanton

TAC Typographer Madeline Christer

Documents Section Supervisor Patty Webster

Document Editors Janiene Allen Robert Macdonald

Open Meetings Clerk Jamie Alworth

Production Section Supervisor Ann Franklin

Production Editors/Typographers Carla Carter Janice Rhea Mini Sanchez Chad Kissinger

Texas Register, ISSN 0362-4781, is published semi-weekly 100 times a year except July 30, November 30, December 28, 1993. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78701. Subscription costs: one year - printed, \$95 and electronic, \$90; six-month printed, \$75 and electronic, \$70. Single copies of most issues are available at \$5 per copy.

Material in the Texas Register is the property of the State of Texas. However, it may be copied, reproduced, or republished by any person without permission of the Texas Register Director, provided no such republication shall bear the legend Texas Register or "Official" without the written permission of the director. The Texas Register is published under the Government Code, Title 10, Chapter 2002. Second class postage is paid at Austin, Texas.

POSTMASTER: Please send form 3579 changes to the Texas Register, P.O. Box 13824, Austin, TX 78711-3824.

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.

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

**Legal Services**

40 TAC §§79.401-79.404..... 7529  
40 TAC §79.405 ..... 7532

**Texas Commission on Alcohol and Drug Abuse**

Licensure of Chemical Dependency Counselors  
40 TAC §§150.1-150.3, 150.9, 150.10, 150.13, 150.16  
..... 7533

**Texas Department of Insurance**

Notification Pursuant to the Texas Insurance Code, Chapter 5, Subchapter L..... 7535

**Withdrawn Sections**

**Board of Veterinary Medical Examiners**

Rules of Professional Conduct  
22 TAC §573.63 ..... 7537  
22 TAC §573.64 ..... 7537  
22 TAC §573.66 ..... 7537

**Adopted Sections**

**Texas Department of Agriculture**

Young Farmers Endowment Program  
4 TAC §§30.1-30.12..... 7539  
4 TAC §§30.1-30.15..... 7539

**Texas Appraiser Licensing and Certification Board**

Practice and Procedure  
22 TAC §§151.1, 151.6, 151.11, 151.12, 151.15, 151.17, 151.19, 151.22, 151.27, 151.28..... 7541

**Provisions of the Texas Appraiser Licensing and Certification Act**

22 TAC §§153.1, 153.3, 153.5, 153.7, 153.9, 153.11, 153.13, 153.15, 153.17, 153.19, 153.20, 153.21, 153.25, 153.27, 153.29, 153.31, 153.33, 153.35, 153.37..... 7542

**Texas State Board of Physical Therapy Examiners**

Definitions  
22 TAC §321.1 ..... 7545

Licensing Procedure  
22 TAC §329.1 ..... 7546  
22 TAC §§329.1-329.6..... 7546

Endorsement Licensure  
22 TAC §331.1, §331.2.....7551

Temporary License  
22 TAC §§333.1-333.4.....7551

Display of License  
22 TAC §337.1 .....7551

Fees  
22 TAC §§339.1-339.4, 339.6-339.9, 339.30 .....7551  
22 TAC §339.5 .....7552

License Renewal  
22 TAC §§341.1-341.7.....7552  
22 TAC §§341.1, 341.3, 341.5-341.7, 341.10, 341.15, 341.20.....7552

Open Records and Open Meetings  
22 TAC §342.1 .....7553

Contested Case Procedure  
22 TAC §§343.3, 343.4, 343.6, 343.40, 343.41.....7554  
22 TAC §343.40.....7555

Practice Settings for Physical Therapy  
22 TAC §346.1, §346.2.....7555

**Open Meeting Sections**

Texas Commission on Alcohol and Drug Abuse...7557  
Institute of Biosciences and Technology.....7557  
Texas Cancer Council .....7557  
Texas Cosmetology Commission.....7557  
Council on Competitive Government.....7558  
Texas Council on Workforce and Economic Competitiveness .....7558  
Employees Retirement System of Texas.....7559  
Texas Employment Commission.....7559  
Texas Feed and Fertilizer Control Service.....7559  
Texas General Land Office .....7559  
General Services Commission.....7559  
Office of the Governor, Criminal Justice Division (CJD)  
.....7560  
Texas Department of Housing and Community Affairs  
.....7560  
Texas Department of Human Services.....7561  
Texas Department of Insurance.....7561  
Board of Law Examiners.....7561  
Texas Department of Licensing and Regulation.....7562  
Texas State Board of Medical Examiners .....7562

Texas Natural Resource Conservation Commission.....	7562
Texas Board of Pardons and Paroles.....	7563
Texas Property and Casualty Insurance Guaranty Association.....	7564
Public Utility Commission of Texas.....	7564
Railroad Commission of Texas.....	7564
Boards for Lease of State-owned Lands.....	7565
Texas Guaranteed Student Loan Corporation.....	7565
Teacher Retirement System of Texas.....	7565
The Texas State University System.....	7565
Texas Turnpike Authority.....	7566
The University of Texas at Austin.....	7566
The University of Texas Health Center at Tyler....	7566
Texas Water Development Board.....	7566
Regional Meetings.....	7566

***In Addition Sections***

**Comptroller of Public Accounts**

Notice of Implementation of the State Property Accounting System.....	7569
---	------

**Texas Council on Workforce and Economic Competitiveness**

Proposal for the Designation of Workforce Development Areas.....	7569
--	------

**Texas Education Agency**

Requests for Applications.....	7573
--------------------------------	------

**General Services Commission/State Energy Conservation Office**

Public Notice.....	7574
--------------------	------

**Texas Department of Health**

Administrative Changes to 25 TAC, Chapters 3, 14, 28, 29, 32, 33, 35, 40, 56, and 79.....	7574
---	------

**Texas Higher Education Coordinating Board**

Consultant Proposal Request.....	7575
----------------------------------	------

**Texas Department of Human Services**

Notice of Consultant Contract Award.....	7575
--	------

**Texas Natural Resource Conservation Commission**

Notice of Application for Waste Disposal Permits....	7576
Notice of Opportunity to Comment on Permitting Actions.....	7577

**North Central Texas Council of Governments**

Requests for Proposals.....	7578
-----------------------------	------

**Public Utility Commission of Texas**

Notices of Intent to File Pursuant to PUC Substantive Rule 23.27.....	7579
---	------

Notice of Proceeding for Approval of Extended Area Service.....	7580
---	------

Notice of Public Meeting.....	7580
-------------------------------	------

Questions Concerning Proposed Commission Rule on Rate Case Expenses.....	7580
--	------

Requests Comments on Amendments to PUC Substantive Rule §23.57.....	7581
---	------

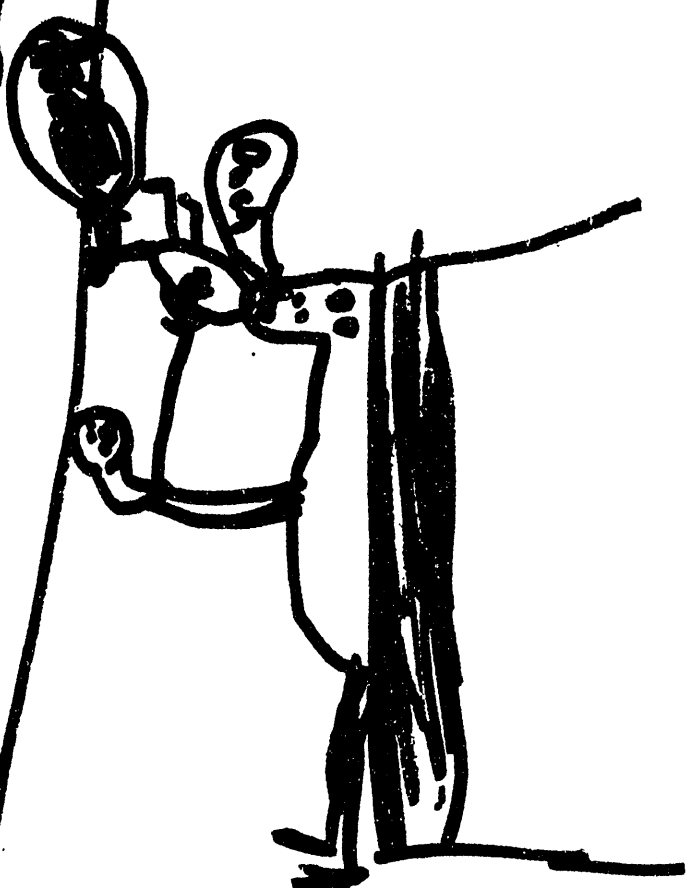
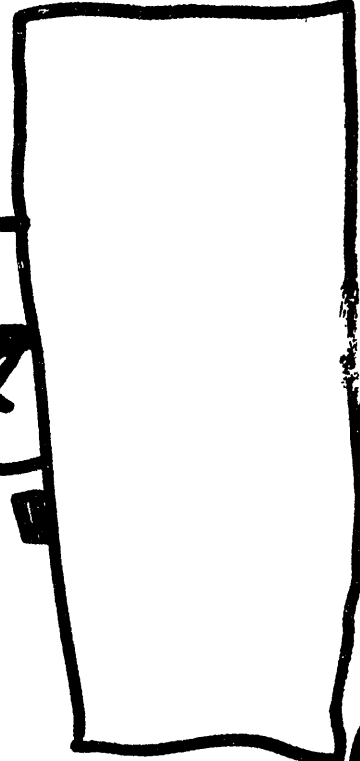
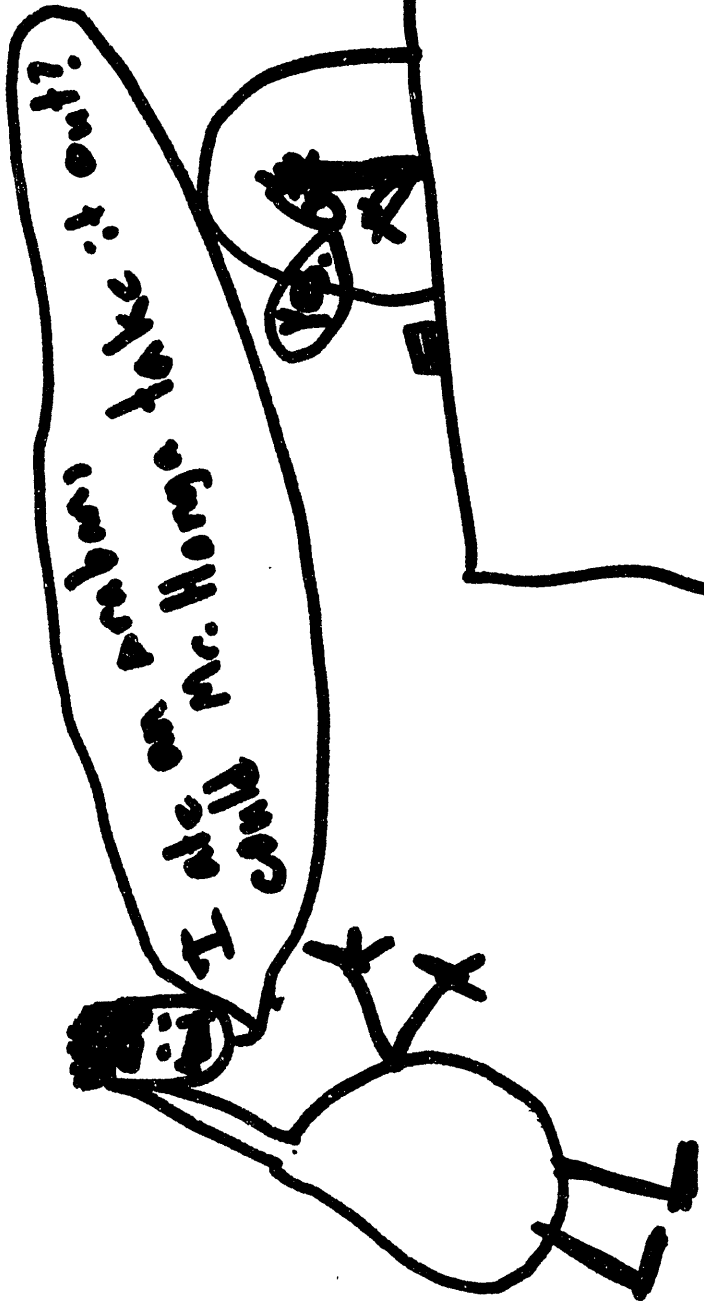
Requests Comments on Disconnection of Local Telephone Service.....	7582
--	------

Requests Comments on Infrastructure Development for Telecommunications Utilities.....	7583
---	------

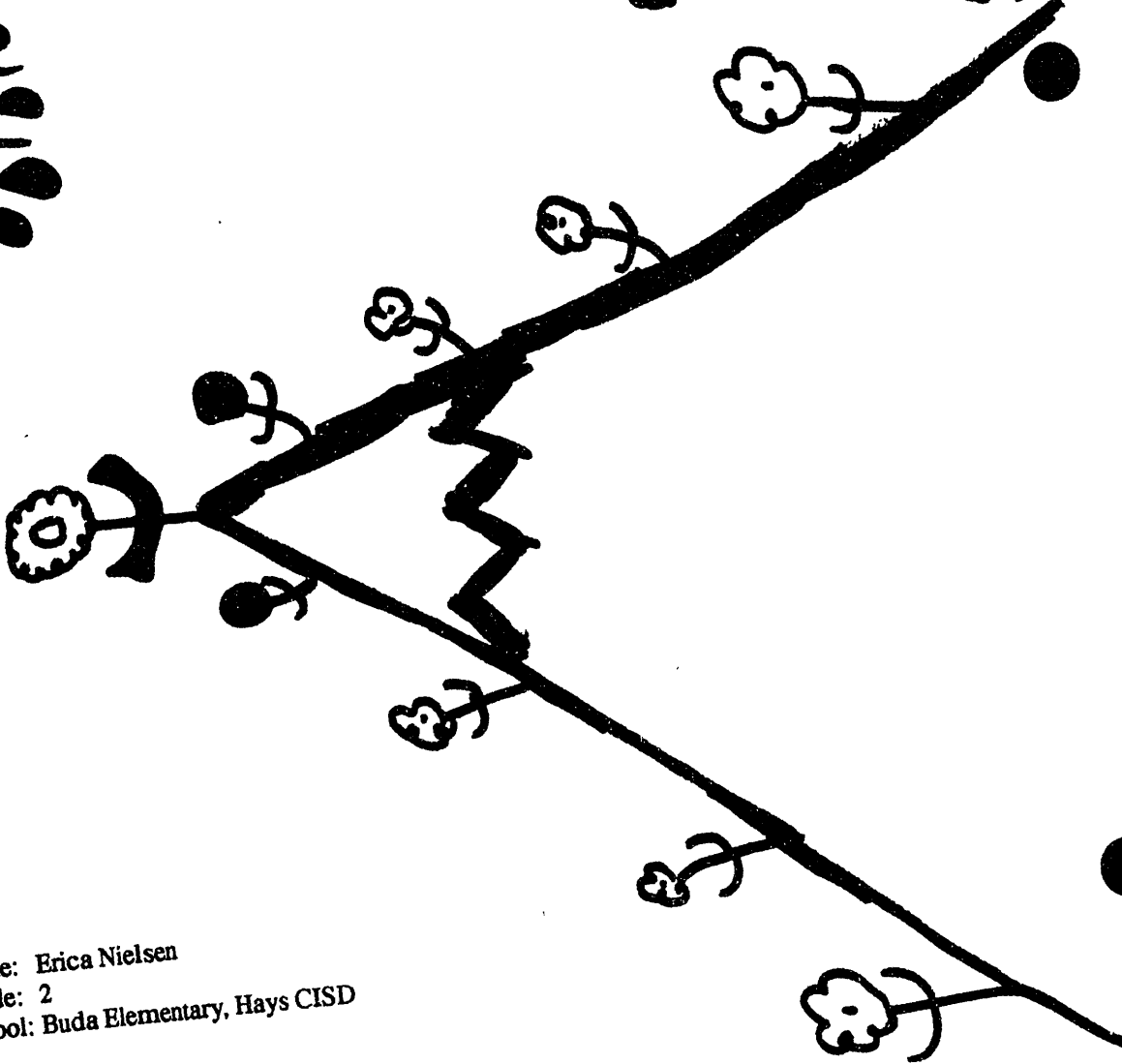
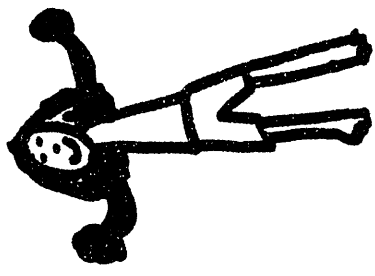
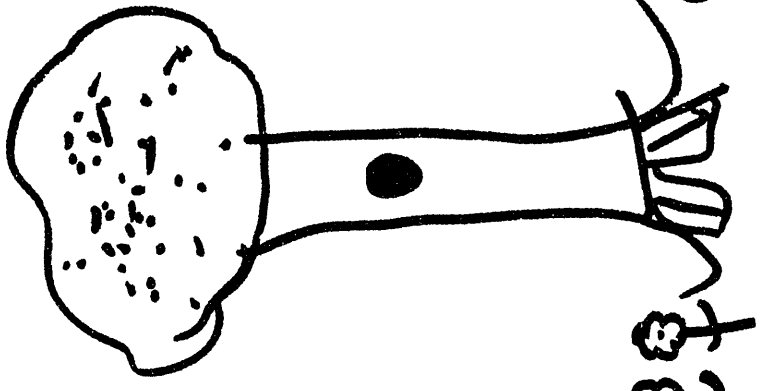
**Railroad Commission of Texas**

Correction of Error.....	7583
--------------------------	------

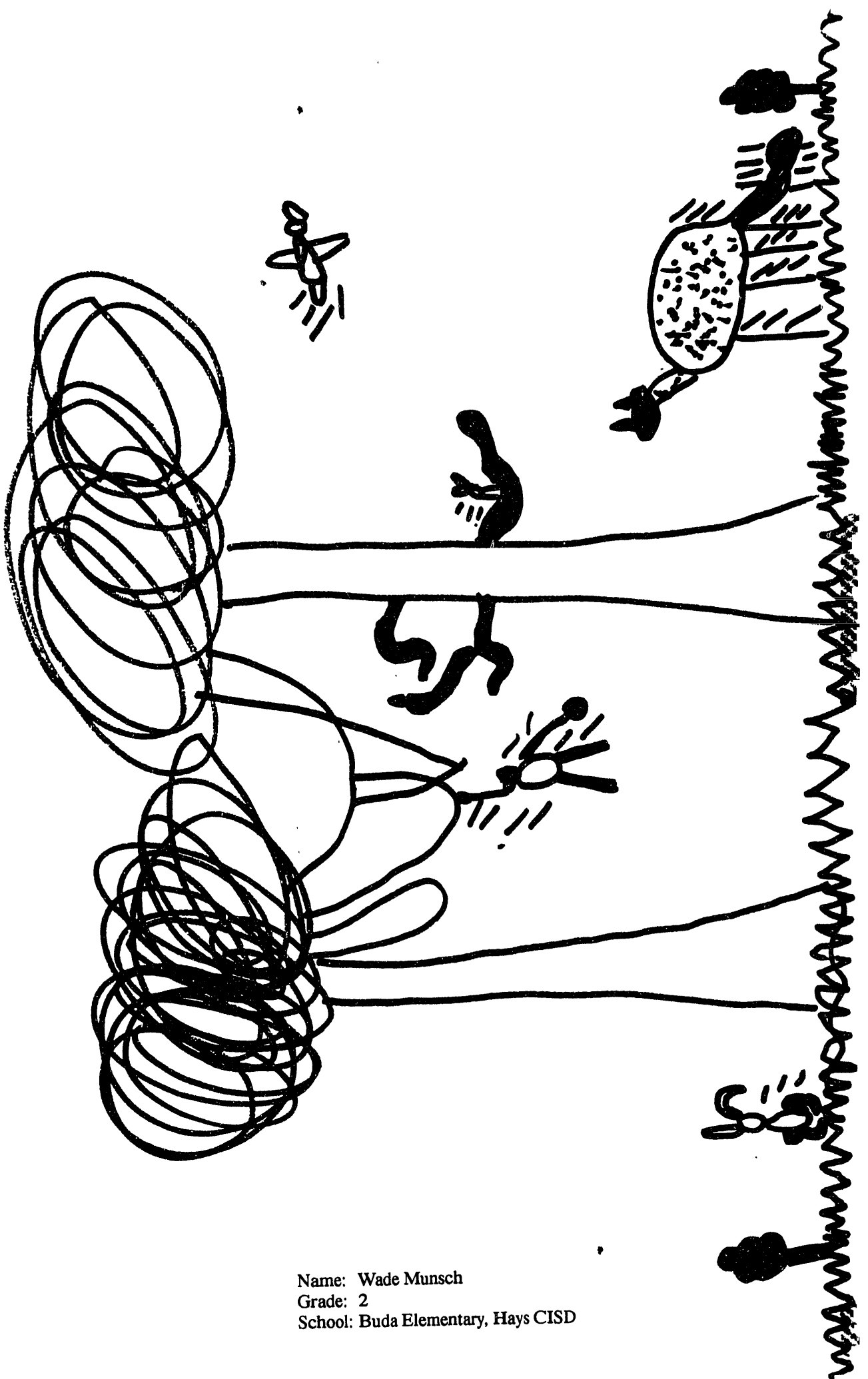
Notice of Public Hearing on Liquefied Natural Gas Rulemaking.....	7584
---	------



Name: Lauren Hannan  
Grade: 2  
School: Buda Elementary, Hays CISD

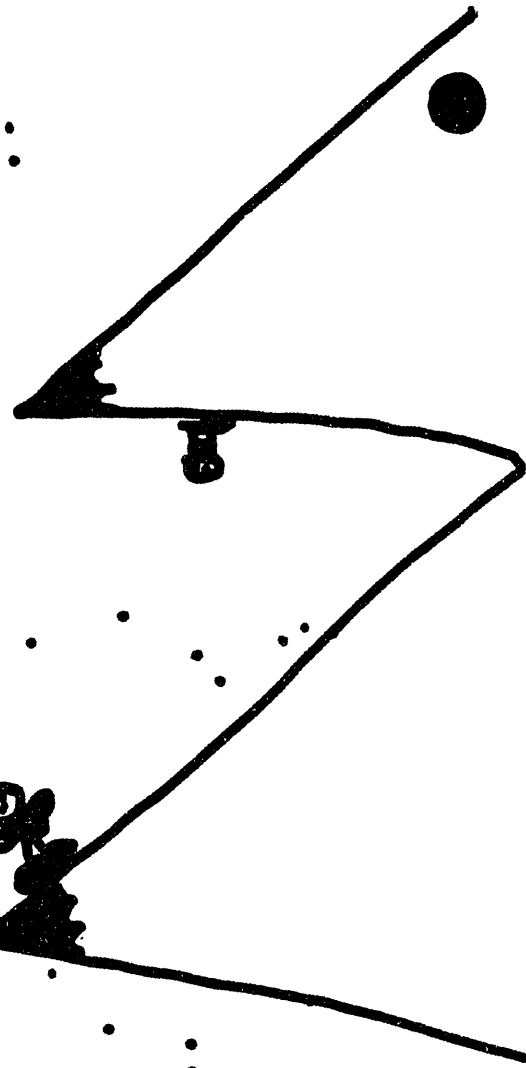
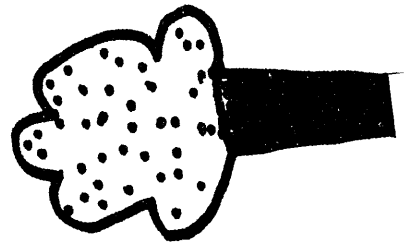
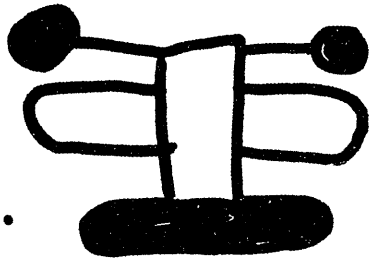


Name: Erica Nielsen  
Grade: 2  
School: Buda Elementary, Hays CISD



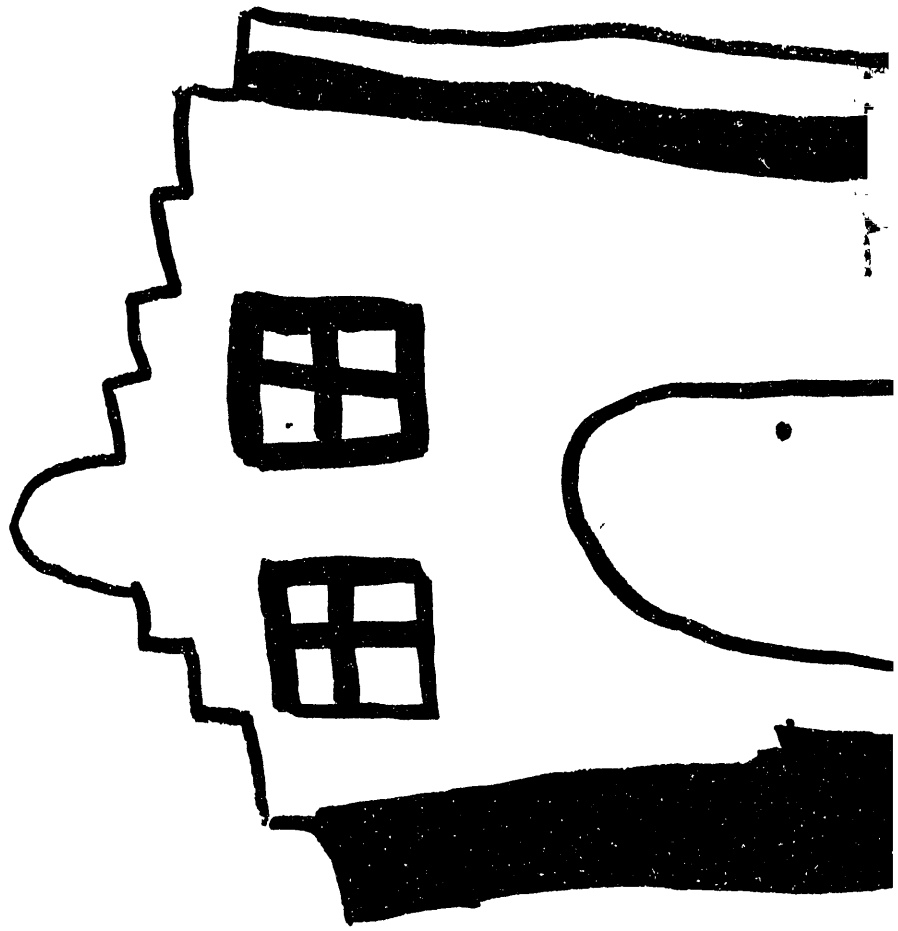
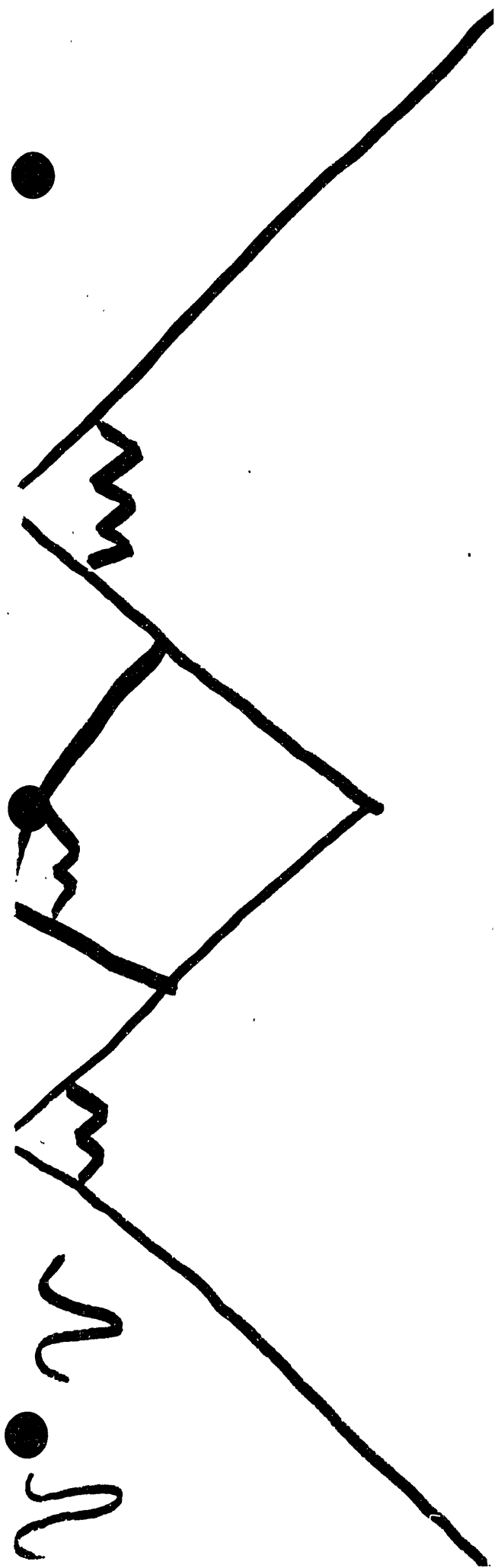
Name: Wade Munsch  
Grade: 2  
School: Buda Elementary, Hays CISD



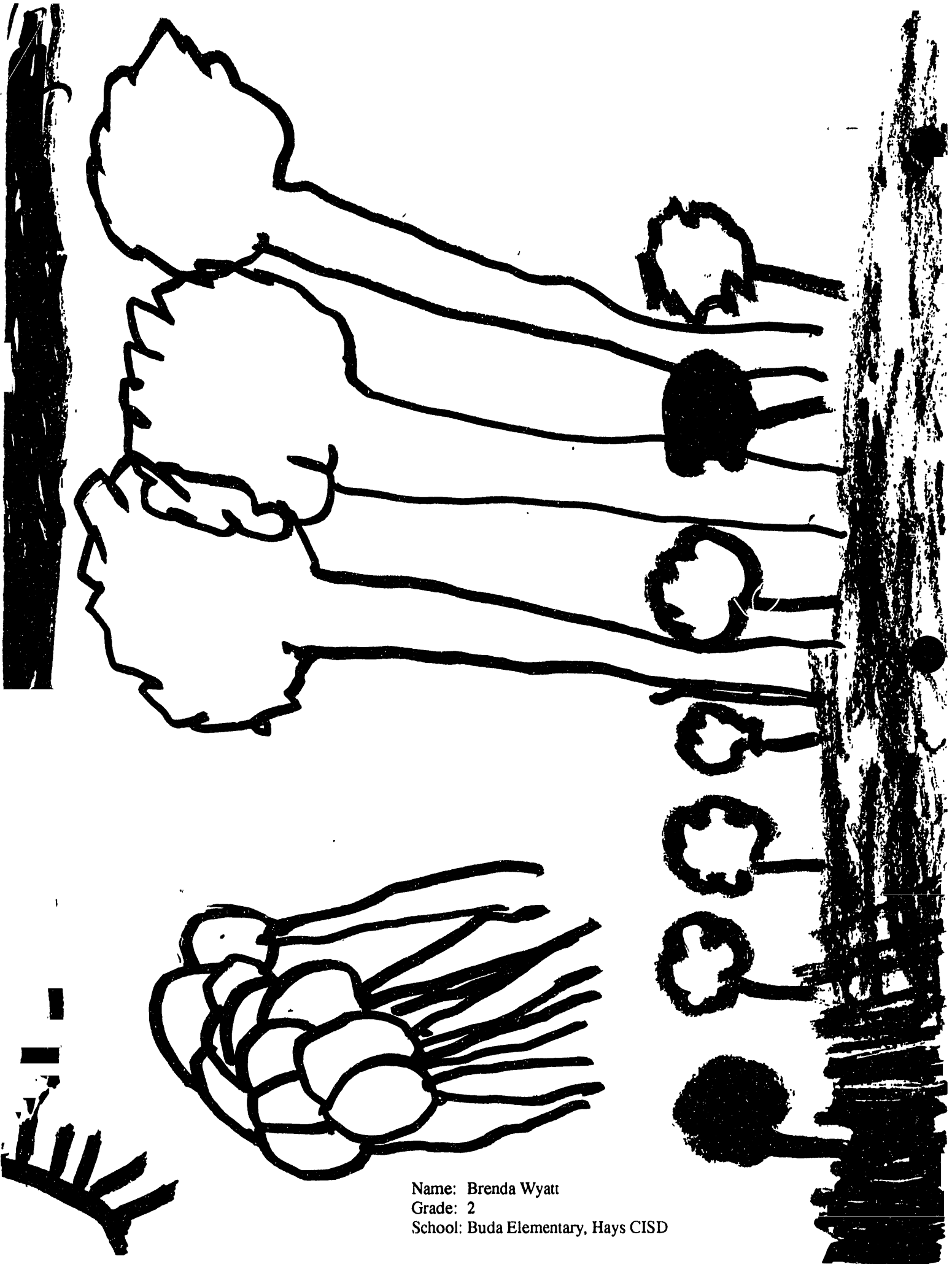


Name: Matt Nix  
Grade: 2  
School: Buda Elementary, Hays CISD





Name: Adam Froeschl  
Grade: 2  
School: Buda Elementary, Hays CISD



Name: Brenda Wyatt  
Grade: 2  
School: Buda Elementary, Hays CISD

# Proposed Sections

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

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

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 1. General Procedures

#### Subchapter D. Miscellaneous Provisions

##### • 4 TAC §1.81

The Texas Department of Agriculture (the department) proposes new §1.81, concerning the establishment of standards of conduct to govern the relationships between the department, its officers and employees, and private organizations or donors. New §1.81(a) provides a statement of purpose for the new section. New §1.81(b) provides definitions to be used in this section. New §1.81(c) provides rules for the administration, investment, and use of donations. New §1.81(d) provides rules concerning the use of an employee or property of the department by a private organization or donor, service by an officer or employee of the department as an officer or director of an organization or donor, potential conflicts of interest, and monetary enrichment or compensation of an officer or employee of the department by a private organization or donor.

Audrey Arechiga, assistant commissioner for administration, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Ms. Arechiga 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 increased accountability and compliance with statutory requirements concerning the receipt of gifts, grants, or donations by the department. 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 Audrey Arechiga, Assistant Commissioner for Administration, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Agriculture Code, §12.022, which provides the department with the authority to accept gifts, grants, and donations, and the Texas Government Code, §2255.001, which pro-

vides that state agencies which are authorized by statute to accept money from private donors shall adopt rules governing the relationship between the donors and the agency and its employees. The sections of the Code which will be affected by these rules include §§12.022, 15.007, 15.030, 44.012, 58.022, 76.009, 42.008, and 253.007.

#### *§1.81. Private Organizations or Donors.*

(a) Purpose. The purpose of this section is to establish standards of conduct to govern the relationships between officers and employees of the department and private organizations or donors.

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

(1) Department—The Texas Department of Agriculture.

(2) Officer—The Commissioner and Deputy Commissioner of Agriculture.

(3) Employee—Any person, other than an officer, employed by the department.

(4) Private organization—A private organization designed or operated to further the purposes and duties of the department.

(5) Donor—An individual or organization that gives or offers to give non-public gifts or donations, in whatever form, to the department.

#### (c) Administration of donations.

(1) Any funds received by the department as donations will be deposited in the state treasury.

(2) Any funds received by a private organization as donations for the benefit of the department shall be administered by the private organization in a manner that best serves the interests of the department. Any income from the investment of such funds shall also accrue to the benefit of the department.

(3) All donations, in whatever form, will be used for the purpose specified by the donor, or for general departmental programs if no purpose is specified.

#### (d) Standards of conduct.

(1) An officer or employee shall not accept or solicit any gift, favor, or service from a private organization or donor that might reasonably tend to influence him in his official duties or that he knows or should know is being offered him with the intent to influence his official conduct.

(2) An officer or employee shall not accept employment or engage in any business or professional activity with a private organization or donor which the officer or employee might reasonably expect would require or induce him to disclose confidential information acquired by reason of his official position.

(3) An officer or employee shall not accept other employment or compensation from a private organization or donor which could reasonably be expected to impair the officer or employee's independence of judgment in the performance of his official position.

(4) An officer or employee shall not make personal investments in association with a private organization or donor which could reasonably be expected to create a substantial conflict between the officer or employee's private interest and the interest of the department.

(5) An officer or employee shall not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his official powers on behalf of a private organization or donor or for having performed his official duties in favor of a private organization or donor.

(6) An officer or employee who has policy direction over the department and who serves as an officer or director of a private organization or donor shall not vote on or otherwise participate in any measure, proposal, or decision pending before the private organization or donor if the department might reasonably be expected to have an interest in such measure, proposal, or decision.

(7) An officer or employee shall not authorize a private organization or donor to use property of the department unless the property is used in accordance with a contract between the department and the private organization or donor, or the depart-

ment is otherwise compensated for the use of the property.

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 22, 1993.

TRD-9330876

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 29, 1993

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

◆ ◆ ◆  
**Chapter 29. Texas Agricultural  
Diversification Program:  
Matching Grants [Grant  
and Loan Program Rules]**

• 4 TAC §§29.2, 29.6, 29.7, 29.9,  
29.12, 29.13

The Texas Department of Agriculture (the department) proposes amendments to §§29.2, 29.6, 29.7, 29.9, 29.12, and 29.13, concerning the administration, implementation, and procedure for participation in the Texas Department of Agriculture Matching Grants Program. The amendments are proposed in order to provide changes to definitions, program limitations, application procedures, schedule of awards and communications regarding the program to make these consistent with statutory changes made by the 73rd Legislature.

Robert Kennedy, deputy assistant commissioner for finance and agribusiness development, 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. Kennedy 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 the potential for generating and fostering new agricultural technologies and entities in Texas. 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 Kennedy, Deputy Assistant Commissioner for Finance and Agribusiness Development, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication of the proposed amendments in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §12.016, which provides the department with general rulemaking authority, and §44.002, which provides that the commissioner shall create an agricultural

diversification program. The sections of the Code which will be affected by these rules include Chapter 44 of the Code.

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

**Board**—The board of directors of the Texas Agricultural Finance Authority [Texas Agricultural Diversification Program].

**Review committee**—The commissioner of agriculture shall designate an internal review committee consisting of not more than six members.

§29.6. *Research and Innovation Grant.*

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

(e) Amount. A research and innovation grant under this section may not exceed \$50,000 [\$30,000].

§29.7. *Business Assistance Grant.*

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

(e) Amount. A business assistance grant may not exceed \$50,000 [\$30,000].

§29.9. *Schedule of Grant Awards.*

(a) Technical review of the preproposals and full proposals for eligibility and satisfaction of the matching requirements will be made by staff of the department and evaluations of satisfaction of the criteria set forth in §29.4 of this title (relating to Criteria for All Grants) will be made by the review committee [board].

(b) The schedule for applications and awarding of yearly grant awards will be determined by the department each year.

(c) A typical grant award schedule is as follows:

(1) (No change.)

(2) Step 2:

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

(C) distribution of preproposals to the review committee [board] for evaluation;

(3) Step 3:

(A) completed evaluations from the review committee [board are due back to the department];

(B) assessment of results and ranking of candidates by the review committee [board],

(C) invitation to submit full proposals are mailed to top candidates selected by the review committee [board];

(4) Step 4:

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

(C) distribution of full proposals to the review committee [board] for evaluation;

(5) Step 5:

(A) completed evaluations from the review committee [board are due back to the department];

(B) assessment of results and ranking of candidates by the review committee [board];

(6) Step 6:

(A) presentation of full proposals selected for award to board for consent [meeting of board and awarding of grants];

(B) (No change.)

§29.12. *Deadlines for Submissions.*

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

(c) Questions concerning the preproposal, full proposal, or requests for copies of documents may be directed to the grant [Texas Agricultural diversification Act (TADA)] coordinator at the address in subsection (d) of this section or by calling (512) 463-7476.

(d) One original and six copies of the preproposal and full proposal are required and should be mailed to grant coordinator [TADA Coordinator], Texas Agricultural Diversification Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711.

§29.13. *Other Information.*

(a) Although applicants may request up to \$100,000 for small business incubators, the suggested amount to request is \$50,000 or less; for the research and innovation and business assistance grants, the suggested amount to request is \$50,000 [\$30,000] or less.

(b) Employees of the Texas Department of Agriculture, members of the Texas Agricultural Finance Authority Board [Texas Agricultural Diversification Program Board], and their immediate families are not eligible for the 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 22, 1993.

TRD-9330873

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Earliest possible date of adoption: November 29, 1993

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

◆ ◆ ◆  
**TITLE 10. COMMUNITY  
DEVELOPMENT**  
**Part VII. Texas Council  
on Workforce and  
Economic  
Competitiveness**

**Chapter 252. Local Workforce  
Development Boards**

• **10 TAC §252.1**

The Council on Workforce and Economic Competitiveness proposes new §252.1, concerning the process for granting of a waiver to establish a local workforce development board prior to January 1, 1995. This rule provides guidance for the formation and criteria for the early certification of local workforce development boards. The chief elected officials in each designated local workforce development area must submit an application and provide the information required to receive a waiver from the Council. The waiver will allow them to submit the application to establish the local board to the Governor prior to January 1, 1995.

The Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, requires the Council to issue rules for the formation of local workforce development boards to plan, oversee, and evaluate the delivery of all workforce training and services programs in the local workforce development areas.

Barbara Cigainero, executive director, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. There will be no fiscal implications for state government as a result of enforcing or administering the section. There will be some costs to local governments choosing to create a local workforce development board, but those costs are entirely within the control of the local government and cannot be estimated. Application for a waiver to establish a local workforce development board is a voluntary process, and no local government is required to comply.

Ms. Cigainero 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 improved coordination of and access to job training services at the local level. 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 Barbara Cigainero, Texas Council on Workforce and Economic Competitiveness, P.O. Box 2241, Austin, Texas 78768. Public hearings on the proposal will be held as follows: Arlington-10:00 a.m.-3:00 p.m., November 5, 1993, Arlington City Council Chamber, 101 West Abrams Street, Arlington; Austin-8:00 a.m.-Noon, November 9, 1993, One Capitol Square, Committee Room 1, Fifth Floor, 300 West 15th Street, Austin; Houston-1:00 p.m.-5:00 p.m., November 5, 1993, Houston City Council Chambers, City Hall, 901 Bagby Street, Houston; Laredo-1:00 p.m.-5:00 p.m., November 10, 1993, Laredo City Council Chamber, 1110 Houston Street, Laredo; and Lubbock-1:00 p.m.-5:00 p.m., November 10, 1993, Lubbock City-County Library, Mahon Community Room, 1306 West Ninth Street, Lubbock.

The new section is proposed under the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993, which requires the Council on Workforce and Economic Competitiveness to issue rules for the formation of local workforce development boards. The proposed new rule implements Chapter 668, Acts of the 73rd Legislature.

*§252.1. Requirements for Formation of Local Workforce Development Boards prior to January 1, 1995.*

(a) Purpose for Waivers.

(1) Upon application by the chief elected officials and approval of the Council on Workforce and Economic Competitiveness, a waiver may be granted by the Council to allow an application to form a local workforce development board to be submitted to the Governor prior to January 1, 1995.

(2) Before a waiver may be granted, all requirements of this section must be met.

(3) It is not the intention of the Council to grant all requests for waivers, even if the basic requirements of this section are met. Waivers are discretionary and not a matter of right. It is the intention of the Council to grant a limited number of waivers to allow boards to be formed to serve as pilot projects to aid in the formation of boards throughout the state beginning January 1, 1995.

(b) State and Federal Law. The formation of local workforce development boards is governed by the following federal statutes and regulations and state statutes

(1) the Job Training Partnership Act, as amended, 29 U.S.C., §1501, et seq;

(2) 20 C.F.R., Part 628; and

(3) the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, Regular Session, 1993.

(c) Chief Elected Officials. The following officials are designated as the chief elected officials for the purposes of establishing agreements to form local workforce development boards. The chief elected official may, and are encouraged to, consult with local officials other than the following:

(1) the mayor of each city with a population of 200,000 or more according to the last federal census in a workforce development area; and

(2) the county judge of each county included in a workforce development area as designated by the Governor.

(d) Time of Application.

(1) Chief elected officials may not request a waiver to establish a local board until the Governor has designated local workforce development areas as provided in the Workforce and Economic Competitiveness Act, Chapter 668, Acts of the 73rd Legislature, 1993.

(2) Except as provided in this section, the chief elected officials of a local workforce area may not apply for approval of the formation of a local workforce development board, and no local workforce development board shall be approved, prior to January 1, 1995.

(e) Criteria for waiver:

(1) All requirements of this section must be met;

(2) An applicant must establish how the grant of a waiver would contribute to the improvement of the overall development of the local workforce development system; and

(3) An applicant must demonstrate commitment to the formation of the local workforce development board, through such things as commitment of resources, staff, materials, funds, joint use of facilities and staff, and other similar proposals.

(f) Procedure for Formation of a Local Workforce Development Board prior to January 1, 1995. The following procedures must be followed to apply for a waiver for the formation of a local workforce development board:

(1) Pre-application procedure. If a majority of the chief elected officials agree to initiate procedures to review the possibility of establishing a local workforce development board, a letter should be sent to the Executive Director of the Council requesting pre-application status. The Coun-

cil staff will be available to work with local officials during the development of the application to make the process as uncomplicated as possible. During the preapplication process and prior to applying to the Council for a waiver, the chief elected officials must perform the following acts:

(A) The chief elected officials must conduct a process consider the views of all affected local organizations, including private industry councils, quality workforce planning committees, and other affected organizations before making a final decision to apply for a waiver for the early formation of a local workforce development board.

(B) Prior to the submission of the application, the chief elected officials must hold a public meeting to discuss and gather information concerning the establishment of a local workforce development board.

(2) Application procedure.

(A) The chief elected officials must submit an application to the Council on Workforce and Economic Competitiveness. The application will be reviewed by the Council staff according to criteria established by the Council in this section and forwarded to the Governor with a recommendation for final action. Each application must include:

(i) an agreement in writing signed by the chief elected officials in the local workforce development area, delineating:

(I) the purpose of the agreement;

(II) the process that will be used to select the chief elected official who will act on behalf of the other chief elected officials and the name of such chief elected official if the person has been selected;

(III) the initial size of the local workforce development board;

(IV) the process to be used to appoint the board members, which must be consistent with applicable federal and state laws; and

(V) the terms of office of the members of the board;

(ii) evidence that the chief elected officials have considered the views of all affected local organizations,

including consideration prior to deciding to form a local board;

(iii) evidence that the chief elected officials in the area have agreed to the establishment of a local board;

(iv) evidence that the local board can meet the legislative requirement that they establish a workforce development center within 180 days;

(v) evidence that the board is prepared to develop a single plan for addressing the workforce development needs in their area that is consistent with the State's strategic plan;

(vi) evidence that the board is prepared to assume the functions and responsibilities of local workforce development advisory boards, councils, and committees including private industry councils, quality workforce planning committees, job service employer committees, and local general vocational program advisory committees;

(vii) a plan for independent staffing for the board and methods to be utilized to procure any services that have previously been offered directly (While a waiver of this requirement may be granted, no waiver of this requirement will be granted to an applicant requesting approval of the establishment of a board prior to January 1, 1995.); and

(viii) a statement concerning how the operation of the board will be financed, including sources of funding, additional costs to be incurred over existing resources, and any savings from current operations.

(B) Evidence for the items in the application may consist of written documents, written agreements, minutes of public meetings, copies of correspondence, and such other documentation as may be appropriate.

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 20, 1993.

TRD-9330708

Barbara Cigalnero  
Executive Director  
Texas Council on  
Workforce and  
Economic  
Competitiveness

Earliest possible date of adoption: November 29, 1993

For further information, please call: (512) 305-7007

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 1. Practice and Procedure

##### Subchapter B. Pleadings

###### • 16 TAC §1.27, §1.30

The Railroad Commission of Texas proposes an amendment to §1.27, relating to motions, and new §1.30, relating to interim rulings and appeals of interim rulings. The amendment would delete the last two sentences in §1.27(b) relating to appeals of staff rulings, so that all procedural information about appeals of examiners' rulings will be in one rule, new §1.30. The new rule describes the procedures for filing interim appeals from examiners' rulings in commission proceedings.

Two separate timetables are prescribed in proposed new §1.30. For gas utility rate cases, parties must file an appeal within five days of the examiner's ruling; replies must be filed within 10 days of the date of the examiner's ruling; and if, within 20 days of the date of the examiner's ruling, there is no written order of the commission granting the appeal in whole or in part, the appeal is deemed denied and any granted stay is lifted. Because of the statutory deadlines in gas utility rate cases, the interim appeal deadlines are very short, and are not extended for Saturdays, Sundays, or holidays.

In all proceedings other than gas utility rate cases with statutory deadlines, parties must file an appeal within 10 days of an examiner's ruling; replies must be filed within 10 days of the date the appeal is filed; and if, within 45 days of the date the appeal was filed, the commission does not schedule the appeal for consideration, on the 46th day after the appeal is filed, the appeal is deemed denied and any granted stay is lifted.

Mary Ross McDonald, assistant director, Legal Division, has determined that for the first five-year period the amended and new sections are in effect there will be fiscal implications for state and local governments and small businesses as a result of enforcing or administering the sections, but due to the nature of the provisions, the amount of the impact cannot be determined. The fiscal implications arise from the imposition of time periods, some of which are very short, within which the parties to contested case proceedings at the commission must file any interim appeals of examiners' rulings and any replies to interim appeals of examiners' rulings, and the potential need to participate in commission open meetings at which appeals and replies may be considered. State and local governments and small businesses may be impacted positively or negatively, whether or not they are parties to contested case proceedings at the commission in which appeals are filed.

Ms. McDonald has also 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 clearly understandable procedural rule which sets forth the requirements for filing interim appeals and for commission consideration of interim appeals, and the status of such appeals if the commission does not consider them. There is an anticipated economic cost to persons who are required to comply with the sections as proposed, but due to the nature of the provisions, the amount cannot be determined. The anticipated economic cost to persons arises from the imposition of time periods, some of which are very short, within which the parties to contested case proceedings at the commission must file any interim appeals of examiners' rulings and any replies to interim appeals of examiners' rulings, and the potential need to participate in commission open meetings at which appeals and replies may be considered. Individuals may be impacted positively or negatively, whether or not they are parties to contested case proceedings at the commission in which appeals are filed.

Comments on the proposal may be submitted to Mary Ross McDonald, Assistant Director, Legal Division, Gas Utilities/LP-Gas Section, 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 and new section are proposed under the Texas Government Code, §2001.004, which requires the commission to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. The amendment and new section implement the Texas Government Code, §2001.004, which requires the commission to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The following code is affected by the proposed amendment and new section: the Texas Government Code, §2001.004, §1.30.

#### §1.27. Motions.

(a) (No change.)

(b) A motion filed prior to presentation of a contested case to the Commission shall generally be acted on by the appropriate director or the examiner. [An appeal of any staff ruling shall be filed with the staff or the Commission. The staff will forward the pleading filed with it to the Commission.]

#### §1.30. Interim Rulings and Appeals of Interim Rulings.

(a) Relief through interim ruling. Prior to any final order of the commission, a party may seek, through an examiner or legal division assistant director, as appropriate, relief through interim ruling, but that ruling shall not be considered of the same nature as a final decision. An interim ruling shall not be subject to exceptions or motions for rehearing.

(b) Evidentiary rulings. An evidentiary ruling by an examiner is not an interim ruling and is not appealable to the commission pending the issuance by the examiner of a proposal for decision.

(c) Appeal of interim ruling.

(1) In all proceedings brought or conducted under Texas Civil Statutes, Article 6053, §1(b), or Article 1446e, §§3.05, 5.02(c), or 5.08, any party aggrieved by an interim ruling may appeal that ruling to the commission by filing a written appeal within five days of the date the interim ruling is signed or stated in the record; such appeal may seek a stay of the interim ruling. The examiner shall notice the appeal for consideration at the next conference for which proper notice can be given. Pending action on the appeal of the interim ruling, the Director of the Legal Division may grant a stay of the interim ruling. Any response to an appeal must be filed within ten days of the date the interim ruling is signed or stated in the record. If, by the 20th day after the date the interim ruling is signed or stated in the record, the commission has not signed a written order granting the appeal in whole or in part, then the appeal is deemed denied and any granted stay is lifted. Notwithstanding any other provision of this chapter and for appeals of examiners' rulings filed pursuant to this paragraph, if any day on which a filing is due falls on a Saturday, Sunday, or commission holiday, then the filing is due on the last day prior to the Saturday, Sunday, or commission holiday that is not a Saturday, Sunday, or commission holiday.

(2) In all proceedings other than those brought or conducted under Texas Civil Statutes, Article 6053, §1(b) or Article 1446e, §§3.05, 5.02(c), or 5.08, any party aggrieved by an interim ruling may appeal that ruling to the commission by filing a written appeal within ten days of the date the interim ruling is signed or stated in the record; such appeal may seek a stay of the interim ruling. Any response to an appeal must be filed within 10 days of the date the appeal is filed. If, within 45 days of the date the appeal was filed, any commissioner requests that the appeal be added to the conference agenda, the appeal shall be added to the agenda and the director of the Legal Division shall give proper notice. Pending action on the appeal of the interim ruling, the director of the Legal Division may grant a stay of the interim ruling. If, by the 46th day after the date the appeal was filed no commissioner has notified the director of the Legal Division of his or her request that the appeal be added to the agenda, then the appeal is deemed denied and any granted stay is lifted.

(d) Procedure on appeal. Appeals and replies to appeals shall be filed as all other pleadings in proceedings, with the

examiner through Docket Services—Legal Division. When an appeal is filed, the examiner shall forward a copy to each commissioner, along with a cover memorandum. The cover memorandum shall show the date the appeal was filed; the date replies are due; and the date on which the appeal will be deemed denied if no commission action is taken. The examiner shall forward to each commissioner a copy of all replies to appeals of interim rulings which may be filed, and of any stay of the interim ruling granted by the director of the Legal Division. A commission order on an appeal from an interim ruling shall not be subject to motions for rehearing pending issuance of the Proposal for Decision and signing of the commission's Order.

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 20, 1993.

TRD-9330769

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

Earliest possible date of adoption: November 29, 1993

For further information, please call: (512) 463-7008

## TITLE 22. EXAMINING BOARDS

### Part VIII. Texas Appraiser Licensing and Certification Board

#### Chapter 153. Provisions of the Texas Appraiser Licensing and Certification Act

##### • 22 TAC §153.13

The Texas Appraiser Licensing and Certification Board proposes an amendment to §513.13, concerning the educational requirements for becoming a state-certified residential real estate appraiser.

The amendment is proposed to conform the rules to the criteria of the Appraiser Qualifications Board (AQB) of the Appraisal Foundation and guidelines of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC), which mandate 120 classroom hours of acceptable real estate appraisal education for the state certified residential real estate appraiser classification after January 1, 1994.

The amendment will keep the Texas Appraiser Licensing and Certification Board in compliance with federal mandates under Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C., §3331, et seq.), and permit real estate app-

praisers certified in Texas to appraise real property for federally related transactions.

Renil C. Liner, commissioner, 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. Liner also has determined that of 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 compliance with federal mandates which will better serve the public by continuing to allow certified and licensed real estate appraisers to appraise real property for federally related transactions. No fiscal implications are involved for local government. There will be no effect on small businesses as a result of enforcing the sections. There will be no local employment impact.

The anticipated additional cost to persons who are required to comply with the proposed amendment is projected to be approximately \$150 for an additional 30 classroom hours of acceptable qualifying education.

Comments may be submitted to Renil C. Liner, Commissioner, Texas Appraiser Licensing and Certification Board, P.O. Box 12188, Austin, Texas 78711-2188.

The Texas Appraiser Licensing and Certification Act (Texas Civil Statutes, Article 6573a.2) provides the Texas Appraiser Licensing and Certification Board with authority to adopt rules for the certification and licensing of real estate appraisers which are consistent with federal regulations and requirements adopted by the Appraiser Qualifications Board or the Appraisal Subcommittee. The proposed rule implements Texas Civil Statutes, Article 6573a. 2, §(5)(3).

#### §153.13. Educational Requirements.

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

(e) Applicants for general real estate appraiser certification must have successfully completed 165 classroom hours in courses approved by the board, including at least 30 classroom hours in fundamental real estate appraisal courses. Applicants for residential real estate appraiser certification must have successfully completed 120 [105] classroom hours in courses approved by the board including at least 30 classroom hours in fundamental real estate appraisal courses. For either category of certification, the coursework submitted also must have included a minimum of 15 classroom hours of coverage of the Uniform Standards of Professional Appraisal Practice.

(f)-(i) (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 20, 1993.

TRD-9330720

Renil Liner  
Commissioner  
Texas Appraiser and  
Licensing and  
Certification Board

Earliest possible date of adoption: November 29, 1993

For further information, please call: (512) 465-3950

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 3. Life, Accident, and Health Insurance and Annuities

##### Subchapter F. Group Health Insurance Mandatory Conversion Privilege

###### • 28 TAC §§3.501-3.512

The State Board of Insurance and the Commissioner of Insurance propose new §§3.501-3.512, relating to group health insurance mandatory conversion privilege. These sections set out the requirements for complying with the provisions of Article 3.51-6, §1(d)(3), which requires a conversion privilege for any employee, member, or dependent whose insurance under a group policy has been terminated for any reason. Section 3.501 describes the purpose and scope of these sections, and §3.502 contains the definitions for words and terms used in this subchapter. Section 3.503 sets forth the conditions and circumstances under which a converted policy shall be issued. Section 3.504 sets forth the notification requirements for employers/group policyholders and insurers. Section 3.505 sets out the mandatory group policy provisions for conversion and continuation options. Section 3.506 sets out the conversion premium requirements. Section 3.507 sets out the minimum benefits which must be offered in converted policies, and sets out requirements for election of lesser coverage and alternate plans. Section 3.508 sets out the requirements for provisions of the converted policy and §3.509 details the form filing requirements for policy forms providing conversion coverages. Section 3.510 sets out the language readability requirements for policies, certificates, and related documents and forms. Section 3.511 describes the requirements for continuation, including the requirements for election and termination of the continuation coverage. Section 3.512 describes the date the sections are effective for policies issued, delivered, or renewed after that date.

Rhonda Myron, deputy commissioner, life/health, has determined that for the first five year period the rules are in effect there will be no fiscal implications for local or state government as a result of enforcing or administering the rules, and there will be no effect on local employment or the local economy. There is no anticipated loss or increase in revenue to state or local government as a result of the rules.

Ms. Myron also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result

of enforcing the sections is the benefit of increased availability of conversion and/or continuation for insured persons, and better information presented to insured persons so that they can make informed decisions about their conversion/continuation options. Based upon the cost per hour of labor, the cost of compliance for small businesses affected by the proposed sections will be the same as the cost of compliance for the largest businesses. The anticipated economic cost to the insurers who are required to comply with the proposed sections is \$150,000 to \$450,000 annually, for each year of the first-five year period the rules are in effect. The cost to employers/group policyholders for administration of the notice requirements will be \$1,000 to \$3,000 depending upon the manner in which the employer/policyholder and insurer choose to give the notification.

Comments on the proposal, to be considered by the Commissioner and State Board of Insurance, must be submitted in writing within 30 days after publication of the proposed section in the *Texas Register*, to Linda von Quintus-Dorn, Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comment should be submitted to Rhonda Myron, Deputy Commissioner, Life/Health, Mail Code 106-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The only comments which will be considered are those comments made on the proposal published in the *Texas Register*. Comments provided previously on the initial drafts of these sections will not be considered as comments on the proposed sections. Comments may also be provided at the public hearing which has been scheduled for November 18, 1993, at 9:00 a.m. at the Texas Department of Insurance, Room 100, 333 Guadalupe, Austin. The purpose of this hearing is to afford all interested persons reasonable opportunity to submit data, views or arguments orally or in writing as provided in Government Code §2001.029 (Formerly APTRA, §5C). Final action will not be taken at this time but will be scheduled for a later date.

The new sections are proposed under Insurance Code, Articles 1.03A, 1.33, 21.20, 21.21, 3.42, 3.51-6, and §1.23 of House Bill 1461, 73rd Legislature, Regular Session. Insurance Code, Article 3.51-6, §1(d)(3) contains requirements for conversion or continuation privileges for the policies covered by that section. Under that statute, the board is required to issue rules and regulations to establish minimum standards for benefits under conversion policies. Insurance Code, Article 3.42 contains filing requirements for policies, contracts, certificates and forms subject to that statute and specifically authorizes the board to adopt reasonable rules and regulations as necessary to implement and accomplish the provisions of that statute. Insurance Code, Articles 21.20 and 21.21 prohibit misrepresentation of policies and unfair competition and unfair practices, and Article 21.21 authorizes the board to promulgate reasonable rules and regulations to accomplish the purposes of those Articles. Insurance Code, Article 1.03A sets forth the requirements for rules of general application



to be adopted by the commissioner of insurance. Article 1.33 sets forth the summary procedures for routine matters. Section 1.23 of House Bill 1461 authorizes the promulgation and approval of rules relating to rates, policy forms and endorsements by the State Board of Insurance.

**Statutes Affected by this Rule.** Rule Number, Statute, Article, or Code: §3.501—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.502—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.503—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.504—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.505—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.506—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.507—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.508—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.509—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.510—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.511—Insurance Code, Articles 3.42, 3.51-6, 21.20 and 21.21; §3.512—Insurance Code, Article 3.51-6.

### §3.501. Purpose and Scope.

(a) The purpose of this subchapter is to address requirements and set minimum standards of benefits for any conversion policy issued in accordance with a conversion privilege provided under a group health benefit plan. Under Insurance Code, Article 3.51-6, §1(d)(3), a conversion privilege is required with respect to any employee, member or dependent whose insurance under a group policy has been terminated for any reason (except involuntary termination for cause), including discontinuance of the group policy in its entirety or with respect to any insured class, and who has been continuously insured under the group policy (and under any policy providing similar benefits which it replaces) for at least three months immediately prior to termination. A conversion may be provided either through an individual conversion policy or through establishment of a group conversion trust as authorized under Insurance Code, Article 3.51-6, §1(a)(5). References to a conversion policy mean either a group policy or individual policy (except as otherwise indicated).

(b) The provisions of this subchapter shall apply to any insurer, or group hospital service corporation subject to Insurance Code, Chapter 20, which issues policies providing hospital, surgical, or major medical expense insurance or any combination of these coverages on an expense-incurred basis. However, the provisions of this subchapter shall not apply to policies providing benefits for a specified disease or diseases only or for accident only. With respect to any defined minimum standards for conversion policies, the provisions of this subchapter shall apply equally to any insurer or group hospital service corporation

subject to Insurance Code, Chapter 20, issuing any other conversion policy.

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

**Commissioner**—The commissioner of insurance.

**Department**—The Texas Department of Insurance.

**Immediate or Immediately**—Within five working days of the application notice or termination.

**Lifetime maximum**—The maximum benefit payable per covered person's lifetime, as computed in §3.508 of this title (relating to Provisions of the Converted Policy).

**Prototype policies**—Those policies promulgated by the Department found in the appendix to Chapter 26 of this title (relating to Small Employer Health Insurance Regulations).

**Renewal date**—For each small employer health benefit plan, the earlier of the date (if any) specified in such plan (contract) for renewal; the policy anniversary date; or the date on which the small employer's plan is changed in any way.

### §3.503. Conversion.

(a) Issuance of a converted policy shall be subject to the conditions and circumstances set forth in subsections (b)-(g) of this section.

(b) Election of conversion is discussed in this subsection.

(1) The insurer shall first offer to each employee, member or dependent that is eligible for conversion a conversion policy with the same coverage and benefits as the terminating coverage provided under the group policy without evidence of insurability.

(2) Upon written rejection of the same coverage and benefits, any employee, member, or dependent that is eligible for conversion may elect lesser coverage. The insurer shall offer a lesser coverage conversion policy in accordance with the minimum standards outlined in §3.507 of this title (relating to Minimum Benefits).

(3) Any employee, member, or dependent that is eligible for conversion may choose continuation under the group policy in lieu of a conversion policy in accordance with the provisions outlined in §3.511 of this title (relating to Continuation).

(4) Insureds entitled to an extension of benefits by reason of total disability upon policy termination in accordance with Insurance Code, Article 3.51-6A, shall be entitled to a conversion policy at the end of

the extension of benefit period in accordance with all requirements of this subchapter.

(5) Written application for the converted policy shall be made, and the first premium paid to the insurer, not later than 31 days after the termination of insurance under the group policy, as described in §3.501 of this title (relating to Purpose and Scope).

(6) A conversion privilege shall not be required for any person under the following circumstances under Insurance Code, Article 3.51-6, §1(d)(3)(A) (i) and (ii).

(A) termination of the group coverage occurred because the person failed to pay any required premium;

(B) any discontinued group coverage was replaced by similar group coverage within 31 days;

(C) the person is or could be covered by Medicare;

(D) the person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy, or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program;

(E) the person is eligible for similar benefits whether or not covered for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis;

(F) similar benefits are provided for or available to the person, under the requirements of any state or federal law.

(c) The effective date of the converted policy shall be the day following the termination of insurance under the group policy.

(d) The converted policy shall be issued without evidence of insurability.

(e) The converted policy shall cover the employee or member or any dependents who were covered by the group policy on the date of termination of insurance. A separate converted policy may be issued to cover any dependent.

(f) In the event coverage would be continued under the group policy on an employee following his or her retirement prior to the time he or she is or could be covered by Medicare, he or she may elect, in lieu of continuation of the group insurance, to have the same conversion rights

that would apply if his insurance terminated at retirement by reason of termination of employment or membership in the group.

(g) Subject to the conditions set forth in these sections, the conversion privilege shall also be available:

(1) to the spouse and dependents of the employee or member upon termination of coverage of the spouse or such dependents, while the employee or member remains insured under the group policy; or

(2) to a spouse or dependent of the employee or member solely with respect to the spouse or dependent upon termination of coverage under the group policy;

(3) to certain dependents under Insurance Code, Article 3.51-6, §3B, which requires that each health insurance policy shall include an additional option of continuation for certain dependents if eligibility for coverage ceases under the policy due to the severance of a family relationship, the retirement, or the death of the employee or member of the group. Those additional options are:

(A) a spouse or dependent qualifying for continuation of coverage under this statute may elect a converted policy rather than the continuation of group insurance;

(B) if the dependent has elected continuation under Article 3.51-6, Section 3B, the dependent will again be offered conversion at the end of the maximum continuation period. All conversion requirements outlined in this subchapter will apply to that conversion;

(4) to any employee, member, or dependent upon the completion of any continuation of coverage provided under The Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law Number 99-272, 100 Stat. 222) and any amendments thereto. The conversion option must be offered by the insurer to the employee, member or dependent prior to the expiration of the COBRA continuation coverage.

*§3.504. Notification Requirement of Employer/Group Policyholders and Insurers.*

(a) A notification of the conversion and continuation privileges available under any group accident and health insurance coverage shall be provided to each employee, member or eligible dependent with insurance coverage under a group policy who is affected by the termination of coverage under such policy not less than 30 days before the date upon which the termination or discontinuance of the policy or coverage is to take effect. One exception to the requirement exists where the employer or

group policyholder receives notification of such termination fewer than 30 days prior to its effective date. In that event the notice required of the employer or group policyholder to the employees, members, and/or covered dependents shall be immediate notice. This time limit in no way affects or limits the notice requirements specified in the Insurance Code, Article 3.51-6, §3B. In instances where the group policyholder is required to give notice of continuation immediately upon receipt of written notification of an event triggering the election of a continuation option, the statutory time limits shall prevail. The required notice shall be provided in the following format. The prescribed format is mandatory unless otherwise indicated.

(1) the following information must be provided for conversion options.

(A) A definition of the basis for conversion. The definition shall incorporate the terms under which the conversion privilege is available, including:

(i) a description of the option to convert to a policy providing the same benefits and coverages;

(ii) a description of the option to convert to a lesser coverage including a description of the actual benefits provided.

(B) The time period during which the employee, member, or dependent may apply for, and pay the first premium toward, a converted policy without having to provide evidence of insurability.

(C) The actual required premium amount shall be stated for each of the conversion options.

(D) Instructions on how and to whom payment of the first premium due under the converted policy is to be made shall be included in the notice.

(E) The effective date of the converted policy, and provisions with respect to its renewability shall be contained in the notice.

(2) the following information must be provided on continuation options:

(A) the period of time, following either the termination or the notice of the employee's or eligible dependent's right to elect continuation, during which the employee, member, or eligible dependent may submit written request for continuation;

(B) the amount of premium or contribution which an employee, member, or eligible dependent electing continuation of coverage must pay to the group policyholder or employer on a monthly basis in advance;

(C) the date or dates upon which the employee's, member's or eligible dependent's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, must be given to the policyholder or employer;

(D) the length(s) of time for which continuation is to be effective.

(3) any additional alternative options-including time frames for notification and the required premium contribution;

(4) enrollment/Election form and Signature

(5) The following notice will appear at the top of the first page:

(A) "If you have questions regarding your rights for conversion or continuation of your health insurance, contact [insert name of insurance company] at [insert company toll-free telephone number, or other telephone number if no toll-free number is available]. If you have additional questions, you may contact the Texas Department of Insurance, toll-free, at (800) 252-3439."

(B) "Si usted tiene una pregunta sobre sus derechos bajo el proceso de convertir o de continuar el seguro de salud, hable [insert name of insurance company] por el numero [insert company toll-free telephone number, or other telephone number if no toll-free number is available]. Si usted necesita mas informacion, se puede comunicar con el Departamento de Seguros de Tejas por el numero gratis (800) 252-3439. Se habla espanol."

(b) The insurer shall offer the same coverage and benefit option immediately upon termination of coverage under the group policy. The insurer is responsible for the timely offer of the same coverage and benefits option. In order to insure timely offering of the same benefits and coverages, the insurer shall make available the conversion and continuation notice as described in subsection (a) (1)-(5) of this section to the employer/group policyholder. To eliminate duplicate information requirements and insure adequate notification to each affected covered individual, delivery of the mandatory notification to the covered individual within the specified time period by either the insurer or the employer/group policyholder shall satisfy the notification require-

ments of both the insurer and the employer/group policyholder.

(c) Such notice as is required by Article 3.51-6, §3C(a) may accompany the notification of the employees covered under a policy or contract regarding the specific date on which discontinuance is to take effect pursuant to the Insurance Code, Article 3.51-6, provided that such notification is designed to give actual notice not only to the employees covered under the policy or contract but also to other members covered

under the policy and eligible dependents of such employees; and further provided that the time restrictions for such notification are no less favorable to any party receiving the notification than those recited in subsections (a) and (b) of this section.

*§3.505. Mandatory Group Policy Provisions.*

(a) Every group accident and health policy/certificate required to include the

conversion and continuation options addressed in this subchapter must contain language that is the same or similar to the following: The provision for Additional Continuation/Conversion for Certain Dependents as required for use in small employer health benefit plans shall be the same or similar to the language found at Chapter 26 of this title (relating to the Small Employer Prototype Policies Form Number 2055 COP).

## **CONTINUATION/CONVERSION PROVISIONS**

An Insured Person whose coverage terminates shall have the right to conversion or continuation under the Policy as outlined below. In order to be eligible for this option, the Insured Person must:

1. have been continuously covered under the Policy for at least three consecutive months prior to termination; and
2. coverage terminated for any reason other than involuntary termination for cause.

There is no right of conversion or continuation if:

1. the termination of coverage occurred because of either nonpayment of premium or any discontinued group coverage was replaced by similar group coverage within 31 days of the discontinuance; or
2. the Insured Person is or could be covered by Medicare; or

3. the Insured Person has similar benefits under another group or individual plan whether insured or uninsured;

4. the Insured Person is eligible for similar benefits under another group plan whether insured or uninsured; or

5. similar benefits are provided for or available to the Insured Person under any state or federal law.

**Written application and payment of the first premium must be made within 31 days after the date coverage terminates.**

No evidence of insurability is required. Each Insured Person may select one of the following options:

Option 1. A conversion policy providing the same coverage and benefits as provided under the group Policy. If this option is selected, lifetime maximums shall be computed from the initial effective date under the Health Benefit Plan; or

Option 2. A conversion policy with lesser coverage and benefits. If this option is selected, the benefits and premium will be provided in accordance with the minimum standards for conversion policies.

A conversion policy will be effective on the day after termination of coverage under the Policy. You will be given credit for any satisfaction under the Policy of waiting periods or limitations for any Preexisting Condition.

Option 3. Continuation of coverage under the Health Benefit Plan. If this option is selected, continuation will be permitted for a maximum of six months. The premium rate will be 102% of the group premium. The premium will be payable in advance to the Employer or group policyholder on a monthly basis. Continuation may not terminate until the earliest of:

- a. six months after the date the election is made;
- b. the date you fail to make timely premium payments;
- c. the date on which you are or could be covered under Medicare;
- d. the date on which you are covered for similar benefits under another group or individual policy;
- e. the date on which you are eligible for similar benefits under another group plan;
- f. the date on which similar benefits are provided for or available to you under any state or federal law.

[If the Policy terminates in its entirety before the end of the continuation period, your coverage will continue until the time otherwise specified.] **OR** [If the Policy terminates in its entirety before the end of the continuation period, you may choose to convert your coverage in accordance with Options 1 or 2.]

#### **Additional Continuation/Conversion for Certain Dependents**

If coverage terminates as the result of an [Employee's][Member's] death, retirement or divorce, a Dependent's coverage can continue. The Dependent must have been covered under the plan for at least one year, unless the Dependent is an infant under one year of age. Continuation does not require evidence of insurability.

Continuation is not available when coverage terminates due to any of these circumstances:

1. The Policy is cancelled or
2. The Dependent fails to make timely premium payments.

**Continuation ends at the earliest of the date:**

1. Three years after the date that coverage would have ended;
2. The Dependent fails to make timely premium payments;
3. The Dependent becomes eligible for coverage under any other group plan providing similar benefits;
4. The Policy is cancelled.

**Notification Requirements.** The Dependent must notify the Policyholder within 15 days of the Employee's death, retirement, or divorce. The Policyholder will provide written notice to the Dependent of the right to continue coverage and will send the election form, and instructions for premium payment [within five working days].

Within 60 days of the Employee's death, retirement, or divorce, the Dependent must give written notice to the Policyholder of the desire to exercise the right of continuation or the option expires. Coverage remains in effect during the 60-day period provided premium is paid.

Any Dependent qualifying for continuation of coverage under this provision may elect a converted policy instead of such continuation of group insurance. If the Dependent has elected continuation under this provision, the Dependent will have the option of a conversion coverage at the end of the maximum continuation period. All conversion provisions described in Option 1 and Option 2 will apply.

### §3.506. Conversion Premium.

(a) The premium for any converted policy issued shall be determined as follows:

(1) in accordance with the insurer's table of premium rates for coverage that was provided under the group policy or plan; and

(2) based on the type of converted policy and the coverage provided by the converted policy.

(b) The premium may be based on the age at issue of the conversion policy and the geographic location of each person to be covered and the type of converted policy; however, the premium for the same coverage and benefits under a converted policy may not exceed 200% of the premium determined under subsection (a) (1) and (2) of this section.

(c) All rates for individual conversion policies must be submitted to the Department in accordance with the requirements of Insurance Code, Article 3.42, and §3.3(d)(5) of this title (relating to Specific Additional Submission Requirements). The Department may request documentation related to the premium rates and/or actuarial information of any conversion policy as permitted by §3.2(j)(19) of this title (relating to General Submission Requirements).

(d) Any converted policy providing the same coverage and benefits with a premium rate of 200% of the premium determined under subsection (a) (1) and (2) of this section shall require actuarial data to substantiate the rate. The premium charged for converted policies must be determined using sound actuarial principles and the relationship of benefits to premiums paid must be consistent with the loss ratio prescribed for the type of coverage provided by the policy.

### §3.507. Minimum Benefits.

(a) An insurer shall not be required to issue a converted policy which provides benefits in excess of those provided under the group policy from which the conversion is being made. However, an insurer must first offer to an employee or member or dependent, coverage which has the same coverage and benefits as the coverage provided under the terminating group coverage. Any employee or member or dependent may elect lesser coverage as outlined in paragraphs (1)-(3) of this subsection

(1) Each insurer shall make available to any employee, member, or dependent electing lesser coverage, a choice between the three plans: Preventive and Primary Plan, In-Hospital Plan, and the Stan-

dard Plan (as defined in Insurance Code, Articles 26.42-26.50, and Chapter 26, §26.14 of this title (relating to Coverage) establishing promulgated benefits for small employer plans.

(2) An insurer shall not be required to offer the Standard Plan to any employee, member, or dependent converting from a small employer In-Hospital Plan or Preventive and Primary Plan.

(3) In instances of individuals electing lesser coverage conversion from a small employer Preventive and Primary Plan, the policy year maximum benefits defined in Chapter 26, §26.14 of this title (relating to Coverage) for Preventive & Primary Plans shall be reduced by 25% in order to accomplish a lesser coverage option (Reduced Preventive and Primary Plan).

(b) The insurer may, at its option, also offer alternative conversion plans (Alternative Plan-Higher Option) in addition to those required by this section which provide benefits greater than the minimum standards defined for conversion policies. Any Alternative Plan-Higher Option must be approved by the Department prior to use.

### §3.508. Provisions of the Converted Policy.

(a) The lifetime maximum under a conversion policy providing the same benefits and coverages shall be computed from the initial date of the employee's, member's or dependent's effective date with the group. This shall apply equally in the calculation of lifetime maximum dollar limits or durational limits.

(b) The lifetime maximum under a conversion policy providing a lesser coverage shall be computed from the effective date of the employee's, member's, or dependent's conversion coverage. This shall apply equally in the calculation of lifetime maximum dollar limits or durational limits.

(c) The converted policy shall not exclude any condition as a pre-existing condition for a terminated insured unless the condition was excluded as a pre-existing condition under the group policy. Any condition excluded under the group policy may be excluded under the converted policy only until such time as the condition would have been covered under the group policy had the insurance under the group policy remained in force.

(d) The converted policy may provide that the insurer may refuse to renew the policy or the coverage of any person insured under the policy only for the following reasons.

(1) if the converted person is covered for similar benefits by another hospital, surgical, medical, or major medical

expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan, or by any other plan or program;

(2) if the converted person is eligible for similar benefits under any arrangement of coverage for individuals in a group, whether on an insured or an uninsured basis;

(3) if similar benefits are provided for or available to such person under the requirements of any state or federal law;

(4) if the converted person fails to provide information as requested by the insurer in advance of any premium due date in order to establish the existence of coverage as outlined in paragraphs (1)-(3) of this subsection;

(5) fraud or material misrepresentation in applying for any benefits under the converted policy;

(6) eligibility of the insured person for coverage under Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded) or under any other state or federal law (except the Texas Medical Assistance Act of 1967, as amended) providing for benefits similar to those provided by the converted policy; or

(7) any other reason which has received specific prior approval by the Commissioner.

(e) Notwithstanding other provisions of this subchapter, a converted policy may provide for reduction of coverage on any person upon his eligibility for coverage under Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded) or under any other state or federal law (except the Texas Medical Assistance Act of 1967, as amended) providing for benefits similar to those provided by the converted policy.

### §3.509. Form Filing Requirements.

(a) Each insurer shall be required to submit individual or group policy forms providing conversion coverages in accordance with the requirements of this subchapter. Any accident and health forms filing submitted January 1, 1994, or after shall include the necessary forms, documentation or certification required by this section. Any insurer subject to the provisions of this subchapter may elect to provide group conversion coverage in lieu of the issuance of an individual converted policy in accordance with the requirements of this subchapter.



(1) If the insurer elects to provide group conversion coverage, the insurer shall establish a trust for the sole purpose of providing conversion coverages on a group basis. A single trust may be used for the purposes of group conversion coverages providing the same benefits and coverages or lesser coverages. However, a policy shall be issued to the trust for the purpose of providing the same benefits and coverages and a separate policy shall be issued to the trust for the purpose of providing lesser coverages in accordance with the requirements outlined in subsection (b) of this section. A single policy may not be used for the purposes of providing both conversion options.

(2) Any group conversion policy must contain the following provisions:

(A) a provision that the trust policy will not be terminated by either the trustee or the insurer until such time as no certificate holders remain covered under the policy; and

(B) a provision prohibiting any unilateral change in the terms of coverage

(b) In order to expedite review time and to insure the same benefits and coverages, mandatory use of a policy shell format will be required for any accident and health policy forms providing coverages that are subject to the conversion provisions of this subchapter submitted in accordance with Insurance Code, Article 3.42, and Subchapter (A) of this chapter (relating to Requirements for Filing of Policy Forms, Riders, Amendments and Endorsements for Life, Accident and Health Insurance and Annuities) on or after January 1, 1994. In addition, all conversion policy forms must be submitted for review in accordance with the requirements of Insurance Code, Article 3.42, and Subchapter (A) of this chapter (relating to Requirements for Filing of Policy Forms, Riders, Amendments and Endorsements for Life, Accident and Health Insurance and Annuities). All forms must have a distinguishing form number located in the lower left hand corner of the form. To insure compliance with the requirements of this subchapter, to expedite review time, and to eliminate multiple form filing requirements, mandatory use of a policy shell format will be required as follows.

(1) The policy shell for policies with the same benefits and coverages will be discussed in this paragraph.

(A) The requirements for the use of individual conversion policies are:

(i) an individual policy shell addressing and including all required provisions for any individual policy;

(ii) an insert provision incorporating by reference the provisions for covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any specified miscellaneous provisions, riders, amendments, or endorsements contained in the employee's, member's, or dependent's group certificate on the date of conversion.

(B) The requirements for the use of group conversion policies are:

(i) a group conversion policy shell addressing and including all unique required provisions of the conversion trust;

(ii) an additional insert provision addressing specific conversion policy provisions including termination; and

(iii) an insert provision incorporating by reference the provisions for covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any specified miscellaneous provisions, riders, amendments, or endorsements contained in the employee's, member's, or dependent's group certificate on the date of conversion;

(iv) a copy of the trust agreement.

(2) The policy shell for policies with lesser coverage options will be discussed in this paragraph.

(A) The requirements for use of individual conversion policies are:

(i) an individual policy shell document including and addressing all required provisions for any individual policy; or

(ii) insert benefit provisions including covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Preventive and Primary Plan;

(iii) insert benefit provisions including covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the In-Hospital Plan;

(iv) insert benefit provisions including covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Standard Plan;

(v) insert benefit provisions including covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Reduced Preventive and Primary Plan;

(vi) insert benefit provisions including covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for any Alternative Plan-Higher Option; and

(vii) any additional riders, amendments, enrollment forms, or required documentation as outlined §3.2 of this title (relating to General Submission Requirements).

(B) The requirements for use of group conversion policies are:

(i) a group conversion policy shell document including and addressing all required provisions which are unique to the trust;

(ii) a certificate addressing and including all required provisions, covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Preventive and Primary Plan (may use a separate insert provision for each section);

(iii) a certificate addressing and including all required provisions, covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the In-Hospital Plan;

(iv) a certificate addressing and including all required provisions, covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Standard Plan;

(v) a certificate addressing and including all required provisions, covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for the Reduced Preventive and Primary Plan;

(vi) a certificate addressing and including all required provisions, covered services, definitions, exclusions and limitations, the Schedule of Benefits, and any miscellaneous provisions for any Alternative Plan-Higher Option;

(vii) any additional riders, amendments, enrollment forms, or required documentation as outlined in §3.2 of this title (relating to General Submission Requirements);

(viii) a copy of the trust agreement.

(c) An insurer may elect to use a department prototype policy for the purposes of compliance with the required lesser coverage options for the Preventive and Primary, In-Hospital, and Standard plan coverages. If an insurer elects to use a department prototype policy, a certification

shall be submitted in lieu of the required forms in accordance with the requirements for prototype policies found at §26.14 of this title (relating to Coverage). The additional forms outlined in subsection (b) (a) of this section shall be submitted as otherwise required.

(d) The insurer shall submit the required notice as outlined in §3. 504 of this title (relating to Notification Requirement of Employer/Group Policyholders and Insurers) for informational purposes. The required notice shall accompany any form filing related to the conversion policies addressed in subsection (b) (2) (A) of this section.

**§3.510. Language Readability Requirements.** Each insurer shall submit the readability score for the policy and the certificate and any related documents/forms along with the forms at the time of submission for approval. The minimum readability level shall meet the requirements of rules found at Subchapter G of this chapter (Plain Language Requirements for Health Benefit Policies).

**§3.511. Continuation.**

(a) Any employee or member or dependent may choose continuation under the group policy in lieu of a conversion policy. To elect continuation, the employee, or member, or dependent must act in accordance with the conditions set forth in paragraphs (1)-(4) of this section.

(1) Continuation of group coverage must be requested in writing within 31 days following the later of:

(A) the date the group coverage would otherwise terminate; or

(B) the date the employee is given notice of the right of continuation by either the employer or the group policyholder.

(2) In no event may the employee or member or dependent elect continuation more than 31 days after the date of such termination.

(3) An employee, member, or dependent electing continuation must pay to the group policyholder or employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, plus 2.0% of the group rate for the insurance being continued under the group policy on the due date of each payment.

(4) The employee, member, or dependent's written election along with the premium required to establish premium payment in advance must be received by the

group policyholder or employer within 31 days of the date that coverage would otherwise terminate.

(b) Continuation may not terminate until the earliest of:

(1) six months after the date the election is made;

(2) the date on which failure to make timely payments would terminate the coverage;

(3) the date on which the group coverage terminates in its entirety;

(4) the date on which the covered person is or could be covered under Medicare;

(5) the date on which the covered person is covered for similar benefits by another hospital, surgical, medical, or major medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program;

(6) the date on which the covered person is eligible for similar benefits whether or not covered therefor under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(7) the date on which similar benefits are provided for or available to such person, pursuant to or in accordance with the requirements of any state or federal law.

(c) Any insurer providing continuation of group coverage in accordance with Insurance Code, Article 3.51-6, §1(d)(3)(B)(i) in lieu of conversion shall not be relieved of its obligation to provide benefits in the event of policy termination. A conversion privilege shall be available to all insureds including those insureds affected during the six-month continuation period unless the insurer provides for the continuation of the coverage beyond the policy termination date to fulfill the continuation obligations.

(d) Any continuation offer elected under the options described in this subchapter shall apply upon the completion of any continuation of coverage provided under The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) and any amendments thereto.

**§3.512. Effective Date.** The requirements of this subchapter will be effective for any group policy issued, delivered, or renewed on or after January 1, 1994. Conversion of a policy that was delivered, issued for delivery, or renewed before January 1, 1994, is governed by the law including the regulations found at §3.3602 of this title (relating to Minimum Standards for Notice of Con-

version or Group Continuation Privilege under Group Accident and Health Policies) in effect immediately before the effective date of this Subchapter, and that law is continued in effect for this purpose.

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 22, 1993.

TRD-9330861 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Earliest possible date of adoption: November 29, 1993

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

◆ ◆ ◆  
**Chapter 7. Corporate and  
Financial Regulation**

**Subchapter B. Insurance Hold-  
ing Company System Regu-  
latory Act**

• 28 TAC §§7.201, 7.202, 7.205,  
7.210

The Texas Department of Insurance proposes amendments to §§7.201, 7.202, 7.205, and 7.210, concerning administrative regulation under the Insurance Code, Article 21.49-1, the Insurance Holding Company System Regulatory Act (the Act). The amendments are necessary to provide technical corrections and definitions and to clarify requirements for controlling producers and producer controlled property and casualty insurers (essentially brokers in foreign states which control or seek to control a property and casualty insurer in Texas) subject to the Act. The amendment to §7.201 makes technical corrections. The amendment to §7.202 redefines Commissioner and provides a definition for controlling producer. The amendment to §7.205 provides that an acquisition of control of a property and casualty insurer by a controlling producer is subject to the Act. §5; set forths certain requirements for controlling producers; and makes conforming changes to the sanction provision set forth in an amendment to Article 21.49-1, §5(k), enacted by passage of House Bill 1461, 73rd Legislature, 1993. The amendment to §7.210 provides for certain additional disclosure requirements.

The purposes of the amendments include: providing standards for acquisition of control of a property and casualty insurer by a controlling producer, in order to prevent adverse impact to policyholders; and preventing insolvency of producer controlled property and casualty insurers. These purposes would be achieved by requiring arms-length conduct between property and casualty insurers and controlling broker affiliates, that is, controlling producers.

As defined in the rule, controlling producers are essentially what would commonly be de-

nominated "brokers" who control an insurer. Brokers by definition are out-of-state entities, because brokers represent insureds, and such representation within Texas is not permitted under the Insurance Code. The term "controlling producer" in the amendments is not intended to include an agent or any independent agent acting on behalf of the controlled insurer, pursuant to the Insurance Code, Chapter 21, Subchapter A, or any sub-agent or representative of the agent, who acts as such in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent is not also acting in the capacity of an insurance broker in the transaction in question. The term "controlling producer" in the amendments is not intended to include an attorney in fact acting on behalf of a licensed Lloyd's association or licensed reciprocal exchange.

The potential that a broker might misuse an insurer controlled by the broker arises from the conflict of interest inherent in those two roles. That is, when a broker owns and controls an insurer, the broker's duty to its client—the prospective insured—conflicts with the broker's financial interest in the insurer. A conflict of interest may arise when a broker, representing the prospective insured and having the main goal of generating income and profit through premium production, also controls the rates which are set for those premiums. Thus the broker's position of control permits it to set artificially low rates, which serve as incentive to insureds to buy insurance and thus facilitate greater premium production by the broker. Yet such rates ultimately may be inadequate to sustain the insurer's financial viability. To alleviate the conflict of interest, the amendments require that a broker, which acquires an insurer operating in Texas, conduct business with the insurer in essentially an arms-length manner.

Sandra A. Autry, associate commissioner for the financial program, 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 and there will be no effect on local employment or the local economy.

Ms. Autry 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 more effective regulation of insurers. On the basis of cost per hour of labor, there is no anticipated difference in cost of compliance between small and large businesses. There is no immediate economic cost anticipated to persons or entities as a result of compliance with the proposed sections. Based upon a recent data call, the Texas Department of Insurance was unable to identify any persons or entities which would be affected at this time.

There are potential economic costs in the future to persons or entities who may be required to comply with the proposed sections. These economic costs would arise upon the future acquisition of an insurer by a controlling producer. The primary, potential economic costs pertain to promulgating a written contract between an insurer and its controlling producer which must contain cer-

tain minimum provisions and obtaining an actuarial report regarding business produced by the controlling producer. These costs are estimated to range from \$250 to \$2,500 for the required contract and from \$500 to \$10,000 annually for the required actuarial report. The estimates for the required actuarial report are based upon the assumption that the actuary providing the required report will have the benefit of the work performed by the appointed actuary of the insurer who rendered the insurer's actuarial opinion as required by the Insurance Code, Article 1.11. In some instances, the same actuary may provide both reports and the additional cost of the second actuarial report would likely be minimal as it would primarily be a sub-report of the report required by the Insurance Code, Article 1.11. Some potential costs would arise regarding the required audit committee composed of members of the insurer's board of directors. However, audit committee costs are estimated to be minimal as the functions of the committee could be performed at any regularly scheduled meeting of the insurer's board of directors. Other potential minimal costs would exist in the future pertaining to certain required disclosures and obtaining the Commissioner's approval.

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

The amendments are proposed under the Insurance Code, Articles 21.49-1, 1.03A, and 1.04C; and the Government Code, §§2001.004-2001.038. The Insurance Code, Article 21.49-1, constitutes the Insurance Holding Company System Regulatory Act (the Act). The Insurance Code, Article 21.49-1 §11, authorizes the Commissioner to issue such rules, regulations, and orders as shall be consistent with and shall carry out the provisions of the Act and to govern the conduct of its business and proceedings under the Act. The Insurance Code, Article 1.03A, authorizes the Commissioner to adopt rules for the conduct and execution of the duties and functions of the department only as authorized by statute for general and uniform application. The Insurance Code, Article 1.04C, provides that the Commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the jurisdiction of the Commissioner. The Government Code, §§2001.004-2001.038, authorize and require each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

Cross Reference to Statute. The following are the articles of the Insurance Code that are affected by these rules: §7.201—The Insurance Code, Article 21.49-1, §7.202—The Insurance Code, Article 21.49-1, §7.205—The Insurance Code, Articles 1.10E, 21.49-1, §5, §7.210—The Insurance Code, Article 21.49-1, §3.

#### §7.201. Forms Filings.

##### (a) General requirements.

(1) The forms that are specified in §§7.209-7.213 of this title (relating to Form A, Form B, Form C, Form D, and Form E) are intended to be guides in the preparation of the statements, notices, and applications required by the Insurance Code, Article 21.49-1. They are to provide notice of the information required and the location in which it will be expected to be found. In preparing any statement, notice, or application, the text of the form need not be repeated so long as there is clear identity of the matter to which the answer or material applies. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect shall be made. The forms specified in §§7.209-7.213 are also referred to in this subchapter as Forms A-E. Form A is also referred to as the acquisition statement, Form B as the registration statement, Form C as a disclaimer, Form D as an extraordinary dividend, and Form E as an exemption statement. For use in accordance with §7.210(e), the Texas Department of Insurance adopts by reference the biographical affidavit form published by and available from the Texas Department of Insurance. Copies of this form may be obtained from the Holding Company Activity [Division], Mail Code 305-4A [304-2A], Texas Department of Insurance, P.O. Box 149104, 333 Guadalupe, Austin, Texas 78714-9104.

(2) Three complete originally signed copies of each statement, notice, or application, including exhibits and all other papers and documents filed as a part thereof, in connection with any acquisition statement filed under §7.209 of this title (relating to Form A), and one complete originally signed copy of every other statement, notice, or application, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Commissioner by personal delivery or by mail addressed to: Holding Company Activity [Division], Mail Code 305-4A [304-2A], Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Each statement, notice, or application shall be subject to the appropriate filing fee provided for in §7.1301 of this title (relating to Regulatory Fees). The appropriate filing fee shall be forwarded to the Holding Company Activity [Division] of the Texas Department of Insurance under separate cover

along with a copy of the letter transmitting the statement, notice, or application.

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

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

#### §7.202. Definitions.

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

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

(3) Board—The State Board of Insurance of the State of Texas.]

(3)[(4)] Commissioner—The Commissioner of Insurance of the State of Texas or [.] the Commissioner's associates or deputies[, or the State Board of Insurance], as appropriate.

(4)[(5)] Control—The term "control" including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, or with members of the person's immediate family, owns, controls, or holds with the power to vote, or if any person other than a corporate officer or director of a person holds proxies representing, 10% or more of the voting securities or authority of any other person, or if any person by contract or agreement is designated as an attorney-in-fact for a Lloyd's plan insurer under the Insurance Code, Article 18.02, or for a reciprocal or interinsurance exchange under the Insurance Code, Article 18.02, or for a reciprocal or interinsurance exchange under the Insurance Code, Articles 19.02 and 19.10. This presumption may be rebutted by a showing made in the manner provided by the Act, §3(j), that control does not exist in fact and that the person rebutting the presumption is in compliance with the Act, §5(a)-(c). The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect, where a person exercises directly or indirectly either alone or pursuant to an agreement with one or more other persons such a controlling influence over the management or policies of an authorized insurer as to make it necessary or appropriate in the public interest or for the protection of the policyholders of the insurer that the person be deemed to control the insurer.

(5)[(6)] Controlled insurer—An insurer controlled directly or indirectly by a holding company (as a holding company is defined in this section).

(6)[(7)] Controlled person—Any person, other than a controlled insurer, who is controlled directly or indirectly by a holding company (as a holding company is defined in this section).

(7) Controlling producer—An insurance broker or brokers or any person, firm, association or corporation domiciled, licensed, or operating in a state other than Texas, when, for any compensation, commission or other thing of value, such person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract on behalf of an insured other than such person, firm, association or corporation, and who, directly or indirectly:

(A) controls or seeks to control a property and casualty insurer as the term control is defined in paragraph (5) of this subsection; and

(B) writes or places, in any calendar year, an aggregate amount of gross written premiums with such controlled property and casualty insurer which is equal to or greater than 5.0% of the admitted assets of such insurer as reported in such insurer's quarterly statement filed as of September thirtieth of the prior year. The term "producer" or "controlling producer" as used in these sections is not intended to include an agent or any independent agent acting on behalf of the controlled insurer, licensed pursuant to the Insurance Code, Chapter 21, Subchapter A, and any sub-agent or representative of the agent, who acts as such in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent is not also acting on behalf of an insured as set forth in paragraph (7) of this subsection, in the transaction in question. The term "producer" or "controlling producer" as used in these sections is not intended to include an attorney-in-fact acting on behalf of a licensed Lloyds or licensed reciprocal exchange.

(8)-(19) (No change.)

(b) Exemption. Certain insurance holding company systems of the type specified in the Act, §2(r) [§2(n)], may be exempted or partially exempted from the Act and these sections in the manner provided in the Act, §2(r) [§2(n)].

#### §7.205. Acquisition Statements—Filing Requirements.

(a) Filing Requirements [Domestic insurer]. Filing and other regulatory re-

quirements for acquisitions of control and certain other matters as specified in the Act, §5(a), are governed by the Act, §5(a). For purposes of this subsection, a domestic insurer as defined in the Act, §5(a) (2), shall include any person controlling a domestic insurer unless such person is either directly or through its affiliates primarily engaged in business other than the business of insurance. A change or substitution of an attorney-in-fact of a Lloyds' or reciprocal or interinsurance exchange is subject to the Act, §5. A failure to file complete and accurate information in all material respects is grounds for a denial by the Commissioner under the Act, §5(c).

(b)-(l) (No change.)

(m) Additional Violations. Each director or officer of an insurance company subject to these sections, or of an insurance holding company system subject to these sections, who knowingly and willfully violates, participates in, or assents to or who knowingly and willfully permits any of the officers, agents, or employees of the insurer or holding company system to engage in transactions or make investments that have not been properly reported or submitted under these sections or that knowingly and willfully violate these sections, is subject to administrative penalty under the Insurance Code, Article 1.10E [shall pay, in the person's individual capacity, a civil penalty of not more than \$10,000 for each violation, after notice and an opportunity for hearing before the Commissioner. In determining the amount of the civil penalty, the Commissioner shall consider the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and any other matters that justice requires].

(n) (No change.)

(o) Producer Controlled Property and Casualty Insurer.

(1) For purposes of this section, a controlling producer, as defined in §7.202(a)(7) of this title (relating to Definitions), is subject to the filing requirements of the Act, §5 in addition to the following requirements.

(A) No acquisition of an insurer by a controlling producer in another state may be approved by the Commissioner pursuant to the Act, §5(c) (1), unless the acquiring party demonstrates, to the satisfaction of the Commissioner, compliance with the requirements contained in subparagraph (B) of this paragraph.

(B) Approval of the acquisition of an insurer by a controlling producer in another state may not be

approved unless the following requirements are met.

(i) **Required Contract Provisions.** A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the controlled insurer specifying the responsibilities of each party, which contract has been approved by the board of directors of the controlled insurer and which contains the following:

(I) a provision that the controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for the termination;

(II) a provision that the controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer;

(III) a provision that the controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on a least a monthly basis. The due date shall be fixed so that the premiums or installments thereof collected shall be remitted no later than 90 days after the effective date of any policy placed with the controlled insurer under this contract;

(IV) a provision that all funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System;

(V) a provision that the controlling producer shall maintain separately identifiable records of business written for the controlled insurer;

(VI) a provision that the contract shall not be assigned in whole or in part by the controlling producer;

(VII) a provision that the controlled insurer shall provide the controlling producer with its underwriting standards, rules, procedures, manuals

setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer;

(VIII) a provision establishing the rate and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of the commissions, charges and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this subclause and subclause (VII) of this clause, examples of "comparable business" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

(IX) a provision that, if the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified;

(X) a provision limiting the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The controlled insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(XI) a provision that the controlling producer may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative

reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(ii) **Audit Committee.** Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the controlled insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the Commissioner to review the adequacy of the controlled insurer's loss reserves.

(iii) **Reporting Requirements.**

(I) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April first of each year, file with the Commissioner an opinion of an independent casualty actuary, or such other independent loss reserve specialist acceptable to the Commissioner, reporting loss ratios for each line or subline of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported losses, on business placed by the controlling producer.

(II) The controlled insurer shall annually report to the Commissioner in its registration statement filed pursuant to §7.203(g) of this title (relating to Annual Amendment) the amount of commissions paid to the controlling producer, the percentage such amount represents of the net premium written, and comparable amounts and percentages paid to noncontrolling producers for placements of the same kinds of insurance.

(iv) **Disclosure Requirements.** The controlling producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the controlling producer and the controlled insurer, except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in his records a signed commitment from the subproducer that the subproducer is aware of the relationship between the

controlled insurer and the controlling producer and that the subproducer has notified or will notify the insured.

(2) The contract referred to in paragraph (1)(B)(i) of this subsection does not provide to or expand any rights or privileges of a controlling producer, including, but not limited to, authority to place or write business, that do not otherwise exist or could not otherwise be exercised under the laws of the State of Texas or another state.

(p) A producer controlled insurer is subject to all the provisions of the Act absent a determination that the laws of its domiciliary state are substantially similar as provided by the Act, §18.

§7.210. Form B.

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

(f) Transactions, relationships, and agreements.

(1) Briefly describe the following agreements in force, relationships subsisting, and transactions currently outstanding between the registrant and its holding company, its subsidiaries, and its affiliates:

(A)-(I) (No change.)

(J) the amount of commissions paid to the controlling producer, the percentage such amount represents of the net premium written, and comparable amounts and percentages paid to non-controlling producers for placements of the same kinds of insurance;

(K)[(J)] any affiliated transaction not disclosed in subparagraphs (A)-(J)[(A)-(I)] of this paragraph which is subject to the Act, §4(d); and

(L)[(K)] any pledge of an insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of its insurance holding company system.

(2) (No change.)

(g)-(j) (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 25, 1993.

TRD-9330883

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

Earliest possible date of adoption: November 29, 1993

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

**Title 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

**Chapter 5. Funds Management (Fiscal Affairs)**

**Claims Processing-Travel Vouchers**

**• 34 TAC §5.22**

The Comptroller of Public Accounts proposes an amendment to §5.22, concerning incorporation by reference of the "State of Texas Travel Allowance Guide." The amendment is necessary so that the new edition of the "State of Texas Travel Allowance Guide," which was issued by the comptroller on October 11, 1993, can be incorporated by reference as a section.

Mike Reissig, chief revenue estimator, 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. Reissig 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 in providing new information regarding state travel. 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 Kenny McLeskey, Manager of the Claims Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under the Texas Government Code, §660.021, which requires the comptroller to adopt rules to administer the travel regulations of the Texas Government Code, Chapter 660, and of the General Appropriations Act.

§5.22. *Incorporation by Reference:* "State of Texas Travel Allowance Guide." The "State of Texas Travel Allowance Guide," issued by the comptroller on October 11, 1993, [September 1, 1987] and filed with the secretary of state, is incorporated by reference as a section. The guide is published by the comptroller in Austin, and copies may be obtained from the comptroller upon request

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 25, 1993

TRD-9330871

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

Earliest possible date of adoption: November 29, 1993

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

**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 12. Special Nutrition Programs**

**Child and Adult Care Food Program**

**• 40 TAC §§12.14, 12.15, 12.26**

The Texas Department of Human Services (DHS) proposes amendments to §§12.14, 12.15, 12.26, 12.115, 12.123, 12.204, 12.304, and 12.404, concerning meal requirements, reimbursement methodology, and appeals for the Child and Adult Care Food Program (CACFP), the Summer Food Service Program (SFSP), the Special Milk Program (SMP), the School Breakfast Program (SBP), and the National School Lunch Program (NSLP) in its Special Nutrition Programs chapter. The purpose of the amendments is to establish a duration of two hours for breakfasts served in day care homes that are eligible to participate in the CACFP. The amendments also provide contractors in the CACFP, the SFSP, the SMP, the SBP, and the NSLP the option of requesting an exception to the regulation that prohibits payment of a claim submitted more than 60 days after the end of a claim month, once every 36 months.

Burton F. Raiford, commissioner, 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. Raiford 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 simplified program administration with no reduction in program integrity. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Keith N. Churchill at (512) 450-5837 in DHS's Special Nutrition Programs Section. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-231, 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 amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendments implement Chapter 33 of the Human Resources Code.

**§12.14. Meal Requirements.**

(a) (No change.)

(b) Three hours must elapse between the beginning of one meal service and the beginning of another, except that at least four hours must elapse between the service of a lunch and supper when no supplement is served between the lunch and supper. The duration of the meal service must not exceed two hours for lunch and supper and one hour for breakfast and supplements, except in day care homes the duration of breakfast must not exceed two hours. Service of suppers must begin after 5 p.m. but not later than 7 p.m. and must end no later than 8 p.m. Infants under one year of age may be fed more frequently.

(c) (No change.)

**§12.15. Reimbursement Methodology.**

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

(d) DHS does not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. If USDA determines that good cause does not exist, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

(1) requests an exception in writing; and

(2) has not been granted an exception in the 36 months preceding the month for which a request for an exception is submitted.

(e)[(d)] Contractors serve and claim second meals for reimbursement according to 7 Code of Federal Regulations, §226.20(j). Contractors that serve meals family-style are not eligible for reimbursement for second meals.

(f)[(e)] Day home providers may not claim Child and Adult Care Food Program (CACFP) reimbursement for meals served to another day home provider's own children at any time when both day home providers are participating in the CACFP. The "providers' own child" of one day home provider may be considered a "non-residential child" for the purpose of claiming

reimbursement for a meal service at the day home of another provider only if the criteria in paragraphs (1) and (2) of this subsection are met:

(1) the children are enrolled for child care at the substitute facility; and

(2) the provider for whom substitute care is being provided does not claim reimbursement for any meals served during the period of substitute care.

**§12.26. Appeals.**

(a) Contractor appeals of DHS actions are conducted according to 7 Code of Federal Regulations, §226.6, and §79.1602 of this title (relating to Right to a Hearing) DHS requires that contractors appealing actions taken by DHS based on the findings of federal audits request a hearing to be conducted by the United States Department of Agriculture (USDA)>[USDA].

(b) (No change.)

(c) Contractors may appeal a DHS decision not to request a USDA determination of good cause for submission of a late claim, as described in §12.15(d) of this title (relating to Reimbursement Methodology). Contractors may not appeal a USDA decision that the late claim is ineligible for payment.

(d)[(c)] Contractors that sponsor day care homes must develop appeal procedures and submit them to DHS for approval. The appeal procedures must be provided to each day care home when:

(1) the day care home enrolls in the CACFP; and

(2) the contractor takes an adverse action on the day care home provider. An adverse action is any action that denies or reduces program benefits to the day care home provider.

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 20, 1993.

TRD-9330709 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: December 15, 1993

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

◆ ◆ ◆  
**• 40 TAC §12.115, §12.123**

The amendments are proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutri-

tional assistance programs. The amendments implement Chapter 33 of the Human Resources Code.

**§12.115. Reimbursement Methodology.**

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

(d) DHS does not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. If USDA determines that good cause does not exist, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

(1) requests an exception in writing; and

(2) has not been granted an exception in the 36 months preceding the month for which a request for an exception is submitted.

(e) [(d)] DHS combines the claims for the first and next subsequent month of operation when sponsors operate fewer than 10 days in the first month of operation. Sponsors that operate fewer than 10 days in the last month of operation must submit a final combined claim which includes the last and next preceding month of operation.

(f)[(e)] DHS elects to exercise the state option to consider the cost of meals served to adults performing labor necessary for the operation of the SFSP to be an allowable program cost according to 7 Code of Federal Regulations, §225.9(d)(4).

**§12.123. Appeals.**

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

(c) Contractors may appeal a DHS decision not to request a USDA determination of good cause for submission of a late claim, as described in §12.115(d) of this title (relating to Reimbursement Methodology). Contractors may not appeal a USDA decision that the late claim is ineligible for payment.

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

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

TRD-9330710 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: December 15, 1993

For further information, please call: 450-3765

◆ ◆ ◆  
**Special Milk Program**

◆ ◆ ◆  
• **40 TAC §12.204**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment implements Chapter 33 of the Human Resources Code.

◆ ◆ ◆  
*§12.204. Reimbursement.*

(a) To the extent funds are made available to the Texas Department of Human Services (DHS) [DHS] by the Food and Nutrition Service (FNS) [FNS], reimbursement rates are set and payments are made to contractors according to the requirements stipulated in 7 Code of Federal Regulations, §§215.8, 215.9, and 215.10.

(b) DHS does not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. If USDA determines that good cause does not exist, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

- (1) requests an exception in writing; and
- (2) has not been granted an exception in the 36 months preceding the month for which a request for an exception is submitted.

(c) Contractors may appeal a DHS decision not to request a USDA determination of good cause for submission of a late claim, as described in subsection (b) of this section. Contractors may not appeal a USDA decision that the late claim is ineligible for payment.

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

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

TRD-9330711 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: December 15, 1993

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

**School Breakfast Program**

◆ ◆ ◆  
• **40 TAC §12.304**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment implements Chapter 33 of the Human Resources Code.

◆ ◆ ◆  
*§12.304. Reimbursement.*

(a) To the extent funds are made available to the Texas Department of Human Services (DHS) [DHS] by the Food and Nutrition Service (FNS)[FNS], reimbursement payments are made to contractors according to the requirements stipulated in 7 Code of Federal Regulations, §§220.9, 220.10, and 220.11. Exception: DHS does not make advance payments.

(b) DHS does not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. If USDA determines that good cause does not exist, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

- (1) requests an exception in writing; and
- (2) has not been granted an exception in the 36 months preceding the month for which a request for an exception is submitted.

(c) Contractors may appeal a DHS decision not to request a USDA determination of good cause for submission of a late claim, as described in subsection (b) of this section. Contractors may not appeal a USDA decision that the late claim is ineligible for payment.

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

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

TRD-9330712 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: December 15, 1993

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

**National School Lunch Program**

◆ ◆ ◆  
• **40 TAC §12.404**

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment implements Chapter 33 of the Human Resources Code.

◆ ◆ ◆  
*§12.404. Reimbursement.*

(a) Reimbursement rates are set by the Texas Department of Human Services (DHS) [DHS] according to standards and procedures stipulated in 7 Code of Federal Regulations §210.7. To the extent funds are made available to DHS by the Food and Nutrition Service (FNS)[FNS], reimbursement payments are made to contractors according to the requirements stipulated in 7 Code of Federal Regulations, §210.7 and §210.8. Exception: DHS does not make advance payments.

(b) DHS does not pay claims postmarked or received by DHS later than 60 days after the end of the claim month, unless the United States Department of Agriculture (USDA) determines that the submission of the late claim is the result of good cause beyond the contractor's control. If USDA determines that good cause does not exist, DHS may grant an exception and pay a claim postmarked or received by DHS later than 60 days after the end of the claim period provided that the contractor:

- (1) requests an exception in writing; and
- (2) has not been granted an exception in the 36 months preceding the month for which a request for an exception is submitted.

(c) Contractors may appeal a DHS decision not to request a USDA determination of good cause for submission of a late claim, as described in subsection (b) of this section. Contractors may not appeal a USDA decision that the late claim is ineligible for payment.

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

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

TRD-9330713 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption: December 15, 1993

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



## Chapter 79. Legal Services

The Texas Department of Human Services (DHS) proposes amendments to §§79.401-79.404 and the repeal of §79.405, concerning definitions, advisory committees, mandated advisory committees, committees established by the Board, and other committees, in its Legal Services chapter. The purpose of the amendments and repeal is to formalize operational procedures for advisory committees, reduce the number of advisory committee members, specify abolishment dates for each committee, and require reporting with the biennial legislative appropriations request.

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposal will be in effect there will be fiscal implications for state government 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 reduction in cost of \$8,765 in fiscal year (FY) 1994; \$9,544 for FY 1995; \$9,544 for FY 1996; \$9,544 for FY 1997; and \$9,544 for FY 1998. There will be no fiscal implications for local government as a result of enforcing or administering the proposal.

Mr. Raiford 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 maintain the public's ability to participate in DHS's rule-making process. 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 Judy Switzer at (512) 450-3046 in DHS's State Relations Department. Written comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-214, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

### Subchapter E. Advisory Committees

#### • 40 TAC §§79.401-79.404

The amendments are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs. The amendments implement §22.009 of the Human Resources Code and Texas Revised Civil Statutes, Article 6252-33.

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

Advisory committee—A committee, council, commission, task force, or other entity in the executive branch of state government that:

(A) is not a state agency;

(B) is created by or under state law; and

(C) has as its primary function advising a state agency. [Any group established by the department, by statute, or by federally mandated regulations, to promote a broad range of citizen participation in the development of department rules or policy.]

#### §79.402. Advisory Committees.

(a) (No change.)

(b) General structure.

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

(4) Members receive no compensation, unless otherwise specified by law or the General Appropriations Act. Advisors are generally entitled to reimbursement for transportation expenses and the per diem allowance for state employees. The manner and amount of reimbursement for travel, meals, and other expenses must be prescribed by the General Appropriations Act. If the committee is created after it is practical to address the existence of the committee in the General Appropriations Act, the department must go through the budget execution process under the Government Code, Chapter 317, in order to reimburse expenses. [Unless otherwise specified by law, members receive no compensation but are entitled to reimbursement for transportation expenses and the per diem allowance for state employees according to the General Appropriations Act and as specified in the Human Resources Code, §22.009 (f) and (g).]

(5) Annual reports to the Board are required on each committee's activities, usefulness, and costs relating to the committee's existence, including the cost of department staff time spent in support of the committee's activities. Copies of the report must be filed biennially with the department's request for appropriations.

(6) An advisory committee is automatically abolished on the fourth anniversary of the date of its creation, unless statute or the Board establishes a different date.

(7) The presiding officer of an advisory committee is selected from advisory committee members, unless a different procedure for selection is prescribed by other law.

#### §79.403. Mandated Advisory Committees.

[(a) State Advisory Committee on Child Care Administrators and Facilities.

[(1) Legal base. The committee's legal base is Human Resources Code, (HRC) §42.022.

[(2) Responsibilities. The committee:

[(A) reviews state-agency rules and minimum standards governing child-care administrators, child-care facilities, and child-placing agencies;

[(B) advises the department, the Licensing Department, and other state agencies about problems related to child-care administrators, child-care facilities, and child-placing agencies; and

[(C) reviews the Licensing Department's annual report.

[(3) Structure.

[(A) The committee has 15 members, with a representative balance of parents, guardians, or custodians of children affected by child-care facility standards; child advocacy groups; facility operators; experts in professions relevant to child care and child development; and the general public.

[(B) Committee members serve two-year terms set by statute. Terms are rotating with approximately half the committee membership rotating off service each year. Members may be considered for one reappointment.

[(C) The committee includes an advisory subcommittee on child-care administration, with subcommittee members appointed by the Board at the recommendation of the commissioner. This subcommittee, which meets at the same time as its parent advisory committee, advises the Board about the licensing of child-care administrators and about the content of the examination administered to applicants for licenses. Subcommittee members are appointed from the membership of the full committee.

[(b) Medical Care Advisory Committee.

[(1) Legal base. The committee's legal base is the Human Resources Code §32.022.

[(2) Responsibilities. The committee:

[(A) advises the Board and the department about developing and maintaining the Medical Assistance Program; and

[(B) works with the Board and the department to develop immediate and long-range plans for providing comprehensive medical and health-care services to needy Texans.

[(3) Structure.

[(A) The committee has 15 members, with a representative balance of service providers, consumers, the commissioner or designee from the Texas Department of Health, the commissioner or designee from the Texas Department of Mental Health and Mental Retardation, and other people or groups with knowledge of or interest in the Medical Assistance Program or other aspects of health care for needy Texans.

[(B) The medical director of the department's purchased health services contractor serves as an ex officio member.

[(C) Appointments are made by the Board, in compliance with the requirements of the federal agency administering medical assistance. Members from the Texas Department of Health and Texas Department of Mental Health and Mental Retardation are appointed by respective commissioners.

[(D) Members serve four-year rotating terms, with approximately one-fourth of the committee membership rotating off service each year. State agency members serve as long as directed by their commissioner, and the ex officio member serves as long as the Board directs him to do so.

[(E) At the commissioner's recommendation, the Board may appoint regional and local medical care advisory committees and other advisory committees as necessary.

[(c) Council for Social Work Certification.

[(1) Legal base. The council's legal base is Human Resources Code, §50.004.

[(2) Responsibilities. The council:

[(A) advises the Board and the department about issues related to the practice of social work;

[(B) reviews rules and minimum standards for social-work certification; and

[(C) recommends action on rules, standards, and social-work certification.

[(3) Structure.

[(A) The council has nine members, including three certified social workers, three social workers or social-work associates, and three consumers; with balanced representation according to race, gender, age, and geographic location.

[(B) Council members serve three-year terms set by statute. Terms are rotating with one-third of the council membership rotating off service on January 31 of each year.

[(d) Hospital Payment Advisory Committee.

[(1) Legal base. The committee's legal base is Human Resources Code, §32.022(e).

[(2) Responsibilities. The committee advises the Board and department about changes in hospital payment methodologies for inpatient hospital prospective payments and adjustments for disproportionate share hospitals that ensure reasonable, adequate, and equitable payments to hospital providers and that address the essential role of rural hospitals.

[(3) Structure.

[(A) The committee has 15 members representing rural and urban hospitals, children's hospitals, counties, and other agencies or people with knowledge and interest in hospital payment methodologies.

[(B) Representatives of state agencies with an interest or role in the committee's field of work serve as ex-officio members. Ex-officio members serve as long as the Board directs them to do so.

[(C) Members serve four-year rotating terms, with approximately one-fourth of the committee membership rotating off service each year.

[(e) Adolescent Pregnancy and Parenthood Advisory Council.

[(1) Legal base. The council's legal base is the Human Resources Code, §52.002.

[(2) Responsibilities. The council:

[(A) advises the Boards of the Texas Department of Human Services, Texas Department of Health, and Texas Education Agency about adolescent pregnancy issues;

[(B) establishes resource networks for adolescent pregnancy education and services by coordinating policies and programs of state and local agencies;

[(C) reports its recommendations about adolescent pregnancy prevention to relevant state agencies and to each regular session of the legislature.

[(3) Structure.

[(A) The council is composed of 15 members.

[(B) Eight members represent state agencies. The state agencies represented are the attorney general's Child Support and Enforcement Division, Texas Education Agency, Texas Department of Human Services, Texas Department of Health, Texas Department of Mental Health and Mental Retardation, Texas Department of Housing and Community Affairs, Texas Department of Commerce, and Texas Employment Commission.

[(C) Seven members represent nongovernmental groups such as business and industry; foundations; religious groups; medical, educational and youth-serving organizations; and other people or groups with knowledge of or an interest in adolescent pregnancy issues.

[(D) Council members serve four-year rotating terms with approximately one-fourth of the membership rotating off service each calendar year.

[(E) Representatives of other state agencies with an interest or role in the council's field of work serve as ex-officio members. Ex-officio members serve as long as the Board directs them to do so.]

[(a) [(f)] Advisory Committee on [for] Child Care Programs.

(1) Legal base. The committee's legal base is the Human Resources Code, §44.061.

(2) Responsibilities. The committee:

(A) advises the Board and department in developing coordinated state policies for the use of federal and state funds in child care programs;

(B) reviews child care policies and programs for compliance with applicable guidelines and advises the Board and department concerning the results of its review;

(C) assists the department in holding biennial public hearings concerning state and federal child care programs to elicit public response and recommendations regarding the quality, accessibility, and affordability of child care services. Hearings must be held in at least three separate geographical regions of the state and may be held in conjunction with other public hearings concerning child care held by the department;

(D) reports annually its findings and recommendations to the Board.

(3) Structure.

(A) The committee has 20 members representing the general public; parents, guardians, or custodians of children in child care; child care advocacy groups; operators and providers of child care programs and services representing rural and urban communities; profit and nonprofit providers of child care services representing rural and urban communities; experts in early childhood development and education; experts in child health and nutrition and other child care professionals.

(B) Representatives of state agencies with an interest or role in state child care programs serve as ex-officio members. Ex-officio members serve as long as the Board directs them to do so.

(C) Committee members serve two-year terms set by statute. Terms are rotating with one-half of the membership rotating off-service each year. Members may be considered for reappointment to one additional term.

(4) Abolishment date. The abolishment date is September 1, 1997.

(b)[(g)] Sanctions and Penalties Advisory Committee.

(1) Legal base. The committee's legal base is the Human Resources Code, §32.021.

(2) Responsibilities. The committee advises the Board and department about developing and monitoring a system for assessing penalties against nursing facilities for contract violations.

(3) Structure.

(A) The committee has 10 members representing consumer advocates and providers.

(B) Committee members serve four-year rotating terms, with approximately one-fourth of the membership rotating off-service each year.

(4) Abolishment date. The abolishment date is September 1, 1997.

(c) Advisory Committee on Personal Care Facilities.

(1) Legal base. The committee's legal base is the Health and Safety Code, §247.051.

(2) Responsibilities. The committee advises the department on standards for licensing personal care facilities.

(3) Structure.

(A) The committee has nine members representing consumers, providers, and others, with at least one member with expertise in life safety code regulations, one representative of a nonprofit facility, and one family member of a resident in a facility.

(B) The commissioner of human services appoints one staff member from the department to serve as a non-voting member.

(C) Committee members serve four-year rotating terms, with approximately one-fourth of the membership rotating off-service each year.

(4) Abolishment date. The abolishment date is September 1, 1997.

§79.404. Committees Established by the Board.

(a) Religious Community Advisory Committee.

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

(3) Structure.

(A) The committee has 11 [15] members, with representation reflecting geographic, denominational, and ethnic diversity.

(B) (No change.)

(4) Abolishment date. The abolishment date is September 1, 1997.

(b) Aged and Disabled Services Advisory Committee.

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

(3) Structure.

(A) The committee has 11 [15] members, consisting of [five] advocates for the aged and people with disabilities, providers, and others with knowledge or interest in the program [five advocates for people with disabilities, and five provider representatives].

(B) (No change.)

(4) Abolishment date. The abolishment date is September 1, 1997.

(c) Client Self-Support Services Advisory Council.

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

(3) Structure.

(A) The committee has 11 [15] regular members, with a representative balance of service providers, [and] consumer advocates, and others with knowledge or interest in client self-support services.

(B)-(C) (No change.)

(4) Abolishment date. The abolishment date is September 1, 1997.

[(d) Family Planning Interagency Advisory Council.

[(1) Legal base. The council's legal base is the Human Resources Code, §22.009.

[(2) Responsibilities. The council advises the Board of Health and Texas Department of Health staff, in addition to the Board of Human Services and Texas Department of Human Services staff, about program issues and coordination of family planning policies and services between the two agencies.

[(3) Structure.

[(A) The council has 14 members.

[(B) Seven members are appointed by the Board of Health and provide representation from the Texas Medical Association, Texas Nurses Association, Texas Osteopathic Medical Association, Regional Family Planning Coordinating Committees, Texas Department of Health, an urban service provider, and a consumer of family planning services.

[(C) Seven members are appointed by the Board of Human Services and provide representation from the Texas Education Agency, Texas Department of Human Services, rural providers, teen advocacy groups, youth-serving organizations, consumers, and other groups or persons interested in family planning services.

[(D) Board of Human Services appointees serve four-year, rotating terms with approximately one-fourth of the membership rotating off-service each year.]

(d)[(e)] Family Violence Advisory Committee.

(1) Legal base. The committee's legal base is the Human Resources Code, §22. 009.

(2) Responsibilities. The committee advises the Board and the department about family violence program services, issues, and policy.

(3) Structure.

(A) The committee has 11[15] regular members representing family violence providers, the legal system, law enforcement, other health and human services advocates for elderly citizens and children, and formerly battered women.

(B) Committee members serve four-year, rotating terms, with approximately one-fourth of the membership rotating off-service each year.

(4) Abolishment date. The abolishment date is September 1, 1997.

[(f)] Child Protective Services Advisory Committee.

(1) Legal base. The committee's legal base is the Human Resources Code, §22.009.

(2) Responsibilities. The committee advises the Board and department about child protective issues, policies, and services provided in the program.

(3) Structure.

(A) The committee has 15 regular members providing for representation from the general public, service providers, consumers, minorities, concerned state agencies, and other persons or groups with knowledge of or interest in child protective services.

(B) Committee members serve four-year rotating terms, with approximately one-fourth of the membership rotating off-service each year.]

[(g)] County Indigent Health Care Advisory Committee.

(1) Legal base. The committee's legal base is the Human Resources Code, §22.009.

(2) Responsibilities. The committee advises the Board and department about county indigent health care program issues and policies, scope and utilization of services, fee allowances, program changes, and cost containment.

(3) Structure.

[(A)] The committee has 15 regular members representing client advocates, health care providers, elected county officials such as county judges, commissioners, treasurers, appointed county auditors, managers of county indigent health care programs, and other groups or persons interested in indigent health care.

[(B)] Committee members serve four-year, rotating terms with approximately one-fourth of the membership rotating off-service each year.]

[(h)] Ethics Advisory Committee.

(1) Legal base. The committee's legal base is the Human Resources Code, §22.009.

(2) Responsibilities. The committee advises the Board and department about existing and proposed ethics policies and development of staff training to instill in employees a strong sense of ethical obligations that come with the public trust

(3) Structure.

(A) The committee has seven members representing the general public, private businesses, health care providers, the public sector, educational and religious institutions.

(B) Committee members serve for one year [two years] with terms ending August 31, 1994 [1993]. [At that time, an assessment will be made to determine if there is need for continuing the committee.]

(4) Abolishment date. The abolishment date is September 1, 1994.

[(f)] Advisory Committee on Mental Retardation Facilities.

(1) Legal base. The committee's legal base is HRC, §22.009.

(2) Responsibilities. The committee advises the Board and department about policies and rules impacting or affecting the intermediate care facilities for individuals with mental retardation.

(3) Structure.

(A) The committee has 10 members representing advocates, providers, and others with knowledge or interest in the field of mental retardation.

(B) Representatives of state agencies with an interest or role in the committee's field of work serve as ex-officio members. Ex-officio members serve until they are replaced by the agency they represent.

(C) Committee members serve four-year rotating terms with approximately one-fourth of the membership rotating off-service each year.

(4) Abolishment date. The abolishment date is September 1, 1997.

[(g)] Advisory Committee on Nursing Facility Affairs.

(1) Legal base. The committee's legal base is the Human Resources Code, §22.009.

(2) Responsibilities. The committee advises the Board and department on nursing home licensing rules and other problems or issues related to nursing facility care.

(3) Structure.

(A) The committee has 11 members representing advocates, consumers, providers, health care professionals, and others with knowledge or interest in nursing facilities.

(B) Representatives of state agencies with an interest or role in the committee's field of work serve as ex-officio members. Ex-officio members serve until they are replaced by the agency they represent.

(C) Committee members serve four-year rotating terms, with approximately one-fourth of the membership rotating off-service each year.

(4) Abolishment date. The abolishment date is September 1, 1997.

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

Issued in Austin, Texas, on October 22, 1993.

TRD-9330882 Nancy Murphy  
Section Manager, Policy  
and Document Support  
Texas Department of  
Human Services

Proposed date of adoption. January 1, 1994

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

◆ ◆ ◆  
• 40 TAC §79.405

*(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 Human 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. The repeal implements §22.009 of the Human Resources Code.

*§79.405. Other Committees. Post-Adoption Services Advisory Committee.*

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 22, 1993.

TRD-9330881

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

Proposed date of adoption: January 1, 1994

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

◆ ◆ ◆  
**Part III. Texas**  
**Commission on Alcohol**  
**and Drug Abuse**  
**Chapter 150. Licensure of**  
**Chemical Dependency**  
**Counselors**

**Counselor Licensure Rules**

- 40 TAC §§150.1-150.3, 150.9, 150.10, 150.13, 150.16

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §§150.1-150.3, 150.9, 150.10, 150.13, and 150.16, concerning requirements for licensure as a licensed chemical dependency counselor. The sections define terms commonly used in the profession, sets the standards and procedures for licensure and renewal as a licensed chemical dependency counselor, and provides grounds for disciplinary action. These amendments are proposed to clarify requirements for internship and licensure, to provide for a new internship designation under the criminal justice setting, implement the mandate of Senate Bill 0205, and to define requirements for applicants with criminal history.

Denise Hudson, director, Fiscal Services Department has determined for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Hudson also has determined that for each year of the first five years the sections are in effect the public benefits anticipated as a result of enforcing the section as proposed will be that all chemical dependency counselors in the state will meet specified standards and educational and experiential requirements to ensure quality services to clients. It will provide for flexibility in attaining internship designation. The anticipated economic cost to persons who are required to comply with the section as proposed will be a licensure appli-

cation fee increase of \$35 and a renewal fee increase of \$35. The fee for late renewal after expiration date but on or within 90 days of expiration will increase by \$12. The fee for renewal more than 90 days but within two years of the expiration date will increase by \$25.

Comments on the proposal may be submitted to Denise F. Mosel, Division Assistant, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701.

The amendments are proposed under Texas Civil Statutes, Article 4512o, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to establish a procedure by which the commission is to license chemical dependency counselors.

The following statute is affected by the proposed amendments: Texas Civil Statutes, Article 4512o.

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

Counselor intern—A student, intern, or trainee pursuing a course of study in chemical dependency counseling (or a closely related field) at a regionally accredited institution of higher education or training institution approved by the commission .[, who.]

(A) A Counselor intern:

(i)[(A)] performs chemical dependency counseling activities and services as a part of his or her supervised course of study;

(ii)[(B)] has completed at least [270 classroom hours of approved curricula, including no less than] 135 classroom hours of chemical dependency specific education approved by the Commission,[and 135 classroom hours of chemical dependency-related education];

(iii)[(C)] has been designated a counselor intern by the regionally accredited institution of higher education or training institution at which he or she is enrolled;

(iv)[(D)] does not act as a "counselor intern" for more than four years;

(v)[(E)] has made application to the commission, and been approved for counselor intern status, and has paid the counselor intern fee;

(vi) submits two letters of reference from QCP to initiate their internship and two letters of reference from licensed chemical dependency counselors (LCDCs) prior to taking the licensing examination.

(B) A practicum may not be performed for purposes of meeting established Counselor Intern require-

ments until a person has met the educational requirements and has been designated as a Counselor Intern. The practicum must be performed under the supervision of an approved, current, practicum provider.

(C) A person designated as a counselor intern must work under the direct supervision of a qualified credentialed professional (QCP) and may work for compensation or voluntarily.

[(F) has met all other requirements contained in this definition, but has not yet completed 270 classroom hours of approved curricula, and who, on or before January 1, 1992, was engaging in chemical dependency counseling, provided, however, that the person shall be required to complete the 270 hours of approved curricula within the four year period that such person is designated as a "counselor intern" by the commission].

Criminal justice counselor intern—A student, intern, or trainee pursuing a course of study in chemical dependency counseling and working in the Texas Criminal Justice Chemical Dependency Treatment Initiative.

(A) Approval as a criminal justice counselor intern requires an individual to:

(i) make application to the commission;

(ii) pay the application fee;

(iii) complete 135 approved classroom hours in chemical dependency treatment;

(iv) complete a chemical dependency treatment program that utilizes the therapeutic community model and complete immersion training (which shall not be considered part of the 135 hours of required classroom training);

(v) be on annual report, if a parolee or Level 4 status, if a probationer.

(B) A criminal justice counselor intern must initiate and pursue a course of study which lead to counselor intern status within two years. The criminal justice counselor intern approval and the related exemption expire after two years if the criminal justice intern has not achieved counselor intern status.

(C) All criminal justice counselor interns must receive direct clinical supervision from a licensed chemical dependency counselor. An LCDC may not supervise more than five criminal justice counselor interns.

(D) The criminal justice counselor intern designation will be revoked immediately upon termination of the voluntary work/employment relationship with the State Criminal Justice System. The designation of criminal justice counselor intern does not authorize the holder to practice in other than a specific element of the Texas Criminal Justice Chemical Dependency Treatment Initiative, specifically, Substance Abuse Felony Punishment (SAFP), In-Prison Therapeutic Community (ITC), Transitional Treatment Center (TC), Treatment Alternatives to Incarceration Program (TAIP) programs.

(E) The designee may not advertise nor represent the credential to the general public by any means, including business cards.

Sexual Exploitation—A pattern, practice, or scheme of conduct by a person regulated under this act that may include sexual contact, that can reasonably be construed as being for the purpose of sexual arousal or gratification or sexual abuse of any person. It is not a defense to sexual exploitation of a patient or former patient if it occurs:

(A) with consent of the patient or former patient;

(B) outside of therapy or treatment;

(C) off the premises used for therapy or treatment;

(D) within a two-year period following termination of treatment.

#### §150.2. License Required.

(a) (No change.)

(b) A person performing chemical dependency assessment or intervention must be licensed under this act.

(c)[(b)] A person may not use any name, title, or designation indicating that the person is licensed under this chapter, unless that person holds a current, valid license obtained from the commission pursuant to the requirements of this chapter and Texas Civil Statutes, Article 4512o.

(d)[(c)] This section does not apply to those persons listed in §150.3(b)(4) of this title (relating to Exemptions).

#### §150.3. Exemptions.

(a) (No change.)

(b) This chapter does not apply to the activities and services of:

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

(5) a person who addresses chemical dependency issues on an occasional basis incidental to a his/her job functions.

(c) (No change.)

#### §150.9. Fees.

(a) (No change.)

(b) The schedule of fees shall be as follows:

(1) (No change.)

(2) licensure examination fee—\$175 [\$150];

(3) licensure fee—\$50 [\$40];

(4) license renewal fee—\$75 [\$40];

(5) late renewal fee:

(A) when renewed after expiration date but on or within 90 days of expiration—\$87 [\$75];

(B) when renewed more than 90 days but within two years of the expiration date—\$175 [\$150];

(6) -(7) (No change.)

(c)-(e) (No change.)

#### §150.10. Licensure; Application; License Requirements; Issuance of License.

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

(d) Background investigation.

(1) All applicants for licensure will be subject to a background check before an application is processed for licensing, counselor intern or exam applicant. The background will include a Texas Department of Public Safety Criminal History Report.

(2) Persons having any record of conviction or outstanding arrest warrants will be screened by the Commissioners Offender Credentialing Committee. The commission may:

(A) deny an application;

(B) approve processing an application without conditions;

(C) approve processing an application with conditions; or

(D) revoke an application.

(3) An applicant who does not accept the commission's decision may request a formal hearing before the full commission under the procedures established in the Administrative Procedure Act.

(4) Information required upon application, by a person previously convicted, in addition to the standard application form includes:

(A) narrative statement of conditions/events leading to arrest and conviction;

(B) probation/parole starting and discharge dates;

(C) probation/parole officer's recommendation;

(D) two letters of reference from qualified credentialed professionals;

(E) age at time of offense; and

(F) if crime was alcohol/drug related.

(i) what rehabilitation has taken place.

(ii) a description of:

(I) treatment plan;

(II) facility;

(III) counselor's

name;

(IV) dates; and

(V) indication if the treatment program was satisfactorily completed.

(G) any other written information that may assist in the evaluation of an application. Failure to make full and accurate disclosure will be grounds for immediate denial or revocation.

(e)[(d)] Exemptions.

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

(f)(e) Disabled applicants. The commission recognizes that disabled applicants may encounter unusual problems in applying for licensure and will make an effort to accommodate these applicants. The commission, on a case-by-case basis, will consider requests for special arrangements for disabled applicants provided that such requests are reasonable and do not violate the law or the rules of the commission.

(g)(f) Issuance of licenses. Upon successful completion of all requirements to obtain a license under this chapter, the commission will issue a license to the applicant as follows:

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

*§150.13. License Expiration; Renewal.* A license issued under this chapter shall be valid for two years from the date of issuance. The expiration date shall be set forth on the license certificate. The biennial renewal fee is payable on renewal of the license before or on the expiration date.

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

(4) Licensure renewals will be accomplished throughout the year using a staggered license-renewal system based on a license-holder's last digit of their Social Security number.

(5) The license ceases to be valid on the expiration date, unless the person meets all requirements before that date.

*§150.16. Disciplinary Action; Grounds.* The commission may refuse to issue or renew a license, place on probation a license-holder whose license has been suspended, reprimand a license-holder, or revoke or suspend a license issued under this chapter for:

(1)-(6) (No change.)

(7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the commission finds would constitute a violation of this chapter, Texas Civil Statutes, Article 4512o, or a rule of the commission adopted pursuant thereto; [or]

(8) refusing to perform an act or service for which the person is licensed to perform under this chapter on the basis of the client's or recipient's sex, race, religion, age, national origin, or handicaps; [.]

(9) committing an act in violation of Penal Code, §21.14, or for which liability exists under Civil Practice and Remedies Code, Chapter 81.

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 20, 1993.

TRD-9330724

David Tatum  
Interim Executive Director  
Texas Commission on  
Alcohol and Drug  
Abuse

Earliest possible date of adoption: November 29, 1993

For further information, please call: (512) 867-8720

◆ ◆ ◆

## 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 and Texas Register Act, Article 6252-13a, Texas Civil Statutes, does not apply to board action under Articles 5.96 and 5.97.*

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

The State Board of Insurance, at a Board meeting scheduled for 9:00 a.m., December 1, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a proposal filed by Staff for adoption of the Spanish translation of the Personal Auto Policy and all its endorsements. This translation was proposed in a petition (Reference Number A-0993-25-1) filed by Staff on September 15, 1993.

On March 23, 1993, the Office of Public Insurance Counsel petitioned the Board to adopt a Spanish language version of the Personal Auto Policy. At a public hearing on June 29, 1993, in Docket Number 2004, Agenda Item 34-93, the Board instructed Staff to initiate action to develop a Spanish translation of the Personal Auto Policy to be pro-

vided to consumers whose primary language is Spanish. On July 21, 1993 in a public hearing, Staff reported to the Board on procedures that would be followed in obtaining the translation. On October 20, 1993, in a public meeting, the Board scheduled the December 1, 1993 meeting referenced herein.

The translation includes language that the Spanish version is for informational purposes only, and that the English version is the actual contract. Staff requests the proposed Spanish translation of the Personal Auto Policy and all its endorsements, be adopted as documentation to be provided in all applicable parts to insureds who indicate their primary language to be Spanish or to any other insureds making requests, for all policies issued on or after 12:01 a.m. on the 60th day after publication of the notification of the Board's action in the *Texas Register*.

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. In order to allow Staff adequate time to analyze comments, parties submitting comments are requested to do so no later than November 19, 1993, with a copy to David Durden, Deputy Commissioner, Property and Casualty Insurance Lines, P. O. Box 149104, MC #103-11, Austin, Texas 78714-9104.

A copy of the petition containing the full text of the proposal is available for review in the office of the Chief Clerk of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe at (512)

322-4147; refer to Reference Number A-0993-25-1.

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

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

Issued in Austin, Texas, on October 22, 1993.

TRD-9330803

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

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

◆ ◆ ◆

The State Board of Insurance, at a Board meeting scheduled for 9:00 a.m., December 1, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a proposal filed by Staff to implement changes in the Texas Automobile Rules and Rating Manual (the Manual) and the Texas Standard Provisions for Automobile Policies (the Standard Provisions) as required by the 73rd Legislature: new Amendatory Endorsement TE 00 40, Rule 13 (Cancellation), and Rule 50 (Antitheft Discount). These amendments were proposed in a petition (Reference Number A-0993-24-1) filed by Staff on September 15, 1993.

Proposed new Amendatory Endorsement TE 00 40, to be included in both the Manual and the Standard Provisions, is needed to amend the Common Policy Conditions used with the Business Auto, Garage, and Truckers Coverage Forms to comply with the requirements of §20.11 of House Bill 1461, amending the Insurance Code, Article 21.49-2A(b). The changes prohibit an insurer from cancelling a policy that is a renewal or continuation policy except for reasons specified in the statute. The statute also continues to prohibit cancellation of a policy in its initial policy period after 60 days following issuance, except for reasons specified in the statute. The proposed amendments to Manual Rule 13 contain the same prohibitions as proposed Endorsement TE 00 40. Without the above changes, and before the statute was amended, an insurer was allowed to cancel any Business Auto,

Garage, or Truckers Coverage Form for any reason during the first 60 days, even if it was a renewal or continuation policy.

The proposed change to Manual Rule 50 will compel any insurer to apply the prescribed antitheft discount to comprehensive coverage for a vehicle with a qualifying antitheft device. This change will conform Rule 50 to the Insurance Code, Article 5.03-2, as amended by Senate Bill 26.

A copy of the petition containing the full text of these proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe at (512) 322-4147; refer to Reference Number A-0993-24-I.

In order to allow time for printing and distribution, Staff requests these changes

become effective on the 60th day after publication of the notification of the Board's order in the *Texas Register*, although the statutory changes, which became effective September 1, 1993, are already binding on all parties.

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

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

Issued in Austin, Texas, on October 22, 1993.

TRD-9330802

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

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

◆ ◆ ◆



# 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 22. EXAMINING BOARDS

### Part XXIV. Board of Veterinary Medical Examiners

#### Chapter 573. Rules of Professional Conduct

#### Other Provisions

##### • 22 TAC §573.63

The Board of Veterinary Medical Examiners has withdrawn from consideration for permanent adoption a proposed new §573.63 which appeared in the August 17, 1993, issue of the *Texas Register* (18 TexReg 5466). The effective date of this withdrawal is October 20, 1993.

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

TRD-9330732

Judy C. Smith  
Administrative Assistant  
Board of Veterinary  
Medical Examiners

Effective date: October 20, 1993

For further information, please call: (512)  
447-1183

##### • 22 TAC §573.64

The Texas Board of Veterinary Medical Examiners has withdrawn from consideration for permanent adoption a proposed new §573.64, which appeared in the August 17, 1993, issue of the *Texas Register* (18 TexReg 5467). The effective date of this withdrawal is October 20, 1993.

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

TRD-9330733

Judy C. Smith  
Administrative Assistant  
Texas Board of Veterinary  
Medical Examiners

Effective date: October 20, 1993

For further information, please call: (512)  
447-1183

##### • 22 TAC §573.66

The Texas Board of Veterinary Medical Examiners has withdrawn from consideration for permanent adoption a proposed new §573.66, which appeared in the August 17, 1993, issue of the *Texas Register* (18 TexReg 5468). The effective date of this withdrawal is October 20, 1993.

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

TRD-9330736

Judy C. Smith  
Administrative Assistant  
Texas Board of Veterinary  
Medical Examiners

Effective date: October 20, 1993

For further information, please call: (512)  
447-1183

Name: Audrey Hoke  
Grade: 2  
School: Buda Elementary, Hays CISD



# Adopted Sections

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

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

## TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

### Chapter 30. Young Farmers Endowment Program

#### • 4 TAC §§30.1-30.12

The Board of the Texas Finance Authority of the Texas Department of Agriculture adopts the repeal of §§30.1-30.12 concerning the Young Farmer Endowment Program, without changes to the proposed text as published in the September 3, 1993, issue of the *Texas Register* (18 TexReg 5871)

The repeals are required pursuant to action taken by the 73rd Legislature Session, House Bill 1287, which replaced the Young Farmer Endowment Program with the Young Farmer Loan Guarantee Program. These sections will be replaced with new sections which will implement the Young Farmer Loan Guarantee Program.

No comments were received regarding adoption of the repeals

The repeal is adopted under the Texas Agriculture Code, §253.007(e), which provides the Board of Directors of the Texas Agricultural Finance Authority with the same authority in administering the Young Farmer Loan Guarantee Program as it has in administering programs established by the Board under Chapter 58 of the Code, §58.023 of the Code, which provides the Board with the authority to adopt rules to establish criteria for eligibility of applicants and criteria for lenders; and the Code, §58.022, which provides the Board with the authority to adopt rules and procedures for administration of the loan guarantee program.

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

Issued in Austin, Texas, on October 22, 1993

TRD-9330874

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date. November 15, 1993

Proposal publication date September 3, 1993

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

### Subchapter A. General Proce- dures

#### • 4 TAC §§30.1-30.15

The Board of Directors of the Texas Agricultural Finance Authority adopts new §§30.1-30.15 concerning procedures for participation in the Texas Agricultural Finance Authority (TAFE) Young Farmer Loan Guarantee Program. Sections 30.3, 30.6, 30.9, 30.13, and 30.15 are adopted with changes to the proposed text as published in the September 3, 1993, issue of the *Texas Register* (18 TexReg 5871) Sections 30.1, 30.2, 30.4, 30.5, 30.7, 30.8, 30.10-30.12, and 30.14 are adopted without changes and will not be republished

The new sections are adopted to provide procedures for participation in the TAFE Young Farmer Loan Guarantee Program.

Section 30.3 is adopted with changes. A definition of "facilities" has been added based upon comments received from the Independent Bankers Association of Texas (IBAT) to clarify the use of funds for the program. IBAT suggested that use of the phrase "farm and ranch facilities" in §30.5, regarding use of loan funds, was unclear and needed to be clarified to establish whether "facilities" means and includes real property.

Section 30.6 is adopted with changes. Subsection (f) has been changed, based upon comments received from IBAT, to clarify the board's review of denied applications. The rules as proposed provided that board review on appeal of a denial was limited to review of the reasons for denial. IBAT suggested that there should also be an opportunity for cure of the reasons for denial. This section as adopted provides that the board's review on appeal is limited to a review of the reasons for denial and the cures for such denial

Section 30.9 is adopted with changes. Subsection (f) has been changed to clarify the term of a commitment of the Authority, based on comments received from IBAT. The rules as proposed provide that the term of the loan guarantee is limited to the lesser of the useful life of the assets being financed or ten years. IBAT noted that, since the assets being financed can include feed, seed, livestock, and facilities, it is unclear what is meant by the life of the assets. IBAT suggested that a better term might be life of any equipment being financed or ten years, whichever is less. In the alternative, if no equipment is being financed, then IBAT suggested that the correct term should be ten years. For clarity, the Authority reworded the subsection to state that the term of the loan must not exceed the useful life of the assets being financed or ten

years, whichever is less. The Authority chose not to incorporate the remainder of IBAT's comments, as such changes would result in loans with ten-year terms, based upon short-term, expendable personal property with little or no residual value.

Section 30.13 is adopted with changes. The change was made based upon comments received from IBAT, and clarifies the loan administration authority of the lender. IBAT noted that the rules as proposed were unclear regarding how long after default the lender should continue to service the loan, when the loan guarantee should take effect, which entity (the Authority or the lender) should foreclose, and what timeframes apply for foreclosure. IBAT suggested this section needed clarification. This section as adopted provides that the loan guarantee agreement executed between the lender and the Authority will define the working relationship between the lender and the Authority.

Section 30.15 is adopted with changes. The changes clarify the administration of the loan guarantee with the lender, and were based upon comments received from IBAT. IBAT suggested that it is unclear when the department or department staff should exercise the authority given under subsection (a) of this section, given that the lender is to service the loan after default. The section, as adopted, provides that this authority shall be subject to the loan guarantee agreement.

IBAT's comments were generally supportive of the program, and were offered as technical observations and comments from the perspective of a lender. No further comments were received regarding these rules.

The new sections provide a general statement of the authority and purpose of the Young Farmer Loan Guarantee Program. In addition, the new sections provide definitions, general project eligibility requirements, application requirements, and procedures for filing of applications, general terms and conditions of TAFE's financial commitment, and criteria for approval of a loan guarantee under the program.

The new sections are adopted under the authority of the Texas Agriculture Code (the Code), §253.007(e), which provides the Board of Directors of the Texas Agricultural Finance Authority with the same authority in administering the Young Farmer Loan Guarantee Program as it has in administering programs established by the board under Chapter 58 of the Code; the Code, §58.023, which provides the board with the authority to adopt rules to establish criteria for eligibility of applicants and criteria for lenders; and the Code, §58.022, which provides the board with

the authority to adopt rules and procedures for administration of the loan guarantee program. The sections of the Code which will be affected by these rules include the Code, Chapter 253.

**§30.3. Definitions.** In addition to the definitions set out in the Texas Agriculture Code, Chapter 253, as amended, the following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise

**Act**—Texas Agriculture Code, Chapter 253, as amended, the Young Farmer Loan Guarantee Program.

**Agricultural science teacher**—An individual employed by a Texas school district for the purpose of teaching agricultural science and technology.

**Applicant**—A young farmer or rancher who is applying for assistance under the Act and this chapter.

**Application**—An application, including supporting documentation and schedules as required by the Authority, that must be completed by an applicant and submitted by the applicant's lender to staff in order to seek participation in the program and to determine an applicant's eligibility.

**Authority**—The Texas Agricultural Finance Authority.

**Board**—The board of directors of the Texas Agricultural Finance Authority.

**Borrower**—An eligible applicant approved for a loan guarantee by the Board.

**Business day**—A day on which the Department is open for business. The term shall not include Saturday, Sunday, or a traditional holiday officially observed by the State. The department's normal business hours are from 8:00 a.m. to 5:00 p.m. each business day.

**County agent**—A county extension agent-agriculture program leader of the Texas Agricultural Extension Service

**Department**—The Texas Department of Agriculture

**District-based agricultural economist**—A district agricultural economist employed by the Texas Agricultural Extension Service

**Eligible applicant**—A person applying for a loan guarantee who.

(A) is at least 18 years of age but younger than 40 years of age,

(B) has a minimum of four years of practical farm or ranch experience, with not more than two years of participation in a 4-H or vocational agriculture program counting as practical farm or ranch experience; and

(C) complies with the application procedures prescribed by these rules

**Equity**—The applicant's contribution to a project in the form of cash, land, or other depreciable property which is unencumbered by debt, mortgage, pledge or any other security interest.

**First farm or ranch operation**—An operation:

(A) in which the applicant as owner/operator provides the management and labor for the operation;

(B) in which the applicant as owner/operator provides or directly arranges for the financing of the operation; and

(C) in which the applicant as owner/operator has not generated more than 20% of his adjusted gross income during each of the past four years from farming or ranching operations; provided that an exception from the income limitation will be allowed for those applicants who provide evidence that during the last four years their taxable income from farming or ranching was used to pay their education costs.

**Interest rate**—The interest rate on a guaranteed loan as determined by the participating lender and approved by the board on a project-by-project basis.

**Lender**—A state or nationally chartered commercial lending institution, savings and loan association, credit union, or Farm Credit System institution in the state.

**Loan**—A loan approved by the board in accordance with the requirements and criteria set forth in the Act and in this chapter.

**Loan guarantee agreement**—An agreement between the Authority and the lender which defines the responsibilities of the parties.

**Loan guarantee amount**—With respect to a loan made by a lender, a sum measured in terms of United States dollars that the Authority agrees to pay in the case of default by the borrower, not to exceed the lesser of \$50,000 or 90% of the total loan.

**Plan**—A complete five-year business plan, including balance sheets, income statements, cash flow statements and a management plan.

**Program**—The Young Farmer Loan Guarantee Program.

**Project**—A first farm or ranch operation which would further the production of Texas agricultural products.

**Qualified application**—A completed application, including all documentation and information required by the Authority, submitted by the applicant and lender for a project

**Staff**—The staff of the department assigned to the Authority.

**State**—The State of Texas.

### **§30.6. Filing Requirements and Consideration of Applications.**

(a) Application forms. An applicant or lender seeking a loan guarantee from the Authority must use the application forms provided by the Authority and must include all information requested.

(b) Submission of application. All applicants are required to obtain a preliminary commitment from a lender before applications will be accepted by the Authority. Staff will be available prior to submission of the qualified application to assist applicants and lenders in determining project eligibility.

(c) Staff review. Staff will review the application for completeness and will notify the lender of any additional information required. When all required information has been received, staff will conduct a credit review, evaluate the technical and market feasibility of the project and examine the benefits of the project for Texas agriculture and economic growth and job creation in the state. The staff may request and consider comments of the county agent or the agricultural science teacher who reviewed the Plan. A district-based agricultural economist may be requested to provide assistance in reviewing the plan.

(d) Board review. The staff shall submit a credit memorandum to the board for each qualified application received by the program. The board will approve or deny the qualified application by majority vote of those members present and voting, based upon the information presented in accordance with the Act and this Chapter, the credit memorandum, and the factors set forth in the Act, §253.004, as implemented by this chapter. The board may impose additional terms and conditions as part of its approval.

(e) Notification of approval. Upon conditional approval of the qualified application by the board, staff will notify the lender and the borrower in writing identifying the terms and conditions of the loan guarantee. The board may set certain time limits regarding the acceptance of loan commitments by the borrower and lender; however, in no event shall the time period exceed 30 days from date of notification unless approved by the board. The lender will prepare the written agreements and documents necessary to close the loan in accordance with the terms and conditions set forth in the notice of conditional approval. The Authority will send the lender and the borrower final notice of guarantee approval after review of the closing documents. The lender will disburse the loan according to the terms and conditions of the note and/or loan agreement.

(f) Denial of application. If the qualified application is denied by the board,

the Authority will notify the eligible applicant and the lender in writing, identifying the reasons for denial. In the event of a denial, the lender and eligible applicant may petition the board for review of the denial by filing a written request with the official of the department designated by the Commissioner of Agriculture as being responsible for the department's agricultural finance programs, within 30 days after the date of the denial. An appeal must address the reasons for denial and set forth any cure of the reasons for denial. The board may grant or deny the appeal at any time and take such further action as the board deems appropriate. The board's review on appeal is limited to a review of the reasons for denial as stated in the notification letter of denial to the eligible applicant and the lender. The board's decision upon appeal will be final.

(g) Providing false information. An applicant who knowingly provides false information in an application shall be disqualified from obtaining a loan guarantee under the program and shall be liable to the authority and the department for any expense incurred by the Authority or the department as a result of the falsity. If the falsity is discovered after approval of a loan guarantee, the falsity may constitute grounds for revocation of the guarantee, and the Authority shall be entitled to exercise all its rights under the loan documents.

(h) Reporting to the board. Staff shall report to the board at each board meeting the status of loans and current financial commitments of the Authority under the program.

#### *§30.9. General Terms and Conditions of Authority's Financial Commitment.*

(a) Maximum amount of loan guarantee. The Authority shall not provide a loan guarantee to borrower, including its affiliates, that at any one time exceeds the lesser of \$50,000 or 90% of the total loan. A loan guarantee is voidable by the board if the borrower uses loan proceeds for any use other than those allowed under the Act and this chapter. The total loan guarantees authorized at any one time will be limited to two times the amount of current appropriations from the Young Farmer Guarantee Account.

(b) Security. Financial commitments approved under this program must be secured by a first lien on collateral of a type and value which, when considered with other criteria, in the judgment of the board affords reasonable assurance of repayment of the Loan.

(c) Closing of the loan. The Commissioner of Agriculture or his designee may attend the verification and signing of such closing documents at the time, date, and location determined by the lender.

(d) Closing costs. All closing costs associated with the closing of an approved loan, including the Authority's review of the closing documents by independent legal counsel, shall be the liability of the borrower.

(e) Co-participation. An applicant may seek co-participation in financial assistance from other private and governmental sources. In any event, the Authority's maximum guarantee in the credit may not exceed the lesser of 90% of the loan or \$50,000 with the lender remaining at risk for at least 10% of the loan.

(f) Maturity. The maturity of the loan guarantee approved by the Authority must not exceed the lesser of the useful life of the assets being financed or ten years.

(g) Interest rate. The interest rate on the guaranteed loan (not including guarantee fees) shall be the rate charged by the lender and approved by the authority.

*§30.13 Loan Administration.* The lender shall service the loan and receive all payments of principal and interest, including assessment of any late charges, if applicable, in accordance with its loan guarantee agreement with the Authority, which agreement shall, among other things, obligate the lender to service the loan even after an event of default.

#### *§30.15. Loan Guarantee Administration.*

(a) Except as otherwise provided by state law, by these rules or by resolution of the board, the staff, with the approval of the Commissioner of Agriculture, the Deputy Commissioner of Agriculture or the official of the department designated by the Commissioner of Agriculture as being responsible for the department's agricultural finance programs, shall have the authority to act on behalf of the Authority, without specific board approval, in regard to the collection, settlement, and enforcement of each and every loan guaranteed by the Authority under the program. Such authority shall include, without limitation, the actions required to be taken by the Authority under any loan agreement, and any other agreement entered into by the Authority concerning a loan guaranteed by the Authority under the program.

(b) Nothing in this section shall prevent the staff or the Commissioner of Agriculture, the Deputy Commissioner, or the official of the department designated by the Commissioner of Agriculture from submitting any matter to the board for its consideration and approval.

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 22, 1993.

TRD-9330875

Dolores Alvarado Hibbs  
Chief Administrative Law  
Judge  
Texas Department of  
Agriculture

Effective date: November 15, 1993

Proposal publication date: September 3, 1993

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

◆ ◆ ◆  
**TITLE 22. EXAMINING  
BOARDS**  
**Part VIII. Texas Appraiser  
Licensing and  
Certification Board**  
**Chapter 151. Practice and  
Procedure**

- 22 TAC §§151.1, 151.6, 151.11, 151.12, 151.15, 151.17, 151.19, 151.22, 151.27, 151.28

The Texas Appraiser Licensing and Certification Board adopts amendments to §§151.1, 151.6, 151.11, 151.12, 151.15, 151.17, 151.19, 151.22, 151.27, and 151.28, without changes to the proposed text as published in the September 14, 1993, issue of the *Texas Register* (18 TexReg 6193).

The amendments are adopted to conform the rules to the Texas Appraiser Licensing and Certification Act (Texas Civil Statutes, Article 6573a.2) as amended by House Bill 2644, 73rd Legislature, Regular Session, 1993; to conform with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C., §3331, et seq); to conform to other state laws; and to make technical corrections.

These rules will help provide for a simple and efficient system of procedures before the board; to insure uniform standards of practice and procedure, public participation, and notice of board actions; and a fair and expeditious determination of causes.

No comments, either written or at the public hearing, were received regarding adoption of the rules.

The amendments are adopted under the Texas Appraiser Licensing and Certification Act (Texas Civil Statutes, Article 6573a.2), which provide the Texas Appraiser Licensing and Certification Board with authority to adopt rules and regulations necessary for the performance of its duties.

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 20, 1993.

TRD-9330718

Renli G. Limer  
Commissioner  
Texas Appraiser Licensing  
and Certification Board

Effective date: November 10, 1993

Proposal publication date: September 14, 1993

For further information, please call: (512) 463-3950

◆ ◆ ◆  
Chapter 153. Provisions of the  
Texas Appraiser Licensing  
and Certification Act

- 22 TAC §§153.1, 153.3, 153.5, 153.7, 153.9, 153.11, 153.13, 153.15, 153.17, 153.19, 153.20, 153.21, 153.25, 153.27, 153.29, 153.31, 153.33, 153.35, 153.37

The Texas Appraiser Licensing and Certification Board adopts amendments to §§153.9, 153.11, 153.13, and 153.17, and new 153.27, with changes to the proposed text as published in the September 14, 1993, issue of the *Texas Register* (18 TexReg 6194). Amendments to §§153.1, 153.3, 153.5, 153.7, 153.15, 153.19, 153.20, 153.21, and new §§153.25, 153.29, 153.29, 153.31, 153.33, 153.35, and 153.37 are adopted without changes and will not be republished.

The amendments and new sections are adopted to conform the rules to the Texas Appraiser Licensing and Certification Act (Texas Civil Statutes, Article 6573a.2) as amended by House Bill-2644, 73rd legislature, Regular Session, 1993; to conform with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C., §3331, et seq); to conform to other state laws; and to make technical corrections.

The amendments and new sections help permit real estate appraisers to become licensed or certified in Texas and thereby eligible to appraise real property for federally related transactions in compliance with the federal Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

During the comment period and the public hearing, the TALCB received comments from the Foundation Appraiser Coalition of Texas (FACT).

A comment regarding §153.9(b)(9) suggested changes in TALCB Form 10.0, Supplement to Application for Appraiser Certification or Licensing by Reciprocity. The board concurred and made changes to the form.

A comment regarding §153.11(b) corrected apparent inconsistencies with other subsections. The board concurred and made recommended changes.

A comment regarding §153.13(e) and (f) suggesting the addition of "30 classroom hours of fundamental real estate appraisal courses" as part of rules for classroom hour educational requirements. The board concurred and made recommended changes.

A comments regarding §153.13(e) and (f) and §153.17(e) suggested adding a general provision for educational requirements of "the then current qualifications criteria of the AQB"

rather than specific classroom hour requirements. The board did not agree, and kept the specific requirements in the rules.

Comments regarding §153.13(e) and (f) suggested increasing the percentage of required courses in fundamental real estate appraisal for meeting the educational requirements. The board referred the matter to its Education Committee for further study.

A comment regarding §153.17(e) recommended eliminating redundant wording. The board concurred and made changes.

A comment was received regarding §153.25, regarding certification or licensure by reciprocity. The board adopted additional language to add specificity to subsections (a), (e), and (g).

The amendments and new sections are adopted pursuant to the Texas Appraiser Licensing and Certification Act Texas Civil Statutes, Article 6573a.2, which provide the Texas Appraiser Licensing and Certification Board with authority to adopt rules and regulations necessary for the performance of its duties.

§153.9. Applications.

(a) A person desiring to be certified or licensed as an appraiser or approved as an appraiser trainee shall file an application using forms prescribed by the board; provided, however, forms may be accepted so long as the applicant satisfies current requirements for certification or licensing. The commissioner shall review the application and make a recommendation for final action to the board. The board may decline to accept for filing an application which is materially incomplete or which is not accompanied by the appropriate fee. Except as provided by the Act the board may not grant a certification, license, or approval of trainee status to an applicant unless the applicant:

- (1) pays the fees requested by the board;
- (2) satisfies any experience and education requirements established by the Act or by these sections;
- (3) successfully completes any qualifying examination prescribed by the board; and
- (4) provides all supporting documentation or information requested by the board in connection with the application.

(b) The Texas Appraiser Licensing and Certification Board adopts by reference the following forms approved by the board in 1991 and published and available from the board, P.O. Box 12188, Austin, Texas 78711-2188:

- (1) TALCB Form 1.2, Application for Appraiser Certification or Licensing and Examination.
- (2) TALCB Form 2.2, Appraisal Experience Affidavit;

(3) TALCB Form 3.2, Appraisal Experience Log;

(4) TALCB Form 4.3, Application for Approval as an Appraiser Trainee.

(5) TALCB Form 5.0, Request for Course Approval and Renewal;

(6) TALCB Form 6.1, Temporary Non-Resident Appraiser Registration;

(7) TALCB Form 8.0, Change of Office Address by a Licensed or Certified Appraiser;

(8) TALCB Form 9.0, Addition or Termination of Appraiser Trainee Sponsorship; and

(9) TALCB Form 10.0, Supplement to Application for Appraiser Certification or Licensing by Reciprocity.

(c) An application may be considered void and subject to no further evaluation or processing if an applicant fails to provide information or documentation within 60 days after the board makes written request for the information or documentation.

(d) A certification, license, or appraiser-trainee approval is valid for the term for which it is issued by the board unless suspended or revoked for cause and unless revoked, may be renewed in accordance with the requirements of §153.17 of this title (relating to Renewals and Continuing Education).

(e)-(f) (No change.)

(g) An application shall be considered void and subject to no further evaluation or processing if the applicant fails to provide acceptable documentation that all requirements for licensure, certification, or approval as an appraiser trainee have been met within one year of the date the application was received by the board, or within one year of the date of the applicant's last examination, whichever occurs later.

§153.11. Examinations.

(a) Examinations shall be administered in accordance with the provisions of this section and the Act. Any examination conducted by a testing service under contract with the board shall be conducted in accordance with the procedures specified in the contract.

(b) Each examination shall be consistent with the examination criteria and examination content outline of the Appraiser Qualifications Board (AQB) for the category of license or certification sought. Each applicant must achieve a passing score acceptable to the AQB on the examination to become licensed or certified. An applicant may file an application to take the examination on the form approved by the

board or on a form required by the testing service under contract with the board. In either case, the applicant shall submit the appropriate examination fee as instructed. The board shall require the contracted testing service to notify each person taking an examination whether the person has passed or failed the examination not later than the 31st day after the examination date. If notification of the examination results will be delayed for more than 90 days after the examination date, the board shall notify each examinee of the reason for the delay not later than the 90th day after the examination date. The results of the examination are confidential.

(c) (No change.)

(d) Examinations shall be administered at locations designated by the board. Applicants may be assigned to an examination date and site. The assigned site must be the nearest examination site available to the applicant. An applicant who is registered for an examination and fails to attend shall forfeit the examination fee.

(e) To be authorized for admittance to an examination, the applicant must present to the examination proctor appropriate documentation required by the testing service under contract with the board. Admission tickets may specify a date, time, and location for the examination and the admission documents will be valid only for that date. In addition to the admission ticket, examination proctors shall require official photo-bearing personal identification of individuals appearing for an examination and shall deny entrance to anyone who cannot provide adequate identification. Proctors may refuse admittance to an examinee or dismiss an examinee prior to the completion of the examination, if in the proctor's opinion, the individual's conduct or demeanor is such that the proctor feels the individual would be a disruptive influence on the other examinees. Proctors may assign a specific seat or desk to each examinee. Proctors may require that an examinee be reseated during the course of the examination. Proctors may refuse admittance to an examinee who reports to the proctor for admittance to the examination after the time the examination is scheduled to begin.

(f) Examinees are permitted to use slide rules or silent, battery-operated, electronic, pocket-sized calculators. If a calculator has printout capability, the use of the calculator must be approved by the examination proctor prior to the examination.

(g) Examination schedules shall be published periodically by the board.

(h) Special examinations based on verified physical limitations or other good cause as determined by the board may be arranged for individual applicants. Requests for special examinations will be handled

individually and may require medical verification or confirmation.

(i) Examinees shall comply with all instructions from the board, an examination proctor, or the testing service under contract with the board. Proctors may confiscate examination materials of an examinee giving or receiving or attempting to give or receive unauthorized assistance or answers to examination questions and such examinee will be dismissed from the examination session with a failing grade. Dismissal may result in disapproval of an application. The board, or the testing service under contract with the board, may file theft charges against any person who removes or attempts to remove an examination or any portion thereof or any written material furnished with the examination whether by actual physical removal or by transcription. The board may deny, suspend, or revoke a license or certification for disclosing to another person the content of any portion of an examination with the expectation that the disclosed information would be used by or made available to another applicant.

(j) The board shall periodically publish guidelines and preexamination study guides. The periodicals and guidelines shall be updated as necessary and shall be made available to applicants. Except for the examinations and other testing products that require secure and discreet protection, the contents of study guides and other material developed by the board or with the board's authorization is within the public domain and free of copyright restrictions. If the material is reproduced for distribution by an entity other than the board, the material may not be sold at a price above the cost of duplication and distribution. The entity may not profit from the distribution of the material.

#### §153.13. Educational Requirements.

(a) The board may accept a course of study to satisfy educational requirements for certification or licensing established by the Act or by this section if the board has approved the course and determined it to be a course related to real estate appraisal.

(b)-(d) (No change.)

(e) Applicants for general real estate appraiser certification must have successfully completed 165 classroom hours in courses approved by the board including at least 30 classroom hours in fundamental real estate appraisal courses. Applicants for residential real estate appraiser certification must have successfully completed 105 classroom hours in courses approved by the board including at least 30 classroom hours in fundamental real estate appraisal courses. For either category of certification, the coursework submitted also must have included a minimum of 15 classroom hours of

coverage of the Uniform Standards of Professional Appraisal Practice.

(f) Applicants for a real estate appraiser license must have successfully completed 75 classroom hours in courses approved by the board including at least 30 classroom hours in fundamental real estate appraisal courses and 15 classroom hours of coverage of the Uniform Standards of Professional Appraisal Practice.

(g)-(i) (No change.)

#### §153.17. Renewal of Certification, License, or Trainee Approval; Continuing Education.

(a) A license or certification issued by the board is valid for two years after the date of issuance. A certified or licensed appraiser or appraiser trainee may renew the certification, license, or trainee approval by timely filing the prescribed application for renewal, paying the appropriate fee to the board and satisfying continuing education requirements as provided by this section.

(b) The board shall mail the prescribed renewal application form to the appraiser or trainee's last known business address at least 90 days prior to the expiration of the certification, license or approval. It is the responsibility of the appraiser or trainee to apply for renewal in accordance with these sections, and failure to receive a renewal application from the board does not relieve the appraiser or trainee of the responsibility of applying for renewal.

(c) The board may not accept a renewal application filed after the expiration of the certification, license, or appraiser trainee approval. An appraiser or trainee who does not timely file a renewal application must reapply for certification, license or approval as an appraiser trainee in accordance with the provisions of §153.9 of this title (relating to Applications). If the application is filed within one year of the expiration of a previous certification or license the applicant shall also provide satisfactory evidence of completion of any continuing education that would have been required for a timely renewal of the previous certification or license. If the application for certification or license is filed more than one year after the expiration of the previous certification or license, the applicant must successfully complete the examination required by §153.11 of this title (relating to Examinations).

(d) (No change.)

(e) As a condition for renewing a certification or license after December 31, 1994, or two years after the federal implementation of Title XI, Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), whichever is later, an appraiser must successfully complete the equivalent

of at least 20 classroom hours of appraiser continuing education (ACE) courses approved by the board, during the two-year period preceding the expiration of the certificate or license. The board shall base its review and approval of appraiser continuing education courses upon the then current appraiser qualification criteria of the Appraiser Qualifications Board (AQB).

(1) The purpose of ACE is to ensure that certified and licensed appraisers participate in programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

(2) The following types of educational offerings may be accepted for meeting the ACE requirements:

(A) A course that meets the requirements for certification or licensing also may be accepted for meeting ACE provided:

(i) The course is devoted to one or more of the appraisal-related topics of the then-current appraiser qualifications criteria of the Appraiser Qualifications Board (AQB) for continuing education, and

(ii) The course was not repeated within a three-year period;

(B) The board shall accept as continuing education any continuing education a licensed or certified appraiser was awarded by a national appraiser organization approved by the board as a provider of qualifying education;

(C) A course specifically approved by the board for meeting ACE offered by a provider as specified in §153.13(b)(2) of this title (relating to Educational Requirements), provided the course is devoted to one or more of the appraisal-related topics of the then-current appraiser qualifications criteria of the AQB for continuing education and the course is at least two hours in duration;

(D) A course that meets the Texas Real Estate Commission mandatory continuing education (MCE) requirements, provided it is devoted to one or more of the appraisal-related topics of the then-current appraiser qualifications criteria of the AQB for continuing education;

(E) A seminar or other educational offering that deals with appraisal issues, offered by an appraiser trade association, a related association, or by a federal or state governmental agency, provided the offering was at least two hours in duration, and is devoted to one or more of the appraisal-related topics of the then-current

appraiser qualifications criteria of the AQB for continuing education.

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

(5) Appraiser continuing education credit may also be granted for participation, other than as a student, in real estate appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, educational program development, authorship of real estate appraisal textbooks, or similar activities that are determined by the board to be equivalent to obtaining appraiser continuing education. Appraisal experience may not be substituted for ACE.

(f) (No change.)

(g) Renewal of Licenses or Certification for Servicemen on Active Duty Outside the State.

(1) A person previously licensed or certified by the board under this Act who is on active duty in the United States armed forces and serves in this capacity outside the State of Texas may renew an expired license or certification without being subject to any increase in fee imposed in his or her absence, or any additional education or experience requirements if the person:

(A) provides a copy of official orders or other documentation acceptable to the board showing that the person was on active duty outside the state during the person's last renewal period;

(B) applies for the renewal within 90 days after the person's active duty ends; and

(C) pays the renewal application fee in effect when the previous license or certification expired.

(2) Appraiser continuing education requirements that would have been imposed for a timely renewal shall be deferred under this section to the next renewal of a license or certification.

(h) Denial of Licensing and Certification of Persons who are in Default on TGSLC Loans Renewals of licenses and certifications issued by the board are subject to the policies established by the Texas Education Code, §57.491. Before the board declines to renew a license or certification due to default on a loan guaranteed by the Texas Guaranteed Student Loan Corporation (TGSLC), a default on a repayment agreement with TGSLC, or a failure to enter a repayment agreement with TGSLC, the board shall give notice and provide an opportunity for a hearing in accordance with the provisions of the Texas Government Code, §2001.051 et seq. The board shall advise those licensed or certified in

renewal notices and shall advise those who apply for licensure or certification in application forms that default on a loan guaranteed by TGSLC may prevent subsequent renewal of a license or certification or prevent the approval of an initial application for license or certification

#### §153.27. Certification and Licensure by Reciprocity.

(a) A person who is licensed or certified as an appraiser under the laws of a state having substantially equivalent licensure or certification requirements as those of this state may apply for a license or certification under the Act by completing and submitting to the board the application for licensure or certification and paying to the board the fee, both of which are required by the state of the person's present certification. An applicant for certification or licensure by reciprocity also must complete and submit a Supplement to Application for Appraiser Certification or Licensing by Reciprocity (TALCB Form 10.0) or its successor.

(b) A person applying for a license or certification under this subsection must submit an irrevocable consent to service of process in this state pursuant to §153.29 of this title (relating to Irrevocable Consent to Service of Process).

(c) An application may not be accepted for a person from a state that refuses to offer reciprocal treatment to residents of this state who are certified or licensed real estate appraisers.

(d) The board shall seek verification from an applicant's home state that the applicant's license or certification is valid and in good standing. A reciprocal license or certificate may not be issued without the verification required by this subsection.

(e) A person holding a license or certification by reciprocity must pay the federal registry fee and other fees imposed by the board. The total application fees required for certification or licensure by reciprocity shall be equal to the amount of the application, processing, and issuance fees required for a Texas certified or licensed appraiser to become certified or licensed in the applicant's home state of present licensure or certification, prorated for one year, but not less than \$100. In addition, a one-year federal registry fee shall be required.

(f) A reciprocal license or certification expires on the same date that the license or certification held by the applicant in the applicant's home state expires or on the first anniversary of the date the reciprocal license or certification was issued, whichever comes first



(g) Renewal of a certification or license granted through reciprocity shall be in the same manner, with the same requirements, term, and fees as for the same classification of certified or licensed appraiser as provided in §153.17 of this title (relating to Renewal of Certification, License, or Trainee Approval; Appraiser Continuing Education) .

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 3, 1993.

TRD-9330719

Renil C. Liner  
Commissioner  
Texas Appraiser Licensing  
and Certification Board

Effective date November 11, 1993

Proposal publication date September 14, 1993

For further information, please call: (512) 465-3950

## Part XVI. Texas State Board of Physical Therapy Examiners

### Chapter 321. Definitions

#### • 22 TAC §321.1

The Texas State Board of Physical Therapy Examiners adopts an amendment to §321.1, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5704).

The amendment sets a specific time limit for the co-signature of physical therapist assistant notes by the supervising physical therapist; specifically names certain types of tests and activities that may be included in the practice of physical therapy; clarifies what procedures are encompassed in the practice of physical therapy; and allows the board to trace the supervision provided to physical therapist assistants by physical therapists.

The amendment functions by identifying certain tests and activities that may be performed by a licensee of the board in the practice of physical therapy. The list is not all-inclusive.

The board received comments in opposition to §321.1(D) from 69 persons and the Texas Physical Therapy Association. The commenters state that this section does not assist the board in protecting the public and that it places unnecessary and bureaucratic demands for additional paperwork on the physical therapist. Some commenters state that the physical therapist assistant is a licensed and trained professional and that it is demeaning to require that their notes be co-signed by the supervising physical therapist. Such a requirement would be an unnecessary restriction on the utilization of physical therapist assistants in the provision of physical therapy services. Some commenters state

that the physical therapist who does the initial evaluation of a patient is ultimately responsible for the patient's care and that the requirement for a co-signature does not increase the supervision of the physical therapist assistant by the physical therapist. A physical therapist assistant cannot make treatment changes without consulting the physical therapist; the physical therapist is currently required to provide a written update progress note on the patient every 30 days.

Several commenters suggested alternative wording: "The physical therapist evaluating the patient is the therapist of record. The therapist of record is responsible for the physical therapy care of that patient and all patient care delegated until otherwise notified in the patient's record. The therapist of record is responsible for providing supervision of the physical therapist assistant in his or her absence. Notification is to be provided to the physical therapist assistant of this absence."

The board received comments from four persons in support of the proposed section. One commenter stated that as a physical therapist it is not an imposition for him to co-sign the notes of the physical therapist assistant on a daily basis because it keeps him informed of the patient's progress and closely monitors the treatment of the patient.

The board responds to the comments received by adopting the rule with changes. The change will require that each note made by the physical therapist assistant must also include the name of the physical therapist who is supervising the physical therapist assistant. The physical therapist assistant is responsible for including the name of the supervising physical therapist with the note.

The change will allow for a more timely documentation of progress notes, rather than once every 30 days. This will more clearly demonstrate and record the supervision of the physical therapist assistant by the physical therapist and the changes in supervision

The physical therapist will bear no administrative burden to co-sign the notes. The physical therapist is relieved of the paperwork burden.

The physical therapist assistant is given the responsibility to document who supervises the treatments. This allows the training and expertise of the physical therapist assistant to be more fully utilized.

The change enhances the safety of the public and allows the patient to readily know who is in charge, i.e. the supervising physical therapist, as well as the physical therapist assistant.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

#### §321.1. Definitions.

Physical Therapist Assistant—The supervision of the physical therapist assistant shall include the following:

(A) The supervising physical therapist is responsible for and will participate in the patient's care.

(B) The supervising physical therapist must be on call and readily available.

(C) A current written plan of care will be formulated for each patient by the physical therapist. The plan of care shall be revised following periodic reevaluations by the physical therapist, not to exceed 30 days.

(D) Each progress note in a patient's chart made by a physical therapist assistant must include the name of the supervising physical therapist.

(E) The physical therapist may assign responsibilities to the physical therapist assistant to:

(i) provide physical therapy services as specified in the plan of care developed by the physical therapist which includes:

(I) preparing patients, treatment areas, and equipment;

(II) implementing treatment programs that include therapeutic exercise; gait training and techniques; ADL training techniques; administration of therapeutic heat and cold; administration of ultrasound; administration of therapeutic electric current; administration of ultraviolet; application of traction; performance of intermittent venous compression; application of external bandages, dressings, and support; and performance of goniometric measure; and

(III) modifying treatment techniques as indicated in the plan of care,

(ii) respond to acute changes in physiological states;

(iii) teach other health care providers, patients, and families to perform selected treatment procedures and functional activities;

(iv) identify architectural barriers,

(v) interact with patients and families in a manner which provides the desired psycho-social support by:

(I) recognizing his own reaction to illness and disability;

(II) recognizing patients' and families' reactions to illness and disability;

(III) respecting individual cultural, religious, and socioeconomic differences in people; and

(IV) utilizing appropriate communicative processes;

(vi) demonstrate appropriate and effective written, oral, and non-verbal communication with patients and their families, colleagues, and the public;

(vii) recognize his own strengths and limitations and interpret for others his scope and function;

(viii) demonstrate safe, ethical, and legal practice;

(ix) understand basic concepts related to the health care system, including multidisciplinary team approach, quality care, governmental agencies, private sector, role of other health care providers, health care facilities, issues, and problems; and

(x) understand basic principles of levels of authority and responsibility, planning, time management, supervisory process, performance evaluations, policies and procedures, and fiscal consideration (provider and consumer).

(F) The physical therapist assistant may not:

(i) specify and/or perform definitive (decisive, conclusive, final), evaluative, and assessment procedures;

(ii) alter a plan of care or goals;

(iii) recommend wheelchairs, orthoses, prostheses, other assistive devices, or alterations to architectural barriers to persons;

(iv) sign progress notes which include assessments used to design or modify patient care.

Physical Therapy—The evaluation, examination, and utilization of exercises, rehabilitative procedures, massage, manipulations, and physical agents including, but not limited to, mechanical devices, heat, cold, air, light, water, electricity, and sound in the aid of diagnosis or treatment. Physical therapists may perform evaluations without referral. Physical therapy practice includes the use of modalities, procedures, and tests to make evaluations. Physical therapy practice includes but is not limited to the use of: Electromyographic (EMG) Tests, Nerve Conduction Velocity (NCV)

Tests, Thermography, Transcutaneous Electrical Nerve Stimulation (TENS), bed traction, application of topical medication to open wounds, sharp debridement, provision of soft goods, inhibitive casting and splinting, Phonophoresis, Iontophoresis, and bio-feedback services.

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 15, 1993.

TRD-9330751

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call: (512) 443-8202

## Chapter 329. Licensing Procedure

### • 22 TAC §329.1

The Texas State Board of Physical Therapy Examiners adopts the repeal of §329.1, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5705).

The repeal is necessary so that more comprehensive and detailed procedures consistent with the provisions of the revised Physical Therapy Practice Act can be adopted.

The repeal functions by deletion.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

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 15, 1993.

TRD-9330752

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date. August 27, 1993

For further information, please call. (512) 443-8202

### • 22 TAC §§329.1-329.6

The Texas State Board of Physical Therapy Examiners adopts new §§329.1, 329.4, 329.5, and 329.6, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5705). Section 329.2 and §329.3 are adopted without changes and will not be republished.

The new sections set general licensing procedure; set requirements for permanent licensure by examination and temporary licenses; set requirements for additional education for applicants who fail the examination; set requirements for applicants who take the examination in other states; and provide for provisional licenses for these applicants. All sections are in accordance with revisions to Physical Therapy Practice Act made by the 73rd Legislature.

The new sections will function by enhancing the safety of the public by setting standards for licensure that ensure that persons who are licensed are qualified.

Comments in opposition to the rules were received from two individuals. One commenter stated that §329.3(d) (Supervision of Temporary License) that requires temporary licensees to have direct, on-site supervision by permanent licensees would limit the hiring of such licensees by school districts and thereby limit the students' access to physical therapy services. The business stated that the public's safety has not been a problem in the past when temporary licensees were allowed to practice as though they were permanent licensees.

One commenter said that the rule would limit public access to physical therapy services in the school and home health settings since both have difficulty recruiting physical therapists. The commenter stated that supervision is not necessary since temporary licensees have completed accredited programs.

While the board understands that in the school and home health settings it may be more difficult to hire temporary licensees with direct, on-site supervision from permanent licensees, it does maintain that this rule is necessary to ensure the safety of the public. Permanent licensees have to meet two basic requirements for licensure, completion of an accredited program (or its equivalent in the case of foreign-trained applicants) and pass the national examination according to Texas' standards. Temporary licensees have met only the first requirement; they have not met the second requirement to pass the national examination. In fact, a significant number of temporary licensees do not pass the national examination and therefore lose their temporary license status. Temporary licenses are valid for approximately 3-4 months. Therefore the time period during which supervision is required is relatively brief. Additionally, §11 of the Physical Therapy Practice Act, Article 4512e, Texas Civil Statutes, as amended by the 73rd Legislature, requires temporary licensees to be supervised. The board maintains that temporary licensees should not have the full privileges of permanent licensure until they have passed the national examination.

One commenter stated that the requirement for 60 hours of non-physical therapy credit in §329.5(g)(1) would be difficult for many foreign-trained applicants to meet. The board responds that the 60 hours are required by the act for all applicants for licensure whether they are U.S. trained or foreign-trained. Therefore, the board makes no change in the proposed rule.

One commenter stated that the lab/lecture hours are not separated on some foreign trained applicant's transcripts; therefore, §329.5(g)(5) could not be followed in this regard. The board responds by adding additional language to the rule to allow the evaluator to use an appropriate ratio in separating the hours.

The same commenter noted that in §329.6, persons who are foreign-trained who obtained licensure in a state which requires no review of foreign-trained credentials to determine equivalency to a U.S. Degree in Physical Therapy could obtain a provisional license in Texas for as long as 180 days. The board believes that this result would be risking the health and safety of the public. Therefore, the board includes language to the rule to require that the applicant have his/her credentials reviewed by a board-approved credentialing entity and that that entity submit the evaluation directly to the board. This evaluation must meet the guidelines set forth in §329.5(g).

The new sections are adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

#### §329.1. General Licensing Procedure.

##### (a) Applications.

(1) The board office will receive completed applications from persons seek-

ing licensure under the Act. Applications shall be examined by the executive director for conformity with rules and regulations governing applications for licensure as established by the board. Applications shall include:

(A) official transcripts from colleges and/or universities;

(B) physical therapy certificate or diploma from a board approved program; or

(C) a certificate of proficiency or a statement of official transcript that the curriculum has been completed as required in the Act, §8 or §9, signed by the director of the program and the registrar of the school, and with the school seal affixed, is required in lieu of certificate or diploma;

(D) two recent color photographs, passport-type.

(2) Applications must be notarized.

(3) Applicants are required to file changes of address of record with the board office as soon as possible and at least within three working days.

(4) A permanent license will be mailed only to the residential address of the applicant.

(b) An applicant may apply for licensure as a physical therapist assistant if his or her educational credentials are determined to be equivalent to a U.S. physical therapy program.

(c) Rejections. Should the board reject an application, the reasons for failure to qualify will be stated. The applicant may

file any further information to support the claim for reconsideration. If the applicant is still dissatisfied with the decision, a hearing may be requested as specified in the act, §20.

(d) Lost license. A duplicate license will be issued in the event of loss or destruction of the original license. The licensee shall pay the appropriate fee.

(e) Name change. A licensee requesting a name change must submit proof of name change, the original license, and a transfer fee.

(f) Defaulters on Texas Guaranteed Student Loans. The board will issue an initial license to a person who has defaulted on a Texas Guaranteed Student Loan but will not renew the license until a repayment plan has been entered into with the Texas Guaranteed Student Loan Corporation (TGSLC) and a copy of the certification repayment agreement from the TGSLC filed with the board office.

#### §329.4. Additional Education.

(a) Applicants for license who fail the national examination two times or more must complete additional education in accordance of the Texas Physical Therapy Practice Act, §13. This additional education requirement is applied each time the examination is taken, regardless of whether the examination is taken in Texas or other states.

(b) Additional education may be board-approved continuing education programs or individual tutoring.

(c) Requirements for meeting additional education are based on the number of times the examination has been failed and the number of points of failure on the last examination. These requirements are set forth in the following chart.

**ADDITIONAL EDUCATION REQUIREMENTS  
FOR LICENSURE APPLICANTS WHO FAIL THE NATIONAL EXAMINATION**

Requirements Dependent on No. of Failures AND No. of Points By Which the Last Exam is Failed	Tutorial Hour Requirements	CEU Requirements
<b>OR</b>		
<b>A. Applicants who fail the exam 2 times or 3 times by:</b>		
1.) less than 5 points	25 hours tutorial	1.5 CEUs
2.) 5 - 10 points	40 hours tutorial	2.0 CEUs
3.) more than 10 points	80 hours tutorial	4.0 CEUs
<b>B. Applicants who fail the exam 4 times by:</b>		
1.) less than 5 points	50 hours tutorial	3.0 CEUs
2.) 5 - 10 points	80 hours tutorial	4.0 CEUs
3.) more than 10 points	160 hours tutorial	8.0 CEUs
<b>C. Applicants who fail the exam 5, 6, or 7 times by:</b>		
1.) less than 5 points	-	6.0 CEUs
2.) 5 - 10 points	-	9.0 CEUs
3.) more than 10 points	-	15.0 CEUs
<b>D. Applicants who fail the exam 8 or more times by:</b>		
1.) less than 5 points	-	Repeat an accredited PT or PTA program
2.) 5 - 10 points	-	
3.) more than 10 points	-	

(d) Tutorial Additional Education.

(1) A tutor must be a licensed physical therapist in Texas.

(2) The tutor and the applicant must develop an outline of study to meet the required number of tutorial hours and submit it to the board office. The field of study for the tutorial should be in one or more of the following subjects: anatomy, pathology, physiology, psychology, physics, electrotherapy, radiation therapy, hydrotherapy, massage therapy, exercises, physical therapy as applied to medicine, neurology, orthopedics, psychiatry, or procedures in the practice of physical therapy. A tutorial in other subjects may be approved if relevance is established in the letter, including the outline. When the outline has been approved by the board office, a letter, will be sent to the tutor and applicant.

(e) CEU Additional Education. Continuing education units to fulfill additional education requirements are dependent upon the requirements set by the board for all CEUs in §341.3 of this title (relating to Qualifying Continuing Education Units).

(f) Proof of Additional Education Completion. Evidence satisfactory to the board that the additional education has been completed is:

(1) an institution's official transcript;

(2) a certificate of continuing education credits;

(3) a certificate of course completion; or

(4) a notarized statement from the tutor of the course of study.

(g) Deadlines for Completion. All requirements for additional education must be met and submitted to the board by the second deadline set for each examination if the applicant is to be allowed to sit for the examination. If the applicant fails to make the deadline, the examination fee will be refunded or may be transferred to another examination administered in Texas within one year.

*§329.5. Licensing Procedures for Foreign-Trained Applicants.*

(a) The provisions of §329.1 of this title (relating to Licensing Procedure) apply to foreign-trained applicants with the exception of 329.1(1) (A)-(C).

(b) The foreign-trained applicant's transcripts will be evaluated by a board-approved credentialing entity. This entity will determine if the education is equivalent to a U.S. degree in physical therapy and if the applicant has a minimum of 60 academic semester credits or the equivalent

from an accredited institution of higher learning. An evaluation by a board-approved education credentialing agency is valid for the purpose of licensing in this state for not more than two years after the date of issuance of the evaluation.

(c) If the evaluation is accepted by the board, the applicant will be considered for a temporary license. Following approval of all application materials, the foreign-trained applicant will be notified in writing that he or she has fulfilled all requirements for license by examination in Texas and is eligible for a temporary license. A temporary license may be issued under requirements set by Chapter 333 of this title (relating to Temporary License).

(d) After arrival in the United States, the applicant must submit a U.S. residential address and pay all remaining fees. The residential address must be received before the second deadline set for the examination.

(e) Falsification of any documents required by the board for issuance of a temporary license will result in such temporary license being null and void and prohibition against the issuance of another temporary license to the applicant.

(f) Designated Representative Letter

(1) An applicant may designate a person as a representative by providing in writing to the board the name, telephone number, and address of the person and by stating in the letter that the person will be the designated representative for the applicant.

(2) This letter must be notarized by a notary of the country in which the applicant resides and sent directly to the board. A copy should be sent to the representative by the applicant.

(3) A designated representative may obtain confidential information regarding the application.

(4) A designated representative of an applicant will remain so until the applicant receives his permanent license or until the board is notified in writing by the applicant that the designated representative has been eliminated or replaced. An applicant may have only one designated representative at any time.

(5) The designated representative is not required by the board to have power of attorney for the applicant. A person who does have power of attorney for an applicant may not submit any document that is required by the board to be signed by the applicant and notarized. Documents submitted by a person with power of attorney for the applicant must be submitted in accordance with all requirements set by the

Act and rules regarding these documents. Any falsification of documents required for licensing submitted by a designated representative or a person with power of attorney for the applicant may result in denial of license or other penalties to the applicant.

(g) Guidelines for board-approved education credentialing agencies.

(1) The credentialing agency will review all of an applicant's post-secondary professional educational credentials earned outside of the United States. The agency will evaluate allowable transfer credit for the 13th year based on recommendations of the National Council on the Evaluation of Educational Credentials or on current published reference materials. The applicant must have completed 60 semester hours credit or the equivalent in general education courses including courses in the biological, social, and physical sciences from an accredited institution of higher learning. This requirement may be met by credits earned at U.S. colleges or universities, but not by College Level Examination Program (CLEP) credits or Advanced Placement (AP).

(2) The credentialing agency must attest that the institution attended by the applicant has the recognition of the Ministry of Education or the equivalent in that country.

(3) The credentialing agency must attest that the applicant is licensed/registered/authorized to practice in the country in which the education and training were accomplished.

(4) The credentialing agency adopts the policy of "scaling" as defined by the National Council on the Evaluation of Foreign Educational Credentials, American Association of Collegiate Registrar and Admissions Officers, Washington D.C.; i.e., a year of foreign study is worth no more than a year of American study, regardless of contact hours, or general education is converted to equate to approximately 30-32 U.S. semester credit hours per year, and professional education to approximately 36 semester credit hours per year.

(5) The credentialing agency must use a method to convert classroom hours to semester units which has a ratio no greater than the following: 15 contact lecture hours = 1 semester unit/hour; 45 contact laboratory hours = 1 semester unit/hour. When lecture/lab hours are not delineated on the transcript, the evaluator may use an appropriate ratio and indicate the ratio used in the evaluation.

(6) The credentialing agency must identify and list those courses which would not transfer to the U.S. as a "C" or above or "Pass" or "Credit" in accordance with the most current version of the Na-

tional Association for Foreign Student Affairs Handbook on the Placement of Foreign Graduate Students. The agency must omit any of these courses that are required physical therapy courses when evaluating the equivalency of the credentials to a U.S. degree in physical therapy.

(7) The agency must attest that the applicant has successfully completed an educational program equivalent to U.S. programs accredited by the Commission on Accreditation of Physical Therapy Education (CAPTE) and has earned the equivalent of a minimum of 72 semester hours of professional physical therapy education. The applicant must have completed courses in each of the following areas: basic sciences, clinical sciences, and physical therapy theory and procedures. The applicant must have also successfully completed United States required equivalent courses/hours (no less than 8 U.S. semester credit hours at the Upper Division Level) in clinical education.

(8) The credentialing agency must certify that the program covering at least four years of full-time post secondary study and awarding a degree/diploma/certificate is equivalent in level and purpose to the Bachelor of Science in Physical Therapy, as awarded by regionally accredited colleges and universities in the United States. Deficiencies must be identified and must show the subjects and credit hours necessary to be considered equivalent to the U.S. Bachelor of Science in Physical Therapy.

(9) The credentialing agency must submit to the board the resumes of any and all credential analysts and the physical therapy consultants involved in the evaluation of foreign-trained applicants for licensure in Texas. This must be submitted to the council at least thirty days prior to any analysis performed by that person.

*§329.6. Licensure of Persons Currently Licensed in Other States, the District of Columbia, or Territories of the United States.*

(a) Qualifications for Provisional Licensure.

(1) The board may grant a provisional license to an applicant who meets the following qualifications.

(A) The applicant must have current licensure in another state, the District of Columbia, or territory of the United States that maintains professional standards considered by the board to be substantially equivalent to those set forth in the act

(B) The applicant must have passed the national examination according to Texas' standards or the Registry Examination with a score of 75% or more.

(C) The applicant must be sponsored by and practice with a person licensed by the board under this act.

(2) An applicant may be excused from subparagraph (C) of this section if it constitutes a hardship to the applicant. Hardship is established by the employer stating in writing to the board that the applicant is unable to secure a sponsor. If the applicant is self-employed, a letter may be provided by the applicant to this effect.

(3) Current licensure in good standing means that the applicant can have no past disciplinary actions by the licensing entity or current complaints pending. Applications involving pending current complaints will be reviewed by the board.

(4) Determination of Substantially Equivalent. Determination by the board as to whether a state, the District or Columbia or a territory of the United States maintains professional standards substantially equivalent to those set forth by the act, will be based on whether at the time the applicant was licensed in the state:

(A) the licensing entity required passage of the national examination at least Texas's passing rate or the Registry Examination with a score of 75% or more, and

(B) the applicant's education credentials have been reviewed by a board-approved credentialing entity and meet Texas standards.

(5) An applicant must apply for permanent licensure and pay all applicable fees including a provisional license fee before a provisional license can be issued.

(6) The applicant must have the board in the state in which they are currently licensed provide directly to this board on a form prescribed by the board the information required in paragraph (1)(A) and (B) of this section. The applicant must provide to the board the information required in paragraph (1) (C) of this section by submitting a form directly to the board office agreeing to the sponsorship, providing the sponsor's name, address, and phone number, and including a notarized signature of the applicant. The applicant must have the education credentialing entity submit directly to the board the applicant's evaluation as required by subsection (a)(4) of this section.

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

(8) A provisional license is required to maintain a current address with the board at all times. Failure to do so may

result in revocation of the provisional license.

(9) An applicant who fails to meet the requirements for a provisional license may still apply for a permanent license.

(b) Permanent License.

(1) The issuance of a permanent license to a person currently licensed in another state, District of Columbia, or territory of the United States will be made after the submission by the applicant of information required in §329.1 of this title (relating to Licensing Procedure) and the submission of scores on the national examination provided directly from a board approved reporting service or scores on the Registry Examination provided directly from the American Physical Therapy Association or from the state in which the applicant is currently licensed.

(2) The application for a permanent license is valid for 180 days.

(3) The board must complete the processing of a provisional licensee's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day limit if the results on an examination have not been received by the board.

(4) An applicant who fails to qualify for a permanent license under this section may apply for licensure by examination.

(c) Examination Scores. The applicant for a permanent license must meet one of the following conditions concerning passage of the national examination or the Registry Examination.

(1) The applicant must have passed the national examination given on or after January 1, 1993, with a passing score as determined by the board.

(2) The applicant must have obtained a score of 1.5 standard deviations below the nationwide mean an examination given prior to January 1, 1993.

(3) The applicant must have obtained a score of 75% or higher for the Registry examination taken prior to September 1971.

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 15, 1993

TRD-9330753

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date August 27, 1993

For further information, please call: (512) 443-8202

## Chapter 331. Endorsement Licensure

### • 22 TAC §331.1, §331.2

The Texas State Board of Physical Therapy Examiners adopts the repeal of §331.1, and §331.2, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5710).

The repeals are necessary so that new sections can be proposed in adherence to revisions of the Physical Therapy Practice Act

The repeals function by deletion of obsolete rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

#### §331.1. Reporting of Test Scores.

#### §331.2. License by Endorsement.

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 15, 1993.

TRD-9330755  
Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call (512) 443-8202

## Chapter 333. Temporary License

### • 22 TAC §§333.1-333.4

The Texas State Board of Physical Therapy Examiners adopts the repeal of §§333.1-333.4, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5711).

The repeals are necessary so that the provisions can be added as a section under Chapter 329, Licensing Procedure.

The repeals function by deletion.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide

the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

#### §333.1. Second Temporary License.

#### §333.2. Temporary License for Endorsement Applicants.

#### §333.3 Previous Examination Takes.

#### §333.4. Supervision of Temporary License.

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 15, 1993.

TRD-9330754  
Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call: (512) 443-8202

## Chapter 337. Display of License

### • 22 TAC §337.1

The Texas State Board of Physical Therapy Examiners adopts an amendment to §337.1, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5711).

The amendment changes a reference from annual renewal to biennial renewal in accordance with recent act changes.

The section functions by making the rules adhere to the current act. Licensees will renew their licenses every two years instead of every year.

One Person submitted comments on the rule stating that it prevents a licensee from obtaining duplicates of his/her license and that prevents the licensee from complying with the display portion of the rule, i.e. that the license be displayed in the principal place of practice. This is because many physical therapists work in more than one facility.

The board responds that the number of complaints received regarding forgeries indicate that this is a problem. The proliferation of certified copies of the license would only exacerbate this problem. Also, licensees are provided a renewal card with their renewal certificate which they may carry with them to prove their licensure at any time. Also, the rule states that the license should be displayed at the principal place of practice. It is up to the licensee's discretion to determine what that place is.

The amendment is adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

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 15, 1993

TRD-9330756  
Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call (512) 443-8202

## Chapter 339. Fees

### • 22 TAC §§339.1-339.4, 339.6-339.9, 339.30

The Texas State Board of Physical Therapy Examiners adopts amendments to §§339.1-339.4, 339.6-339.9, and 339.30, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5711)

The amendments are necessary to increase fees to cover costs of the board's operations, and set new fees for new programs to cover the costs of their operations as required by Article 4512e as amended by the 73rd Legislature

The amendments function by requiring applicants, licensees, and registrants for physical therapy facilities to submit the appropriate fees.

No comments were received regarding adoption of the amendment

The amendments are adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

#### §339.1. Examination

(a) Physical therapist-\$100 (This fee will increase to \$185 in 1995)

(b) Physical therapist assistant-\$100 (This fee will increase to \$185 in 1995.)

#### §339.2. Application.

(a) Physical therapist-\$150,

(b) Physical therapist assistant-\$100

§339.3. License.

(a) Temporary license.

- (1) Physical therapist-\$60;
- (2) Physical therapist assistant-\$40.

(b) Provisional.

- (1) Physical therapist-\$80;
- (2) Physical therapist assistant-\$75.

§339.4. Renewal

(a) Physical therapist-\$200 (two-year);

(b) Physical therapist assistant-\$150 (two-year).

§339.6. Duplicate License.

(a) Physical therapist-\$25;

(b) Physical therapist assistant-\$25

§339.7. Transfer.

(a) Physical therapist-\$40;

(b) Physical therapist assistant-\$40

§339.8. Registration of Facilities

(a) Registration-\$300, Additional site-\$100.

(b) Renewal of registration-\$300, Additional site-\$100

§339.9. Approval of Continuing Education Program for CEU Credit-\$40 per program.

§339.30. Fees for Applicants who Fail the Examination. Each time an applicant retakes the examination the examination fee must be paid again.

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 15, 1993

TRD-9330758

Sherry L Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date. November 11, 1993

Proposal publication date August 27, 1993

For further information, please call (512) 443-8202

• 22 TAC §339.5

The Texas State Board of Physical Therapy Examiners adopts the repeal of §339.5, with-

out changes to the proposed text as published in the August 31, 1993, issue of the *Texas Register* (18 TexReg 5831).

The repeal is necessary to eliminate a fee.

The repeal will function by no longer requiring a fee to be charged

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

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 15, 1993

TRD-9330757

Sherry L Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date November 11, 1993

Proposal publication date August 31, 1993

For further information, please call (512) 443-8202

Chapter 341. License Renewal

• 22 TAC §§341.1-341.7

The Texas State Board of Physical Therapy Examiners adopts the repeal of §§341.1-341.7, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5712)

The repeals are necessary so that more comprehensive and detailed rules can be adopted

The repeals function by deletion of obsolete rules

No comments were received regarding adoption of the repeal's

The repeals are adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

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 15, 1993

TRD-9330759

Sherry L Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date November 11, 1993

Proposal publication date August 27, 1993

For further information, please call: (512) 443-8202

• 22 TAC §§341.1, 341.3, 341.5, 341.6, 341.7, 341.10, 341.15, 341.20

The Texas State Board of Physical Therapy Examiners adopts new §§341.1, 341.6, and 341.20, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5712). Sections 341.1, 341.5, 341.7, 341.10, and 341.15 are adopted without changes and will not be republished.

The new sections set requirements for biennial renewal of licenses for physical therapists and physical therapist assistants; set CEU requirements for renewal; provide for restoration of license; and provide for notification of licensee of impending expiration. The new rules are consistent with new provisions in the Physical Therapy Practice Act passed by the 73rd Legislature.

The new sections function by allowing licensees to keep their licensure current and set procedures for this process.

No comments were received regarding adoption of the new rules.

The new sections are adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

§341.3 Qualifying Continuing Education Units.

(a) One CEU is defined as 10 contact hours of an accredited course or program. Program content must be of clinical application, clinical management, behavioral science, or science.

(b) Program content and CEUs accreditation must be approved by the board or a board-approved organization.

(c) College or university courses in the area of clinical application, clinical management, behavioral science, science, or scientific research will be accepted. Courses will be credited at one CEU for each satisfactorily (grade of C or higher) completed credit hour. An official transcript must be submitted to the board office.

(d) Self-directed Study.

(1) A publication or publications may be submitted to the board for consideration of up to one-half of the biennial CEU requirement. This request along with the publication, must be presented to the board office at least 60 days prior to the licensure renewal anniversary date. Submissions after this date will not be considered.

(2) Teaching or consultation in programs such as institutes, seminars, work-



shops, and conferences which are designed to increase professional knowledge in the field of physical therapy or other related fields and/or development and presentation of such a program may be submitted to the board for consideration of up to one-fourth of the biennium CEU requirement. The licensee must submit the request, along with the outline, program objectives, and the date and location of the presentation to the board office at least 60 days prior to the licensure renewal anniversary date. Submissions after this date will not be considered.

(e) Approval of CEU Programs.

(1) to receive CEU credit for a program the program must be approved by the board either before or after it is attended. An application for continuing education units form must be completed and submitted to the board for approval of a program for CEUs with a fee set by the board. Only one fee is required for each program. Once the fee has been paid for a program, any number of persons may submit attendance at this program for CEU credit without paying additional fees. A program may be provided more than one time and at different locations within the calendar year in which the fee is paid without payment of additional fees.

(2) An applicant may write to the board inquiring if a particular program is approved. Periodically, a log of approved programs may be provided to an applicant upon written request to the board and payment of appropriate fee, if any.

(3) Privileged Sponsors.

(A) A privileged sponsor of CEU programs is an entity which has been approved by the Education Committee to have the authority to set specific CEU credits for its programs without further board review provided that privileged sponsor status is continually maintained.

(B) Application Process for Privileged Sponsor Status. An applicant for privileged sponsor status must:

(i) obtain approval from the board for two programs of at least .7 CEUs each within any 18-month period;

(ii) submit an application for permanent sponsorship to the board; and

(iii) comply with the board's standards and methods for approving a course for CEUs.

(C) Maintenance of Privileged Sponsorship. omission, falsification or noncompliance with any of the above requirements will result in immediate withdrawal of the privileged sponsorship by the board.

(i) offer a minimum of one CEU program each calendar year;

(ii) submit to the board notification of the course to be offered. The board must receive this information prior to the course offering. Information must include: name, address, and telephone number of sponsor; title, dates of presentation, and location of program; CEUs to be awarded; and name and signature of the person who will be signing the course completion certificates;

(iii) comply with a random review of the program documents by board representatives;

(iv) use the following statement in publicity: "This is a continuing education offering for Physical Therapists and/or Physical Therapist Assistants approved by the Texas State Board of Physical Therapy Examiners which meets the requirement of Continuing Education Units;" and

(v) Submit fee per course

§341.6. Restoration of License.

(a) When a licensee fails to renew the license within the renewal month, as indicated by the postmark of their submitted renewal application, fees, and CEUs, the licensee is subject to fees as follows.

(1) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the executive council the required renewal fee and a restoration fee that is one-half of the examination fee for the license.

(2) If a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the executive council all unpaid renewal fees and a restoration fee that is equal to the examination fee for the license.

(3) If a person's license has been expired for one year or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. However, the board may renew without examination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. If the board no longer retains manual files on the person, the person must resubmit an application in accordance with §329.6(b) of this title (relating to Licensure of Persons Currently Licensed in Other States, the District of Columbia, or Territories of the United States) and provide appropriate documentation and proof of cur-

rent licensure in another state for the two-year period. The person must pay to the executive council a fee that is equal to the examination fee for the license. If a new application must be submitted, the board requires additionally the submission of an application fee. The person must pay to the executive council a fee that is equal to the examination fee for the license.

(b) When a person restores a license, the renewal month stays the same as the original renewal month.

§341.20. Licensees Called to Active Military Service.

(a) Renewal. A licensee who is a member of the reserves and called to active military service must submit renewal fees within 90 days after active service has ended if their license expired within the months of active service. The licensee must submit evidence of active service and its inclusive dates.

(b) CEUs. A licensee who is a member of the reserves and called to active military service whose license expired during the period of active service will be given a waiver of CEUs. The regular renewal month will not change. The CEUs for the following biennial renewal will be prorated, i.e. eliminating percentages of required CEUs for the months of active service.

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 15, 1993.

TRD-9330760

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call: (512) 443-8202

◆ ◆ ◆  
Chapter 342. Open Records  
and Open Meetings

• 22 TAC §342.1

The Texas State Board of Physical Therapy Examiners adopts new §342.1, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5714).

The new section sets procedures for processing open records requests. This rule is in accordance with the Texas Open Records Act.

The new section will function by setting procedures for processing open records requests.

No comments were received regarding adoption of the new rule.

The new section is adopted under Texas Civil Statutes, Article 4512e, §3(e), which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

#### §342.1. Open Records.

(a) Open Record Requests. Inspection of Public Records under the Texas Open Records Act, Texas Civil Statutes, Article 8890, §9(c) and (d) provide that all of the records of the board are public records and are available for public inspection during normal business hours except that investigative files and records of the board are confidential. In addition, the exceptions to disclosure in Texas Civil Statutes, Article 6252-17a may protect certain information. This rule is promulgated pursuant to Article 6252-17a to establish a records review process that is efficient, safe and timely to the public and to the agency.

(1) Requests must be in writing and reasonably identify the records requested.

(2) Records access will be by appointment only.

(3) Records access is available only during the regular business hours of the agency.

(4) Unless confidential information is involved, review may be by physical access or by duplication at the requestor's option. Any person, however, whose request would be unduly disruptive to the ongoing business of the office may be denied physical access and will be provided the option of receiving copies. Costs of duplication shall be the responsibility of the requesting party in accordance with the established board fee policy, payable at the time of receipt of records, if a person; or in advance, if by mail. The board may, in its discretion, waive fees if it is in the public interest to do so.

(5) When the safety of any public record is at issue, physical access may be denied and the records will be provided by duplication as previously described.

(6) Confidential files will not be made available for inspection or for duplication except under certain circumstances, e.g., court order.

(7) All open records request appointments will be referred to the executive director or designee before complying with a request.

(8) The open records coordinator for the agency is the executive director and the alternate is the director's designee.

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 15, 1993.

TRD-9330761

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call: (512) 443-8202

### Chapter 343. Contested Case Procedure

#### • 22 TAC §§343.3, 343.4, 343.6, 343.40, 343.41

The Texas State Board of Physical Therapy Examiners adopts amendments to §§343.3, 343.4, and 343.6, with changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5715). The amendment to §343.41 and new §343.40 are adopted without changes and will not be republished.

The amendments and new section identify methods by which a referral may be accepted by a physical therapist; make it a violation knowingly falsify or forge a referral; make cheating on the national examination grounds for denying a license, set forth the process of holding an informal conference; provide further specifics regarding agreed settlements, clarify ways in which referrals may be accepted; and clarify enforcement requirements and procedures of the board.

The amendments and new section function by assisting the board in enforcing the Act and rules and therefore in safeguarding the public.

One person stated that §343.3(e)(2) should not apply to educational settings for physical therapy treatment.

The board responds that §343.3(c)(2) does not apply to educational settings because in §346.1(c) (Educational Settings), the board states that in educational settings a referral must be obtained only when a student has an acute problem. Section 343.3(e)(2) provides only one of several conditions that must be met for a physical therapist to treat without a current referral.

The amendments are adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy Examiners with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

#### §343.3. Referral Requirement and Exceptions to Referral Requirement.

(a) Definitions. The following words and terms, when used in the section,

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

(1) Emergency circumstances—Instances where emergency medical care is called for, including first aid.

(2)-(3) (No change)

(b) (No change.)

(c) A referral may be received by a physical therapist from a referring practitioner or other qualified health care personnel in the following ways:

(1) by document;

(2) by verbal order;

(3) by telephone order;

(4) facsimile (FAX); or

(5) other electronic transmission. A verbal or telephone order should be transcribed on a document and include the signature of the physical therapist or other authorized person who received the order and the name of the referral source who authorized the treatment.

(d) A physical therapist is subject to discipline from the board for providing physical therapy treatment without a request from a physician licensed to practice medicine by a state Board of Medical Examiners, by a dentist licensed by a state Board of Dental Examiners, a doctor licensed to practice chiropractic by a state Board of Chiropractic Examiners, by a podiatrist licensed by a state State Board of Podiatry Examiners, or by any other qualified licensed health care persons authorized to prescribe treatment of individuals (advanced nurse practitioners and physician assistants), except that a physical therapist may treat a patient for an injury or condition that is the subject of prior referral if certain conditions are met as set forth in the act, §19.

(e) Conditions for treatment without referral:

(1) the physical therapist must by telephone within five days or by letter postmarked within five business days notify the original referring health care personnel of the commencement of therapy;

(2) the physical therapy provided must not be for more than 20 treatment sessions or 30 consecutive calendar days, whichever occurs first. At the conclusion of this time or treatment, the physical therapist must confer with the referring health-care personnel before continuing treatment;

(3) the treatment can only be provided to a client/patient who received a referral not more than one year previously;

(4) the physical therapist providing treatment must have been licensed for one year. The physical therapist responsible for the treatment of the patient may delegate

appropriate duties to another physical therapist having less than one year of experience or to a physical therapist assistant. A physical therapist licensed for more than one year must retain responsibility and supervision for the treatment.

(f) A physical therapist may provide instructions to any person who is asymptomatic relating to the instructions being given.

(g) A physical therapist may provide assistance to a person in an emergency circumstance including minor emergencies without a referral.

(h) A physical therapist assistant is subject to discipline from the board when physical therapy treatment has been provided other than upon the evaluation and plan of care provided by a licensed physical therapist in accordance with all the applicable act and rule requirements.

**§343.4. Practicing in a Manner Detrimental to the Public Health and Welfare.**

(a) The board may deny a license to or discipline an applicant/respondent who is found to be practicing in a manner detrimental to the public health and welfare. The board may deny a registration for a physical therapy facility to an applicant or discipline a physical therapy facility required to be registered by the act which is found to be practicing in a manner detrimental to the public health and welfare.

(b) Practicing in a manner detrimental to the public health and welfare may include, but is not limited to, the following:

(1)-(12) (No change.)

(13) Knowingly falsifying and/or forging a referring practitioner's referral for physical therapy.

(14) Failing to register a physical therapy facility which is not exempt or failing to renew the registration of a physical therapy facility which is not exempt.

(15) Practicing in an unregistered physical therapy facility which is not exempt

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 15, 1993.

TRD-9330763

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call (512) 443-8202

◆ ◆ ◆  
• 22 TAC §343.40

The Texas State Board of Physical Therapy Examiners adopts the repeal of §343.40, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5717).

The repeal is necessary that it can be replaced with a more detailed section and to assist the public and the licensees in understanding the informal conference process

The section functions by repealing the section.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act

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 15, 1993

TRD-9330762

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

Effective date: November 11, 1993

Proposal publication date: August 27, 1993

For further information, please call. (512) 443-8202

◆ ◆ ◆

**Chapter 346. Practice Settings for Physical Therapy**

• 22 TAC §346.1, §346.2

The Texas State Board of Physical Therapy Examiners adopts new §346.1, and §346.2, without changes to the proposed text as published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 5717).

The new section sets standards for the practice of physical therapy in educational settings and lists the types of settings in which physical therapists and physical therapist assistants work

The section will function by clarifying the responsibilities of physical therapists in educational settings and providing the types of settings in which physical therapists work.

One person submitted comments stating that §346.1 should be expanded to include an exemption from the requirement of §343.3.(e)(2), which requires that a condition for treatment without referral is the treatment must not be for more than 20 treatment sessions or 30 consecutive calendar days.

The board responds that the section referred to by the business regards only one of the several conditions that are set forth in the act (and now proposed in rules) which must be met to allow for treatment without referral. However, in §346.1(c), the board states that in the educational setting a referral must be obtained only when a student has an acute problem

The new section is adopted under Texas Civil Statutes, Article 4512e, §3(e) which provide the Texas State Board of Physical Therapy with the authority to adopt rules consistent with the Texas Physical Therapy Practice Act to carry out its duties in administering the Act.

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 15, 1993

TRD-9330764

Sherry L. Lee  
Executive Director  
Texas State Board of  
Physical Therapy  
Examiners

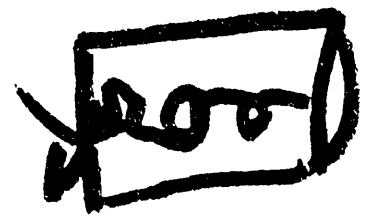
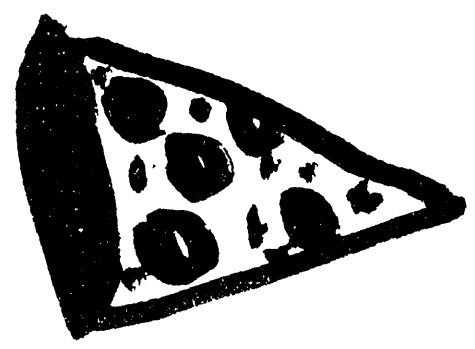
Effective date: November 11, 1993

Proposal publication date: August 27, 1993

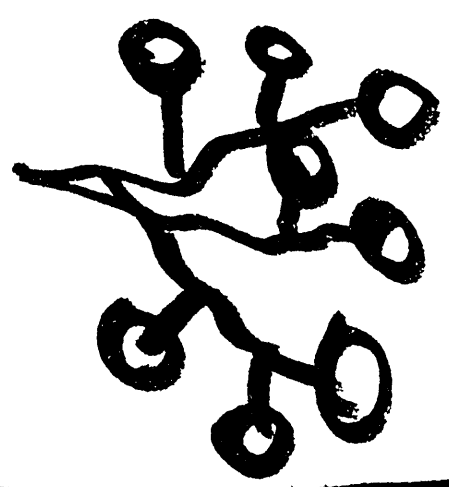
For further information, please call (512) 443-8202

◆ ◆ ◆

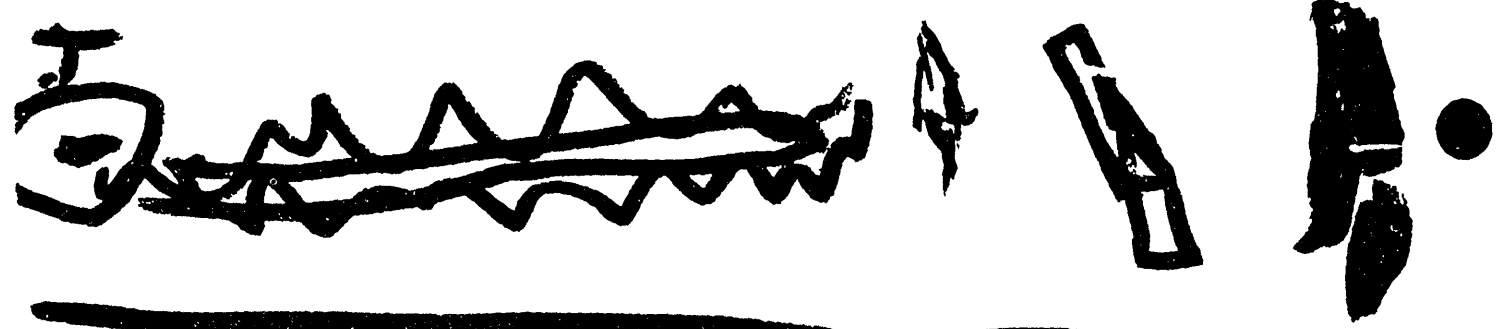
Food



Food



Mashin



Name: Sean Gibbs  
Grade: 2  
School: Buda Elementary, Hays CISD

# 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 Commission on Alcohol and Drug Abuse

Friday, October 29, 1993, 9:00 a.m.

Center for Community Cooperation, 2900 Live Oak Street

Dallas

According to the complete agenda, the Grant and Contract Review Committee will call the meeting to order, consideration of unsolicited requests for funds; reallocation of Fiscal Year 1993 funds; reconsideration of council initiative; and adjourn.

Contact: Steve Casillas or Lynn Brunn-Shank, 710 Brazos Street, Austin, Texas 78701-2576, (512) 867-8265.

Filed: October 21, 1993, 3:20 p.m.

TRD-9330787

## Institute of Biosciences and Technology

Monday, October 25, 1993, 10:30 a.m.

2121 West Holcombe Boulevard, Institute of Biosciences and Technology

Houston

According to the agenda summary, the Animal Care and Use Committee will chair Charles P. Raño, DVM, old business, discussion of September update letter, new business, new animal research protocols, human Hepatocyte growth factors, human heparin-binding growth factor receptors, and growth factors in prostate cancer, other business, office for protection from research risks (OPRR) letter, and National Institutes of Health grant.

Contact: Jan LeBlanc, 2121 West Holcombe Boulevard, Houston, Texas 77030, (713) 677-7778

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

TRD-9330799

## Texas Cancer Council

Wednesday, November 10, 1993, 9:30 a.m.

May Owens Conference Room, Texas Medical Association, 15th and Guadalupe Streets

Austin

According to the complete agenda, the Board of Directors will call the meeting to order, adoption of minutes, announcements, executive director's report; adoption of rules; adoption of the Texas Breast and Cervical Cancer Plan; funding and policy issues; project presentations, continuation of planning discussions, other business, and adjourn. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or braille, are requested to contact Debra Perkins at (512) 463-3190 five working days prior to the meeting so that appropriate arrangements can be made.

Contact: Emily Untermeyer, 211 East Seventh Street, Suite 710, Austin, Texas 78701, (512) 463-3190

Filed: October 21, 1993, 10:24 a.m.

TRD-9330770

## Texas Cosmetology Commission

Sunday, November 7, 1993, 10:00 a.m.

Texas Cosmetology Commission, 5717 Balcones Drive

Austin

According to the complete agenda, the Facial Instructor Exam Committee will call the meeting to order; introductions; discussion of facial instructor examination; and adjourn.

Contact: Alicia C. Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: October 25, 1993, 10:36 a.m.

TRD-9330891

Sunday, November 7, 1993, 10:00 a.m.

Texas Cosmetology Commission, 5717 Balcones Drive

Austin

According to the complete agenda, the Manicure Instructor Exam Committee will call the meeting to order, introductions; discussion of manicure instructor examination, and adjourn.

Contact: Alicia C. Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

Filed: October 25, 1993, 10:36 a.m.

TRD-9330890

Sunday, November 7, 1993, 10:00 a.m.

Texas Cosmetology Commission, 5717 Balcones Drive

Austin

According to the complete agenda, the Oral Presentation Instructor Exam Committee

will call the meeting to order; introductions, discussion of oral presentation instructor examination; and adjourn.

**Contact:** Alicia C. Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674.

**Filed:** October 25, 1993, 10:36 a.m.

TRD-9330889

**Monday, November 8, 1993, 9:00 a.m.**

Texas Cosmetology Commission, 5717 Balcones Drive

Austin

According to the complete agenda, the Manicure Instructor Exam Committee will call the meeting to order; introductions, discussion of oral presentation instructor examination; and adjourn

**Contact:** Alicia C. Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674

**Filed:** October 25, 1993, 10:36 a.m.

TRD-9330887

**Monday, November 8, 1993, 9:00 a.m.**

Texas Cosmetology Commission, 5717 Balcones Drive

Austin

According to the complete agenda, the Oral Presentation Instructor Exam Committee will call the meeting to order, introductions; discussion of oral presentation instructor examination; and adjourn

**Contact:** Alicia C. Ayers, P.O. Box 26700, Austin, Texas 78755-0700, (512) 454-4674

**Filed:** October 25, 1993, 10:36 a.m.

TRD-9330888

◆ ◆ ◆  
**Council on Competitive Government**

**Monday, November 1, 1993, 9:00 a.m.**

Capitol Extension Building, Room E 2 026

Austin

According to the complete agenda, the council will discuss approval of the minutes of September 1, 1993, meeting, briefing on study being performed by council staff pursuant to Section 66 of House Bill 2626, adoption of rules governing the operations of the council; consideration of issues relating to state employees impacted by council activities; adoption of cost methodology to be used by state agencies in reporting cost information to the council; and consideration of Comptrollers' proposal to open up the Comptroller's Office print shop to bid/competition

**Contact:** Judith M. Porrus, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446

**Filed:** October 22, 1993, 1:23 p.m.

TRD-9330835

◆ ◆ ◆  
**Texas Council on Workforce and Economic Competitiveness**

**Thursday, November 4, 1993, 10:00 a.m.**

816 Congress Avenue, Suite 1140

Austin

According to the complete agenda, the Strategic Plan Task Force will call to order, opening comments; briefing and discussion of Part One of the State Strategic Plan for state workforce development programs; and adjourn. **NOTICE:** Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas (800) 735-2988), at least two days before this meeting so that appropriate arrangements can be made.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

**Filed:** October 26, 1993, 8:51 a.m.

TRD-9330919

◆ ◆ ◆  
**November 5, 1993, 10:00 a.m.**

Arlington City Council Chamber, 101 West Abrams Street

Arlington

According to the complete agenda, the council will hold regional hearings on the designation of local workforce development areas and rules for waivers for creation of local boards; designation of local workforce development areas, brief explanation of the proposal; rules for waivers for creation of local boards, brief explanation of the proposal, and public comment.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007

**Filed:** October 21, 1993, 10:26 a.m.

TRD-9330776

**November 5, 1993, 1:00 p.m.**

Houston City Council Chambers, City Hall, 901 Bagby Street

Houston

According to the complete agenda, the council will hold regional hearings on the designation of local workforce development areas and rules for waivers for creation of local boards, designation of local workforce development areas, brief explanation of the proposal, rules for waivers for creation of

local boards; brief explanation of the proposal; and public comment.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

**Filed:** October 21, 1993, 10:26 a.m.

TRD-9330774

**November 9, 1993, 8:00 a.m.**

One Capitol Square, Committee Room One, Fifth Floor, 300 West 15th Street

Austin

According to the complete agenda, the council will hold regional hearings on the designation of local workforce development areas and rules for waivers for creation of local boards; designation of local workforce development areas; brief explanation of the proposal; rules for waivers for creation of local boards; brief explanation of the proposal; and public comment.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

**Filed:** October 21, 1993, 10:26 a.m.

TRD-9330775

**November 10, 1993, 1:00 p.m.**

Lubbock City-County Library, Mahon Community Room, 1306 West Ninth Street

Lubbock

According to the complete agenda, the council will hold regional hearings on the designation of local workforce development areas and rules for waivers for creation of local boards; designation of local workforce development areas; brief explanation of the proposal; rules for waivers for creation of local boards; brief explanation of the proposal; and public comment.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

**Filed:** October 21, 1993, 10:25 a.m.

TRD-9330772

**November 10, 1993, 1:00 p.m.**

Laredo City Council Chamber, 1110 Houston Street

Laredo

According to the complete agenda, the council will hold regional hearings on the designation of local workforce development areas and rules for waivers for creation of local boards; designation of local workforce development areas; brief explanation of the proposal; rules for waivers for creation of local boards; brief explanation of the proposal; and public comment.

**Contact:** Alexa Ray, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

**Filed:** October 21, 1993, 10:25 a.m.

TRD-9330773

## Employees Retirement System of Texas

Wednesday, November 3, 1993, 4:00 p.m.

Room 401, ERS Building, 18th and Brazos Streets

Austin

According to the complete agenda, the ERS Audit Committee will report on internal audit activities for fiscal year 1993: fiscal year 1993 audit plan; audits completed; fiscal year 1993 recommendations and fiscal impact; fiscal year 1992 recommendations and fiscal impact; status of fiscal year 1992 state auditor recommendations; future meeting date; and adjournment.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: October 25, 1993, 10:27 a.m.

TRD-9330886

## Texas Employment Commission

Tuesday, November 2, 1993, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

According to the agenda summary, the Texas Employment Commission will discuss prior meeting notes; staff reports; internal procedures of Commission Appeals; Al Catel Networks Systems, Inc., CA 93 014004 10M; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Dockets 43 and 44; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: October 25, 1993, 4:11 p.m.

TRD-9330914

## Texas Feed and Fertilizer Control Service

Thursday, November 11, 1993, 10:00 a.m.

Texas A&M University Campus, Rudder Tower, Room 404

College Station

According to the complete agenda, the Executive Council will review: Fiscal Year 1993 program; Fiscal Year 1994 Workplans; Office goals and priorities; reports of funded research; and election of executive committee.

Contact: Dr. George W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-1121.

Filed: October 25, 1993, 2:10 p.m.

TRD-9330905

Thursday, November 11, 1993, 1:00 p.m.

Texas A&M University Campus, Rudder Tower, Room 401

College Station

According to the complete agenda, the Advisory Committee will review: Fiscal Year 1993 program; Fiscal Year 1994 Workplans; Office goals and priorities; reports of funded research; and election to executive committee.

Contact: Dr. George W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841-3160, (409) 845-1121.

Filed: October 25, 1993, 2:09 p.m.

TRD-9330904

## Texas General Land Office

Monday, November 1, 1993, 3:00 p.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

According to the complete agenda, the Veterans Land Board will discuss approval of the August 3, 1993, minutes of the Veterans Land Board meeting; approval of an executive secretary and assistant executive secretary to the board; the adoption of rules concerning eligibility requirements for Veterans Land and Housing Assistance Programs, and the repeal of the rules relating to the Farm and Ranch Finance Program; consideration of request of Albin J. Matus, Jr. to set aside any possible bids on tract #5412, Hill County and allow him to reinstate the forfeited loan (Account #087252); consideration of request of Donald Dempsey, to set aside any possible bids on tract #5472, Mculloch County and allow him to reinstate the forfeited loan (Account #447-072963); discussion of a plan of finance for the Housing Assistance Program; consideration of all the steps necessary for the execution of a forward transaction to refund Housing Series 1985; consideration of the selection of underwriter(s); and consideration of bids on the forfeited land sale held at 1:00 p.m., October 26, 1993.

Contact: Karen Pratt, 1700 North Congress Avenue, Room 700, Austin, Texas 78701, (512) 463-5171

Filed: October 21, 1993, 3:50 p.m.

TRD-9330794

Tuesday, November 2, 1993, 10:00 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 831

Austin

According to the complete agenda, the board will approve previous meeting minutes; opening and consideration of bids received for the November 2, 1993 sealed bid land sale; DCRC Trust report; pooling applications, Belding Yates Oil Field, Pecos County; Wildcat Field, Matagorda County; Wildcat Field, Galveston County; Waha Field, Reeves County; Giddings (Austin Chalk-3), Field, Brazos and Burleson Counties; Wildcat Field, Nueces County; Muy Bueno (Second Massive), Goliad County; consideration of schedule and procedures for April, 1994 oil, gas and other minerals lease sale; applications to lease highway rights of way for oil and gas, Brazos County; Fayette County; Jackson County; and Sterling County; Article VII, §4A patent application by Ira G. Williams, J.S. Murphy Survey, San Augustine and Sabine Counties; Coastal public lands-commercial lease applications, Tres Palacios Bay, Matagorda County; Dickinson Bay, Galveston County; Nassau Bay, Harris County, commercial lease renewals, Sabine Pass, Jefferson County; Taylor Bayou, Jefferson County; commercial lease amendment and assignment, Sabine River, Jefferson County; commercial lease assignment, Old Brazos River, Brazoria County; commercial lease amendment, Red Fish Bay, Aransas County; structure (cabin) permit terminations, requests, renewals and amendments, West Bay, Brazoria County; Chocolate Bay, Brazoria County; Titlum Tatlum Bayou, Brazoria County; Laguna Madre, Kleberg County; Laguna Madre, Kenedy County; and Laguna Madre, Cameron County; easement applications and renewals, Galveston Bay, Chambers County; San Bernard River, Brazoria County; Armand Bayou, Harris County; Executive Session, land trade, coal, Leon County; Open Session, land trade, coal, Leon County; Executive Session-pending and proposed litigation.

Contact: Linda K. Fisher, 1700 North Congress, Austin, Texas 78701, (512) 463-5016.

Filed: October 25, 1993, 3:55 p.m.

TRD-9330912

## General Services Commission

Tuesday, October 26, 1993, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

Emergency Revised Agenda

According to the complete agenda, the commission considered an amendment to §113.19, concerning catalogue purchases.

Reason for Emergency: The emergency status was necessary as immediate action was required to comply with reasonably unforeseen federal requirements for federally funded purchases.

Contact: Judith M. Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: October 22, 1993, 1:23 p.m.

TRD-9330836

◆ ◆ ◆  
**Office of the Governor,  
Criminal Justice Division  
(CJD)**

**Thursday, November 4, 1993, 9:00 a.m.**

El Paso Independent School District Staff Development Offices, 6500 K Boeing, Rooms 114, 115, and 116

El Paso

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:05 a.m.

TRD-9330925

**Friday, November 12, 1993, 9:00 a.m.**

Tarrant County Jr. College Police Academy Building, 4801 Marine Creek Parkway

Fort Worth

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey and/or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:05 a.m.

TRD-9330926

**Thursday, November 18, 1993, 9:00 a.m.**

Jefferson County Correctional Facility, Highway 69 South

Beaumont

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:05 a.m.

TRD-9330924

**Friday, December 3, 1993, 9:00 a.m.**

Texas State Technical College-Short Course Center, Loop 499 and Oak Street

Harlingen

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:05 a.m.

TRD-9330923

**Thursday, December 9, 1993, 9:00 a.m.**

San Antonio Police Training Center, 12200 Southeast Loop 410

San Antonio

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:05 a.m.

TRD-9330922

**Wednesday, December 15, 1993, 9:00 a.m.**

West Central Texas Council of Governments, 1025 East North Tenth Street

Abilene

According to the complete agenda, the Office of the Governor, Criminal Justice Division (CJD) personnel will conduct grant application assistance workshops for the following grant programs: 421, Victims of Crime Act (VOCA), and Juvenile Justice and Delinquency Prevention (JJDP) State-wide and Demonstration projects. The agenda for each workshop is as follows: call to order; welcome and introductions; grant application instruction and assistance; questions and answers; and adjourn.

Contact: Doyne Bailey or Vivian Rowe, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Filed: October 26, 1993, 9:04 a.m.

TRD-9330921

◆ ◆ ◆  
**Texas Department on Housing and Community Affairs**

**Friday, November 19, 1993, 10:00 a.m.**

1949 IH-35 South (Third Floor)

Austin

According to the agenda summary, the Texas Weatherization Policy Advisory Council will discuss national weatherization formula; state and federal weatherization monitoring; and utility relations reports/presentation. Individuals who require auxiliary aids or services for this meeting should contact Aurora Carvajal, ADA responsible employee, at (512) 475-3822 or Relay Texas at 1 (800) 735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Contact: J. Al Almaguer, 811 Barton Springs Road, Suite 700, Austin, Texas 78704, (512) 474-2974.

Filed: October 25, 1993, 9:18 a.m.

TRD-9330872



## Texas Department of Human Services

Thursday, November 4, 1993, 10:00 a.m.

701 West 51st Street, First Floor, Public Hearing Room

Austin

According to the complete agenda, the Services to Persons with Disabilities Subcommittee will welcome everyone and make introductions and will consider: approval of minutes; comments by chair, comments by civil right's director, DATCIL contract update; nursing facility waiver update; CLASS; interagency council on autism and pervasive developmental disorders, child care program in client self-support services; OSPD activities; ADAC agenda items; next meeting; and adjournment.

Contact: D. J. Johnson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3533

Filed: October 25, 1993, 2:34 p.m.

TRD-9330906

## Texas Department of Insurance

Tuesday, November 2, 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 Fidelity Security Life Insurance Company of Kansas City, Missouri, which holds a certificate of authority.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 22, 1993, 2:27 p.m.

TRD-9330847

Wednesday, November 3, 1993, 9:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider whether Pegasus Insurance Company's request for eligibility as a surplus lines insurer should be granted

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: October 22, 1993, 2:27 p.m.

TRD-9330848

Wednesday, November 3, 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 Republic Bankers Life Insurance Company, 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 22, 1993, 2:27 p.m.

TRD-9330849

Thursday, November 4, 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 Transport Life Insurance Company and/or National Teacher Associates Incorporated, Fort Worth, which holds a certificate of authority

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527

Filed: October 22, 1993, 2:27 p.m.

TRD-9330850

Thursday, November 4, 1993, 10:00 a.m.

333 Guadalupe Street, Tower II, Fourth Floor

Austin

According to the complete agenda, the department will consider the application of Lee W Stepp, Joshua, for 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 22, 1993, 2:28 p.m.

TRD-9330851

Thursday, November 4, 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 James Gary Whyburn, Dallas, who holds a Group I, Legal Reserve Life Insurance Agent's license issued by the Texas Department of Insurance, and to consider the applications of James Gary Whyburn for a Group II Insurance Agent's license and Variable Contract Agent's license

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527

Filed: October 22, 1993, 2:26 p.m.

TRD-9330846

Friday, November 5, 1993, 9:30 a.m.

333 Guadalupe Street, Room 1264, Tower I Austin

According to the complete agenda, the Texas HMO Solvency Surveillance Committee will call the meeting to order; introduction of new member; consideration and approval of July 16, 1993, minutes; annual election of officers: chair, vice-chair, secretary-treasurer; review of overall HMO industry; executive session to review statutory confidential information on financial condition of HMOs; reconvene in open session; and adjourn.

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

Filed: October 21, 1993, 3:21 p.m.

TRD-9330790

Friday, November 5, 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 Moises Ortiz for an appeal hearing regarding a windstorm damage claim.

Contact: Melissa Slusher, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6527

Filed: October 22, 1993, 2:26 p.m.

TRD-9330845

## Board of Law Examiners

Thursday, November 4, 1993, 1:00 p.m.

Suite 500, Tom C Clark, 205 West 14th Street\*

Austin

According to the complete agenda, the Hearings Panel will hold public hearings, consider stipulated agreements, and conduct deliberations, on character and fitness matters affecting applicants and/or declarants. (Deliberations on character and fitness matters will be conducted in effective session, pursuant to §82.003(c), Texas Government Code) \*Please note that weekend entry to the Tom C Clark Building must be made through the main entry of the adjoining Price Daniel, Sr. Building. Persons needing special accommodations for disabilities should contact the office of the board prior to the meeting

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621

Filed: October 22, 1993, 12:55 p.m.

TRD-9330834

Friday-Sunday, November 5-7, 1993, 8:00 a.m.

Suite 500, Tom C Clark, 205 West 14th Street\*

Austin

According to the agenda summary, the board will consider members' requests for excused absences; conduct hearings and deliberations on character and fitness matters (deliberations to be conducted in executive session); meet with Supreme Court Liaison; consider approval/correction of minutes, financial and investment reports, consider reports from staff; adopt policy regarding dissemination of effect of rule changes; consider special requests; meet with Assistant Attorney General to discuss representation, Open Meetings Act and Open Records Act, and legal services contract; consider entry into legal service contract; discuss relevant publications, review February 1994 MBE (question review to be conducted in executive session), and hear communications from the public \*Please note that weekend entry to the Tom C. Clark Building must be made through the main entry of the adjoining Price Daniel, Sr Building. Persons needed special accommodations for disabilities should contact the office of the board prior to the meeting.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: October 22, 1993, 4 30 p.m

TRD-9330869

### Texas Department of Licensing and Regulation

Friday, October 29, 1993, 9:00 a.m.

920 Colorado Street, E. O Thompson Building, Third Floor

Austin

According to the complete agenda, the Inspections and Investigations' Boxing will reopen an administrative hearing for the purpose of providing both parties an opportunity to present medical testimony concerning Sherman Griffin's fitness to box in accordance with the Texas Civil Statutes, Article 8501-1, 16 TAC, Article 9100, and the Texas Government Code, Chapter 2001.

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

Filed: October 22, 1993, 4 02 p.m

TRD-9330859

Tuesday, November 30, 1993, 9:00 a.m.

920 Colorado Street, E. O. Thompson Building, Room 1012

Austin

According to the complete agenda, the Inspections and Investigations: Air Conditioning will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Bob Mantooth for violation of Texas Civil Statutes, Article 8861, 16 TAC §75.1, Article 9100, and the Texas Government Code, Chapter 2001.

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

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

TRD-9330798

Thursday, December 9, 1993, 1993, 9:00 a.m.

920 Colorado Street, E. O. Thompson Building, Room 1012

Austin

According to the complete agenda, the Inspections and Investigations: Air Conditioning will hold an administrative hearing to consider the application of Felix Fojtik for a Texas Auctioneer License in accordance with the Statutes, Articles 8700 and 9100; and the Texas Government Code, Chapter 2001 (APA); and 16 Texas Administrative Code (TAC), Chapter 67.

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

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

TRD-9330797

### Texas State Board of Medical Examiners

Monday, October 25, 1993, 10:00 a.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Revised Agenda

According to the emergency revised agenda summary, the Hearings Division (Committee) considered an additional request for modification of probation

Reason for Emergency: The emergency status was necessary as information had come to the attention of the agency and required prompt consideration.

Contact: Pat Wood, P O Box 149134, Austin, Texas 78714-9134, (512) 834-7729, Ext. 402

Filed: October 22, 1993, 7:51 p.m.

TRD-9330814

### Texas Natural Resource Conservation Commission

Thursday, November 4, 1993, 9:00 a.m.

Stephen F. Austin Building, Room 119, 1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on an application by Charles T. Trefny, as trustee, and Charles T. Trefny and Wife, Donna G. Trefny, individually, Number 4332-A to amend Water Right Permit Number 4068, by deleting or extending the expiration date and deleting the seasonal stream flow restrictions, approximately 9.5 miles northwest of Columbus, Colorado County.

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

Filed: October 26, 1993, 8.50 a.m.

TRD-9330917

Thursday, November 4, 1993, 9:00 a.m.

Stephen F. Austin Building, Room 119, 1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on an application by Fred T. Zapalac, Morris F. Zapalac and Lillian Zapalac, Application Number 4343-A to amend Permit Number 4070 by deleting or extending the expiration date and deleting the seasonal stream flow restriction from their water right permit, approximately seven miles southeast of La Grange, Fayette County.

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

Filed: October 26, 1993, 8.50 a.m

TRD-9330918

Tuesday, November 9, 1993, 10:00 a.m.

400 Dallas, Doubletree Hotel, Allen Center Houston

According to the agenda summary, the commission will consider an application by American Wastewater, Limited, for Proposed Permit Number MSW2234 authorizing a Type V municipal solid waste management facility. The waste management facility is to be located at 250 Gellhorn in Houston, Harris County.

Contact: Ann Scudday or Charles Stavley, P O Box 13087, Austin, Texas 78711, (512) 908-6687 or (512) 908-6688.

Filed: October 25, 1993, 2:08 p.m.

TRD-9330901

Monday, November 12, 1993, 10:00 a.m.

Stephen F. Austin Building, Room 119,  
1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a hearing before a hearings examiner on Rolling Hills Water Service, Inc.'s application for a Certificate of Convenience and Necessity (CCN) to provide water utility service in Hood County. The proposed service area is approximately ten miles north of downtown Granbury, and includes approximately 90 current customers. Docket Number 30081-C.

Contact: Elizabeth Todd, P.O. Box 13087,  
Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 25, 1993, 2:07 p.m.

TRD-9330898

Monday, November 15, 1993, 10:00 a.m.

Stephen F. Austin Building, Room 1028A,  
1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a hearing before a hearings examiner on James Colombo doing business as Driskell Water Supply's application to discontinue water utility service to the Driskell Suburban Mobile Estates. The subdivision is located in northwestern McLennan County, approximately ten miles north of downtown Waco. Docket Number 30067-Q.

Contact: Mike Rogan, P.O. Box 13087,  
Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 25, 1993, 9:34 a.m.

TRD-9330879

Monday, November 18, 1993, 7:00 p.m.

2001 Broadway, Marble Falls Elementary  
School Cafeteria

Marble Falls

According to the agenda summary, the commission will consider an application by Browning-Ferris, Inc. for Proposed Permit Number MSW40021 authorizing construction and operation of a Type V municipal Solid waste transfer station. The facility will be located approximately five miles north of Marble Falls at the intersection of FM Road 1855 and US Highway 281 in Burnet County.

Contact: Ann Scudday or Charles Stavley,  
P.O. Box 13087, Austin, Texas 78711,  
(512) 908-6687 or (512) 908-6688

Filed: October 25, 1993, 7:00 p.m.

TRD-9330902

Monday, December 6, 1993, 10:00 a.m.

Stephen F. Austin Building, Room 1028A,  
1700 North Congress Avenue

Austin

According to the agenda summary, the Office of Hearings Examiners will hold a hearing before a hearings examiner on Cedar Creek Water's rate increase effective July 1, 1993 for its service area located in Limestone County. Docket Number 30075-G.

Contact: Elizabeth Bourbon, P.O. Box  
13087, Austin, Texas 78711-3087, (512)  
463-7875.

Filed: October 25, 1993, 2:07 p.m.

TRD-9330897

Wednesday, December 15, 1993, 9:00  
a.m.

Stephen F. Austin Building, Room 188,  
1700 North Congress Avenue

Austin

According to the agenda summary, the commission will hold a hearing to determine whether to affirm, modify or set aside Emergency Order Number 93-8E issued on September 23, 1993 to Gibraltar Chemical Resources, Inc.. The order requires Gibraltar to cease further waste receipt as of 11:59 p.m., September 23, 1993, at its facility in Winona, Smith County, until certain conditions and terms are satisfied.

Contact: Glen Brunberger, P.O. Box  
13087, Austin, Texas 78711, (512)  
463-8069.

Filed: October 25, 1993, 2:09 p.m.

TRD-9330903

◆ ◆ ◆  
**Texas Board of Pardons and  
Paroles**

Monday-Wednesday, November 1-3,  
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 22, 1993, 9:38 a.m.

TRD-9330807

Monday-Friday, November 1-5, 1993,  
1:30 p.m.

2503 Lake Road, Suite #2

Huntsville

According to the agenda summary, the panel(s) composed of three board member(s) will receive, review, and consider information and reports concerning prisoners/inmates and administrative releasees subject to the board's jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrants, issuing of subpoenas, the imposition of special conditions of parole and requests for parole services.

Contact: Juanita Llamas, 8610 Shoal Creek  
Boulevard, Austin, Texas 78759, (512)  
406-5407.

Filed: October 22, 1993, 9:39 a.m.

TRD-9330809

Thursday, November 4, 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 22, 1993, 9:39 a.m.

TRD-9330811

Thursday-Friday, November 4-5, 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)  
406-5407.

Filed: October 22, 1993, 9:39 a.m.

TRD-9330808

Thursday-Friday, November 4-5, 1993,  
1:00 p.m. and 9:00 a.m. respectively.

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/inmate and administrative releases subject to the jurisdiction and initiate and carry through with appropriate actions to include decisions involving the withdrawal of warrant, return of subpoena, composition 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 22, 1993, 9:39 a.m.

TRD-9330810

◆ ◆ ◆  
**Texas Property and Casualty  
Insurance Guaranty Association**

Thursday, October 28, 1993, 3:30 p.m.

9420 Research Boulevard, Echelon III,  
Suite 400

Austin

According to the complete agenda, the Board of Directors will hold an open meeting by telephone conference call due to immediate action being required and the convening at one location of a quorum of the board is not reasonable or practical. The agenda follows: discuss and take action on the appointment of a personnel review committee; discuss and take possible action on the TPCIGA strategic plan; and executive session-attorneys' report.

Contact: Al Belmarez, 9420 Research Boulevard, Echelon III, Suite 400, Austin, Texas 78759, (512) 345-9335.

Filed: October 25, 1993, 3:27 p.m.

TRD-9330908

◆ ◆ ◆  
**Public Utility Commission of  
Texas**

Monday, November 1, 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 12423-

petition of the general counsel for an inquiry into the reasonableness of the rates and services of Gulf States Utilities Company.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 21, 1993, 3:20 p.m.

TRD-9330788

Monday, November 1, 1993, 2:00 p.m.

7800 Shoal Creek Boulevard

According to the complete agenda, the Hearings Division will hold a workshop on Project Number 11833, Amendment of Substantive Rules to address expanded interconnection and related issues. The commissioners may or may not be present. The purpose of the workshop is to discuss comments and reply comments which were filed pursuant to the proposed rule published on August 3, 1993. This workshop is open to the public. The parties who submitted comments to the published amendments and interested public are invited to this workshop.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 22, 1993, 11:55 a.m.

TRD-9330831

◆ ◆ ◆  
**Railroad Commission of  
Texas**

Monday, November 1, 1993, 9:30 a.m.

1701 North Congress Avenue, First Floor  
Conference Room 1-111

Austin

According to the complete agenda, the commission will consider Westar Transmission Company versus the Railroad Commission of Texas et al., Cause Number 91-6105, in the District Court of Travis County.

Contact: Brenda Loudermilk, P.O. Box 12967, Austin, Texas 78711, (512) 463-7149

Filed: October 22, 1993, 1:44 p.m.

TRD-9330838

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 22, 1993, 11:11 a.m.

TRD-9330819

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 22, 1993, 11:11 a.m.

TRD-9330820

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 22, 1993, 11:11 a.m.

TRD-9330821

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 78711-2967-2967, (512) 463-7110.

Filed: October 22, 1993, 11:11 a.m.

TRD-9330822

According to the complete agenda, 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 78711-2967, (512) 463-6710.

Filed: October 22, 1993, 11:11 a.m.

TRD-9330823

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 22, 1993, 11:11 a.m.

TRD-9330824

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 22, 1993, 11:12 a.m.

TRD-9330825

According to the complete agenda, the commission will consider and act on the administrative services division director's report on division administration, budget, procedures and other personnel matters.

Contact: Roger Dillon, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-2967.

Filed: October 22, 1993, 11:12 a.m.

TRD-9330826

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 22, 1993, 11:12 a.m.

TRD-9330827

According to the complete agenda, the commission will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The commission may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received. The commission will meet in executive session as authorized by the Open Meetings Act.

Contact: Carole J. Vogel, P.O. Box 12967, Austin, Texas 78711, (512) 463-6921.

Filed: October 22, 1993, 11:12 a.m.

TRD-9330828

#### Emergency revised agenda

According to the complete emergency revised agenda, the commission will consider a motion for rehearing for Docket Number 7B-0201625, application of Burk Royalty Company to inject fluid into a reservoir productive of oil or gas, Bogard Waterflood Unit Lease, Well Number 302, Tom Darling (Conglomerate) Field, Haskell County.

Reason for Emergency: The emergency status is necessary as action on the motion for rehearing is required at the next regularly scheduled meeting, November 1, 1993, oth-

erwise the motion for rehearing will be overruled by operation of law and the commission will lose jurisdiction.

Contact: Charles Dickson, P.O. Box 12967, Austin, Texas 78701, (512) 463-6925.

Filed: October 25, 1993, 3:05 p.m.

TRD-9330907

### Boards for Lease of State-owned Lands

Thursday, November 4, 1993, 2:30 p.m.

General Land Office, S.F.A. Building, 1700 North Congress Avenue, Room 833

Austin

According to the complete agenda, the Board for Lease of Texas Parks and Wildlife Lands will approve previous meeting minutes; consideration of bids received for the October 5, 1993, oil, gas and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 25, 1993, 3:55 p.m.

TRD-9330913

### Texas Guaranteed Student Loan Corporation

Friday, October 29, 1993, 9:00 a.m.

Doubletree Hotel at Campbell Center, 8250 North Central Expressway at Caruth Haven Exit

Dallas

According to the agenda summary, the Board of Directors will hold a workshop to discuss business operations; financial flow; restrictions built into current program; marketing strategies; review of board policies and guidelines; potential role of guarantee agencies; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Suite 300, Austin, Texas 78754, (512) 835-1900.

Filed: October 22, 1993, 12:38 p.m.

TRD-9330832

Saturday, October 30, 1993, 9:00 a.m.

Doubletree Hotel at Campbell Center, 8250 North Central Expressway at Caruth Haven Exit

Dallas

According to the agenda summary, the Board of Directors will hold a continental breakfast in room; approval of minutes of

September 16, 1993; executive session: facilities negotiations; salary review of management level positions; consultation with attorney on pending litigation; open session resumes: action derived from executive session and previous policy review; review of retirement plan, other fringe benefits; policy on annual performance review; review of revised fiscal 1994 budget, discussion of planning approach; report on additional investment in collection equipment and employees; serving working lunch; open session resumes; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Suite 300, Austin, Texas 78754, (512) 835-1900.

Filed: October 22, 1993, 12:38 p.m.

TRD-9330833

### Teacher Retirement System of Texas

Tuesday, November 9, 1993, Noon

1000 Red River, Room 420E

Austin

According to the complete agenda, the Medical Board will have discussion of the files of members who are currently applying for disability retirement and the files of disability retirees who are due a re-examination report.

Contact: Don Cadenhead, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400.

Filed: October 26, 1993, 9:55 a.m.

TRD-9330929

### The Texas State University System

Monday, October 25, 1993, 7:30 p.m.

Austin Club, 110 East Ninth Street, First Floor, Conference Room

Austin

According to the complete agenda, the Board of Regents considered natural gas contract authorization, re-roofing of the science building at Angelo State University; asbestos removal from the high rise dormitories at Angelo State University; authorization for Southwest Texas State University to purchase Aquarena Springs; authorization for expenditure of tuition revenue bond funds; and met with a consultant facilitator regarding goals and direction of the system including an executive session to review current system employees. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects).

Contact: Lamar Urbanovsky, 333 Guadalupe Street, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: October 22, 1993, 11:53 a.m.

TRD-9330829

Tuesday, October 26, 1993, 8:00 a.m.

Representative Room, Second Floor, Omni Hotel  
Austin

According to the complete agenda, the Board of Regents considered natural gas contract authorization, re-roofing of the science building at Angelo State University; asbestos removal from the high rise dormitories at Angelo State University; authorization for Southwest Texas State University to purchase Aquarena Springs; authorization for expenditure of tuition revenue bond funds; and met with a consultant facilitator regarding goals and direction of the system including an executive session to review current system employees. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects).

Contact: Lamar Urbanovsky, 333 Guadalupe Street, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: October 22, 1993, 1:26 p.m.

TRD-9330837

### Texas Turnpike Authority

Friday, October 29, 1993, 10:00 a.m.

Melrose Hotel, 3015 Oak Lawn Avenue  
Dallas

According to the agenda summary, the Board of Directors will consider the following: approval of minutes of prior board and committee meetings; presentations from the Town of Addison and Dallas County, from the State of Tamaulipas and the City of Matamoros, Mexico, from the City of Eastland and from the City of Frisco in regards to proposed new Turnpike projects; executive session; approval of preliminary operating budgets for 1994; in regards Dallas North Tollway project, awards of Contracts DNT-206, DNT-181 and supplemental agreement to DNT-201; briefing by financial advisor on Series 1990 advance refunding; selection of investment team for possible refinancing of Series 1989 bonds; modification to Contract DNT-207 and briefing on Phase 2 sound study; RFQ for public relations firm; refinancing of the Houston Ship Channel Bridge; and reports from committee chairmen and other board members and executive director's report.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: October 21, 1993, 3:21 p.m.

TRD-9330789

### The University of Texas at Austin

Tuesday, October 26, 1993, 1:00 p.m.

Conference room, Belmont Hall 232, 21st and San Jacinto  
Austin

According to the agenda summary, the Intercollegiate Athletics Council for Men will convene into open session; recess into executive session; reconvene into open session; approve minutes of August 23, 1993; recognize new council members; items from executive session; development, awards, schedules and schedule changes, budget/budget items; tickets/ticket policy; construction; new business; and old business.

Contact: Betty Corley, P.O. Box 7399, Austin, Texas 78713, (512) 471-5757.

Filed: October 21, 1993, 3:09 p.m.

TRD-9330784

### The University of Texas Health Center at Tyler

Thursday, November 4, 1993, 11:30 a.m.

Biomedical Research Building, Room 116, UTHCT, Highway 155 at 271  
Tyler

According to the complete agenda, the Animal Research Committee will approve minutes; acting chair report; veterinarian's report; old business-Protocol #115 Pathways of Fibrin turnover in mycobacterial disease; and new business-Protocol #118 complement antisera production-rabbit; Protocol #119 complement antibody production-mice; and adjourn.

Contact: Louisa Schmid, Ph.D., DVM, P.O. Box 2003, Tyler, Texas 75710, (903) 877-7657.

Filed: October 21, 1993, 3:35 p.m.

TRD-9330792

### Regional Meetings

Meetings Filed October 21, 1993

The Alamo Area Council of Governments Area Judges met at 118 Broadway, Suite 420, San Antonio, October 26, 1993, at 11:30 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9330796.

The Alamo Area Council of Governments Board of Directors met at 118 Broadway, Suite 420, San Antonio, October 26, 1993, at 1:00 p.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (512) 225-5201. TRD-9330791.

The Bandera County Appraisal District Board of Directors met at 1116 Main Street (Former Bandera Bulletin Building), Bandera, October 28, 1993, at 5:00 p.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera Texas 78003, (210) 796-3039, Fax (210) 796-3672. TRD-9330801.

The Brazos Valley Quality Work Force Planning Committee met at 715 East University Drive, College Station, October 26, 1993, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 821-2505. TRD-9330786.

The Colorado River Municipal Water District Board of Directors met at 400 East 24th Street, Big Spring, October 28, 1993, at 10:00 a.m. Information may be obtained from O. H. Ivie, P.O. Box 869, Big Spring, Texas 79721, (915) 267-6341. TRD-9330793.

The Education Service Center, Region XIII Board of Directors met at the ESC, 5701 Springdale Road, ESC Conference Room #201, Austin, October 25, 1993, at 1:00 p.m. Information may be obtained from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9330777.

The Ellis County Appraisal District Appraisal Review Board met at 406 Sycamore Street, Waxahachie, October 25, 1993, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9330795.

The Gonzales County Appraisal District Appraisal Review Board met at 928 St. Paul Street, Gonzales, October 27, 1993, at 9:00 a.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (210) 672-2879. TRD-9330800.

The Gulf Coast State Planning Region Transportation Policy Council will meet at 3555 Timmons Lane, Second Floor Conference Room A, Houston, October 29, 1993, at 9:30 a.m. Information may be obtained from Rosalind Hebert, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9330781.

The Kempner Water Supply Corporation Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, October 28, 1993, at 7:00 p.m. Information may be obtained from

Doug Lavender or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9330779.

**The Lubbock Regional Mental Health and Mental Retardation Center Board of Trustees** met at 1602 Tenth Street, Board Room, Lubbock, October 25, 1993, at noon. Information may be obtained from Gene Menefee, 1602 Tenth Street, Lubbock, Texas 79401, (806) 766-0202. TRD-9330771

**The Tarrant Appraisal District Appraisal Review Board** will meet at 2329 Gravel Road, Fort Worth, November 11, 1993, at 8:30 a.m. Information may be obtained from Suzanne Williams, 2329 Gravel Road, Fort Worth, Texas 76118-6984, (817) 284-8884. TRD-9330782.

**The Tyler County Appraisal District Board of Directors** will meet at 806 West Bluff, Woodville, November 4, 1993, at 4:00 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9330780.



#### Meetings Filed October 22, 1993

**The Ark-Tex Council of Governments Executive Committee** met at the Two Senoritas, Mt. Pleasant, October 28, 1993, at 5:30 p.m. Information may be obtained from Pam Koelling, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636 TRD-9330843.

**The Austin-Travis County Mental Health and Mental Retardation Center Board/Citizens Quarterly Meeting** met at 1430 Collier Street, Board Room, Austin, October 26, 1993, at 5:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9330806.

**The Austin-Travis County Mental Health and Mental Retardation Center Board of Trustees** met at 1430 Collier Street, Board Room, Austin, October 28, 1993, at 8:00 a.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9330866

**The Coastal Bend Council of Governments Executive Board** will meet at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, October 29, 1993, at Noon. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9330842.

**The Coastal Bend Council of Governments Membership** will meet at the CBCOG Office, Conference Room, 2910 Leopard Street, Corpus Christi, October 29,

1993, at 2:00 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9330841.

**The Dallas Area Rapid Transit Bylaws Ad Hoc** met at 1401 Pacific Avenue, Board Conference Room B, First Floor, Dallas, October 26, 1993, at 11:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330863.

**The Dallas Area Rapid Transit Committee-of-the-Whole** met at 1401 Pacific Avenue, Board Conference Room C, Dallas, October 26, 1993, at 1:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330867.

**The Dallas Area Rapid Transit Board of Directors** met at 1401 Pacific Avenue, Board Room, First Floor, Dallas, October 26, 1993, at 6:30 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330864.

**The Dallas Area Rapid Transit Committee-of-the-Whole** will meet at the Garrett Creek Ranch, Route 2, Box 235, Paradise, October 29-30, 1993, at 9:00 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330868.

**The Dallas Area Rapid Transit Outside Counsel Ad Hoc Committee** will meet at the Garrett Creek Ranch, Route 2, Box 235, Paradise, October 29, 1993, at 6:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330866.

**The Dallas Area Rapid Transit Outside Counsel Ad Hoc Committee** will meet at the Garrett Creek Ranch, Route 2, Box 235, Paradise, October 30, 1993, at 7:30 a.m. Information may be obtained from Nancy McKethan, 1401 Pacific Avenue, Dallas, Texas 75202, (214) 749-3347. TRD-9330865.

**The Education Service Center, Region XV Board of Directors** met at the ESC Region XV, 612 South Irene Street, Conference Room One, San Angelo, October 28, 1993, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9330813.

**The Ellis County Appraisal District Appraisal Review Board** met at 406 Sycamore Street, Waxahachie, October 25, 1993, at 9:00 a.m. Information may be obtained from Dorothy Phillips, P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9330815.

**The Golden Crescent Private Industry Council** met at 2401 Houston Highway, Victoria, October 27, 1993, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9330812.

**The Gonzales County Appraisal District Agricultural Advisory Board** met at 928 St. Paul Street, Gonzales, October 25, 1993, at 7:00 p.m. Information may be obtained from Glenda Strackbein, P.O. Box 867, Gonzales, Texas 78629, (512) 672-2879. TRD-9330852.

**The Lower Neches Valley Authority** met at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, October 26, 1993, at 3:00 p.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 1464, Beaumont, Texas 77704, (409) 892-4011. TRD-9330839.

**The Middle Rio Grande Development Council Board of Directors** met at the Green House Cafe, 101 North Main Street, Cotulla, October 27, 1993, at 1:00 p.m. Information may be obtained from Paul A. Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9330840.

**The Permian Basin Regional Planning Commission Permian Basin Private Industry Council** met at the UTPB-CEED, FM 1788 and 191, Midland, October 27, 1993, at 3:30 p.m. Information may be obtained from Carole Burrow, P.O. Box 60660, Midland, Texas 79711-0660, (915) 563-1061. TRD-9330817.

**The Region 14 Education Service Center Board of Directors** met at 1850 Highway 351, Abilene, October 26, 1993, at 5:30 p.m. (Rescheduled from October 21, 1993). Information may be obtained from Taressa Huey, 1850 Highway 351, Abilene, Texas 79601, (915) 675-8608. TRD-9330805.

**The Region 14 Deep East Texas Quality Work Force** will meet at the (Distance Learning Centers), Angelina College, Highway 59 South, Lufkin, November 4, 1993, at 2:00 p.m. Information may be obtained from Jerry Whitaker, P.O. Box 1768, Lufkin, Texas 75902, (409) 633-5370. TRD-9330844.

**The Texas Panhandle Mental Health Authority Board of Trustees** met at 7201 I-40 West, Second Floor, Amarillo, October 28, 1993, at 10:30 a.m. Information may be obtained from Shirley Hollis, P.O. Box 3250, Amarillo, Texas 79116, (806) 353-7235. TRD-9330816.



**Meetings Filed October 25,  
1993**

**The Angelina and Neches River Authority Board of Directors** will meet in the Azalea Room at Crown Colony Country Club, Lufkin, November 2, 1993, at 9:30 a.m. Information may be obtained from Gary L. Neighbors, P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795, Fax: (409) 632-2564. TRD-9330910.

**The Central Plains Center for MHRM and SA Board of Trustees** met at 313 Ennis, Plainview, October 28, 1993, at 6:00 p.m. Information may be obtained from Seth Halbert, 2700 Yonker, Plainview, Texas 79072, (806) 293-2636. TRD-9330885.

**The Heart of Texas Quality Work Force Planning Hotlink** met in an emergency meeting at Maurice W. Roney Teaching Center, 324 Kelly Drive, Waco, October 28, 1993, at 9:00 a.m. The emergency meeting was necessary due to discussion of Senate Bill 642. Information may be obtained from Lee Ann Hayes, P.O. Box 21689, Waco,

Texas 76702, (817) 750-3506. TRD-9330916.

**The Middle Rio Grande Development Council Board of Directors** met at the Green House Cafe, 101 North Main Street, Cotulla, October 27, 1993, at 1:00 p.m. (Emergency revised agenda) The emergency status was necessary as two resolutions needed to be included for board approval on October 27th meeting. Information may be obtained from Paul A. Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (512) 876-3533. TRD-9330911.

**The Upshur County Appraisal District Board of Directors** will meet at the Upshur County Appraisal District Office, Warren and Trinity Streets, Gilmer, November 8, 1993, at 1:00 p.m. Information may be obtained from Louise Stracener, P.O. Box 280, Gilmer, Texas 75644-0280, (903) 843-3041. TRD-9330909

**The Upper Leon River Municipal Water District Board of Directors** met at the General Office of the Filter Plant, Lake Proctor, Comanche County, October 28, 1993, at

6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9330894

◆ ◆ ◆  
**Meetings Filed October 26,  
1993**

**The High Plains Underground Water Conservation District Number 1 Board of Directors (Special Hearing)** will meet at Bula School, Bailey County, Bula, November 3, 1993, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9330927.

**The Middle Rio Grande Development Council Texas Review and Comment System** will meet at the Holiday Inn, Sage Room, 920 East Main, Uvalde, October 29, 1993, at 1:00 p.m. Information may be obtained from Dora T. Floress, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9330920

◆ ◆ ◆



# In Addition

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

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

## Comptroller of Public Accounts

### Notice of Implementation of The State Property Accounting System

The comptroller of public accounts certifies the implementation of the state property accounting system. The state property accounting system is the fixed asset component of the uniform statewide accounting system. The comptroller provides this certification under the Act of August 25, 1991, 72nd Legislature, Second Called Session, Chapter 8, §7.06, 1991 Texas General Laws 137, 176 (House Bill 39).

Issued in Austin, Texas, on October 20, 1993

TRD-9330730      Martin E. Cherry  
Chief, General Law Section  
Comptroller of Public Accounts

Filed October 20, 1993

## Texas Council on Workforce and Economic Competitiveness

### Proposal for the Designation of Workforce Development Areas

The Texas Council on Workforce and Economic Competitiveness (TCWEC) is required to recommend to the Governor the initial designation of local workforce development areas in the state. The Council approved its recommendation to the Governor on October 1, 1993. On October 18, 1993, the Governor accepted the recommendation of the Council and designated the Council to publish these initial designations and manage the public com-

ment process which will specifically seek local input on the designation. All affected persons and organizations shall have an opportunity to comment and request revisions to the proposed designations. After considering all comments, the Governor shall make the final designation.

The recommendation is to designate the 24-state planning regions as the local workforce development areas. A map of the 24-regions and a listing of the areas by county follow this document.

Through the 24 state planning regions form the basis of the recommendation, the Governor is soliciting specific comments as to the possible subdivision or consolidation of some of the regions solely for the purpose of designating local workforce development areas and establishing local workforce development boards. Comments are requested regarding the possible need to subdivide the following two regions, each of which include two distinct primary metropolitan statistical areas: North Central Texas, Gulf Coast.

In addition, comments are requested regarding the possible combination of the following planning regions with populations under 200,000 into adjacent regions:

#### REGIONS

South Texas  
Concho Valley  
Golden Crescent  
Middle Rio Grande  
Texoma

#### POSSIBLE COMBINING REGIONS

Coastal Bend, Lower Rio, Middle Rio  
Permian Basin  
Alamo, Coastal Bend  
Alamo, South Texas  
North Central

In addition, comments are requested regarding the possible

combination of the following planning regions with populations between 200,000 and 400,000: Panhandle and South Plains, Nortex and West Central Texas, North East

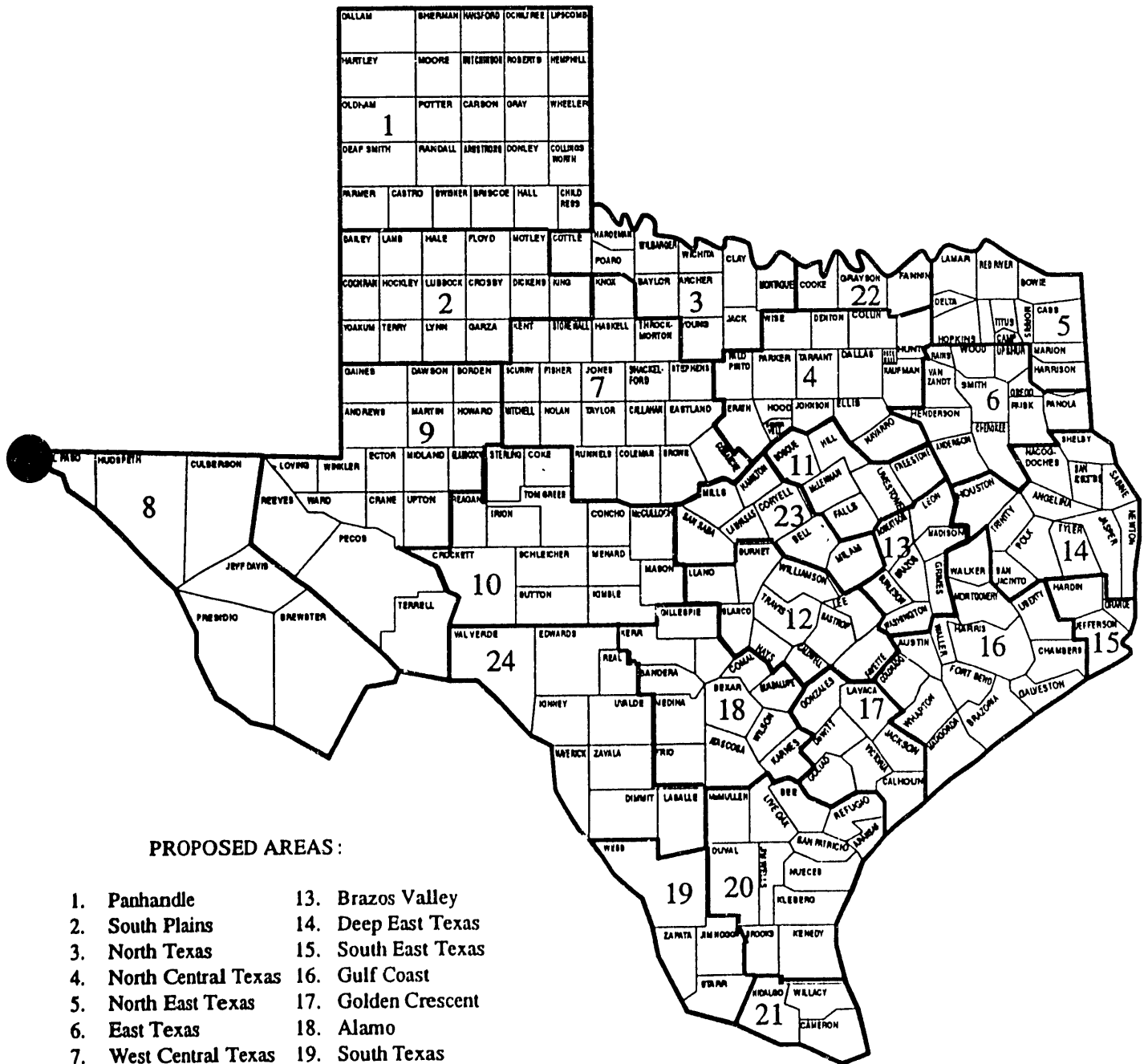
Texas and East Texas (over 400,000), Deep East Texas and Southeast Texas, Brazos Valley, Heart of Texas, and Central Texas.

The designation of local workforce delivery areas is the first step for designing a local delivery system that mirrors the consolidation of workforce councils that has occurred at the state level as a result of the act. The intent of the legislation is that once workforce development areas are designated, chief elected officials in each local area will have the option to form a workforce development board that will be responsible for the strategic planning, evaluation and oversight of all the major workforce development programs in their local areas. Comments regarding changes to increase administrative efficiency and improve service delivery through better integration of programs and services at the local level would be especially welcome.

**Request for Public Comments.** Comments on the proposal may be submitted to Barbara Cigainero, Texas Council on Workforce and Economic Competitiveness, P.O. Box 2241, Austin, Texas 78768. A copy of the entire proposal presented to the Council and to the Governor is also available from the Council office upon request. Public hearings on the proposal will be held as follows.

Arlington-10:00 a.m.-3:00 p.m., November 5, 1993, Arlington City Council Chamber, 101 West Abrams Street, Arlington; Austin-8:00 a.m.-Noon, November 9, 1993, One Capitol Square, Committee Room One, Fifth Floor, 300 West 15th Street, Austin; Houston-1:00 p.m.-5:00 p.m., November 5, 1993, Houston City Council Chambers, City Hall, 901 Bagby Street, Houston; Laredo-1:00 p.m.-5:00 p.m., November 10, 1993, Laredo City Council Chambers, 1110 Houston Street, Laredo; Lubbock-1:00 p.m.-5:00 p.m., November 10, 1993, Lubbock City-County Library, Mahon Community Room, 1306 West Ninth Street, Lubbock.

# PROPOSED LOCAL WORKFORCE DEVELOPMENT AREAS



**PROPOSED AREAS:**

- |                        |                             |
|------------------------|-----------------------------|
| 1. Panhandle           | 13. Brazos Valley           |
| 2. South Plains        | 14. Deep East Texas         |
| 3. North Texas         | 15. South East Texas        |
| 4. North Central Texas | 16. Gulf Coast              |
| 5. North East Texas    | 17. Golden Crescent         |
| 6. East Texas          | 18. Alamo                   |
| 7. West Central Texas  | 19. South Texas             |
| 8. Rio Grande          | 20. Coastal Bend            |
| 9. Permian Basin       | 21. Lower Rio Grande Valley |
| 10. Concho Valley      | 22. Texoma                  |
| 11. Heart of Texas     | 23. Central Texas           |
| 12. Capital            | 24. Middle Rio Grande       |

## TEXAS COUNTIES AND PROPOSED LOCAL WORKFORCE DEVELOPMENT AREAS

County	Region Number	County	Region Number	County	Region Number	County	Region Number
Anderson	6	Eastland	7	Kerr	18	Rockwall	4
Andrews	9	Ector	9	Kimble	10	Runnels	7
Angelina	14	Edwards	24	King	2	Rusk	6
Aransas	20	Ellis	4	Kinney	24	Sabine	14
Archer	3	El Paso	8	Kleberg	20	San Augustine	14
Armstrong	1	Erath	4	Knox	7	San Jacinto	14
Atascosa	18	Falls	11	Lamar	5	San Patricio	20
Austin	16	Fannin	22	Lamb	2	San Saba	23
Bailey	2	Fayette	12	Lampasas	23	Schleicher	10
Bandera	18	Fisher	7	La Salle	24	Scurry	7
Bastrop	12	Floyd	2	Lavaca	17	Shackelford	7
Baylor	3	Foard	3	Lee	12	Shelby	14
Bee	20	Fort Bend	16	Leon	13	Sherman	1
Bell	23	Franklin	5	Liberty	16	Smith	6
Bexar	18	Freestone	11	Limestone	11	Somervell	4
Blanco	12	Frio	18	Lipscomb	1	Starr	19
Borden	9	Gaines	9	Live Oak	20	Stephens	7
Bosque	11	Galveston	16	Llano	12	Sterling	10
Bowie	5	Garza	2	Loving	9	Stonewall	7
Brazoria	16	Gillespie	18	Lubbock	2	Sutton	10
Brazos	13	Glasscock	9	Lynn	2	Swisher	1
Brewster	8	Goliad	17	McCulloch	10	Tarrant	4
Briscoe	1	Gonzales	17	McLennan	11	Taylor	7
Brooks	20	Gray	1	McMullen	20	Terrell	9
Brown	7	Grayson	22	Madison	13	Terry	2
Burleson	13	Gregg	6	Marion	6	Throckmorton	7
Burnet	12	Grimes	13	Martin	9	Titus	5
Caldwell	12	Guaralupe	18	Mason	10	Tom Green	10
Calhoun	17	Hale	2	Matagorda	16	Travis	12
Callahan	7	Hall	1	Maverick	24	Trinity	14
Cameron	21	Hamilton	23	Medina	18	Tyler	14
Camp	6	Hansford	1	Menard	10	Upshur	6
Carson	1	Hardeman	3	Midland	9	Upton	9
Cass	5	Hardin	15	Milam	23	Uvalde	24
Castro	1	Harris	16	Mills	23	Val Verde	24
Chambers	16	Harrison	6	Mitchell	7	Van Zandt	6
Cherokee	6	Hartley	1	Montague	3	Victoria	17
Childress	1	Haskell	7	Montgomery	16	Walker	16
Clay	3	Hays	12	Moore	1	Waller	16
Cochran	2	Hemphill	1	Morris	5	Ward	9
Coke	10	Henderson	6	Motley	2	Washington	13
Coleman	7	Hidalgo	21	Nacogdoches	14	Webb	19
Collin	4	Hill	11	Navarro	4	Wharton	16
Collingsworth	1	Hockley	2	Newton	14	Wheeler	1
Colorado	16	Hood	4	Nolan	7	Wichita	3
Comal	18	Hopkins	5	Nueces	20	Wilbarger	3
Comanche	7	Houston	14	Ochiltree	1	Willacy	21
Concho	10	Howard	9	Oldham	1	Williamson	12
Cooke	22	Hudspeth	8	Orange	15	Wilson	18
Coryell	23	Hunt	4	Palo Pinto	4	Winkler	9
Cottle	3	Hutchinson	1	Panola	6	Wise	4
Crane	9	Irion	10	Parker	4	Wood	6
Crockett	10	Jack	3	Parmer	1	Yoakum	2
Crosby	2	Jackson	17	Pecos	9	Young	3
Culberson	8	Jasper	14	Polk	14	Zapata	19
Dallam	1	Jeff Davis	8	Potter	1	Zavala	24
Dallas	4	Jefferson	15	Presidio	8		
Dawson	9	Jim Hogg	19	Rains	6		
Deaf Smith	1	Jim Wells	20	Randall	1		
Delta	5	Johnson	4	Reagan	10		
Denton	4	Jones	7	Real	24		
DeWitt	17	Karnes	18	Red River	5		
Dickens	2	Kaufman	4	Reeves	9		
Dimmit	24	Kendall	18	Refugio	20		
Donley	1	Kenedy	20	Roberts	1		
Duval	20	Kent	7	Robertson	13		

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

TRD-9330707

Barbara Cigalnero  
Executive Director  
Texas Council on Workforce and Economic  
Competitiveness

Filed: October 20, 1993

◆ ◆ ◆

## Texas Education Agency Request for Applications

**RFA #701-93-928.** This request for applications if filed under the Texas Education Code, §21.562.

**Eligible Applicants.** The Texas Education Agency (TEA) is requesting applications (RFA #701-93-028) from school districts or cooperatives of school districts and/or regional education service centers to develop a program for Retention Reduction to be offered to those students at the first grade who, without this intervention, would experience retention.

**Description.** The primary focus of the retention reduction grants is to reduce retentions and ultimately eliminate retention as an alternative strategy for mastery of essential elements. By providing up to 30 additional instructional days for those students who are identified as likely candidates not be promoted to the next grade level, a retention reduction program will respond to the educational needs of those students through positive intervention.

**Dates of Project.** Each project will receive funding for the 1993-1994 and 1994-1995 school years. Project funding in the second year will be based on satisfactory progress of the first-year objectives and activities and general budget approval by the State Board of Education and the commissioner of education.

**Selection Criteria.** Applications will be selected based on the ability of each applicant to carry out all requirements contained in the request for application. Special consideration (or priority) will be given to applicants that have a high rate of retention particularly in the first grade in the school district. The TEA reserves the right to select from the highest ranking applications those that address all requirements in the request for application. The TEA is under no obligation to approve an application, provide funds, or enforce any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs incurred prior to the approval of an application. The issuance of this RFA in no way obligates TEA to award a grant or to pay any costs incurred in the preparation of a response.

**Requesting the Application.** A copy of the complete request for application, RFA #701-93-028, may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78711, or by calling (512) 463-9304. Please refer to the RFA# in your request.

**Further Information.** For clarifying information about the request for application, contact Darlene Yanez, Division of Accelerated Instruction, Texas Education Agency, (512) 463-9374.

**Deadline for Receipt of Applications.** The deadline for receiving an application in the Document Control Center

of the Texas Education Agency is 5:00 p.m., Monday, November 22, 1993.

Issued in Austin, Texas, on October 22, 1993.

TRD-9330778

Lionel R. Meno  
Commissioner of Education

Filed: October 21, 1993

◆ ◆ ◆

## Campus Deregulation and Restructuring to Improve Student Achievement

**RFA #701-93-029.** This request for application if filed in accordance with Texas Education Code, §11.2092, Investment Capital Fund.

**Eligible Applicants.** The Texas Education Agency (TEA) is requesting applications (RFA #701-93-029) from public school districts on behalf of an individual school campus that has demonstrated a commitment to campus deregulation and to restructuring educational practices and conditions in partnership with: school staff; parents and students; community and business leaders; school district officers; a nonprofit, community-based organization; and TEA. A separate application must be submitted for each campus for which a district is applying.

**Description.** The purpose of this initiative is to help individual public school campuses implement practices and procedures consistent with deregulation and school restructuring to improve student achievement and increase parental and community involvement in the schools. Grants may be used for the training and development of school staff, parents, and community and business leaders so they understand the academic standards and practices necessary for high academic achievement and appropriate strategies to deregulate and restructure the school to improve student achievement. Administrative personnel of a school that receives a grant must demonstrate the responsible use of the grant to achieve: campus deregulation and restructuring to improve academic performance; implementation of a comprehensive plan to ensure the continuous development and training of teachers, parents, and community leaders to understand academic standards, develop effective strategies to improve academic performance, and organize a large constituency of parents and community leaders to hold the school and school district accountable for achieving high academic standards; and ongoing progress in achieving higher academic performance.

**Dates of Project.** The initiative will be implemented as a two-year project to begin during the 1993-1994 school year. Funding for the 1994-1995 school year is contingent upon the successful completion of objectives and activities as described in the 1993-1994 application. Applicants should plan for a starting date of January 3, 1994, and an ending date of August 31, 1994, for year one of the project.

**Project Amount.** Each funded school will receive funding for the 1993-1994 school year at a level not to exceed \$15,000.

**Note. Funding is Contingent Upon Approval by the State Board of Education of Rules Affecting this Grant Program.**

**Selection Criteria.** The TEA reserves the right to select from the highest ranking applications campuses on which

58.6% or more of all enrolled students are from low income families (campuses whose total percent of identified students from low income families exceeds the 1992-1993 state percent of students from low income families plus 15 percentage points) or campuses on which 31.3% or fewer of all enrolled students met the minimum expectations on all Texas Assessment of Academic Skills (TAAS) tests taken on the most recent administration of the TAAS (campuses whose total percent of students passing all tests taken on the Spring 1993 administration of the TAAS (Grades 4, 8, 10) was at least 15 percentage points below the state average) and that demonstrate a commitment to campus deregulation and to restructuring educational practices and conditions made in partnership with stakeholder groups previously identified.

**Requesting the Application.** A copy of the complete request for application (RFA #701-93-029) may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFA Number in your request.

**Further Information.** For clarifying information about the request contact James A. Johnson, Jr., Planner IV, Office of Education for Special Populations and Adults, Texas Education Agency, (512) 463-8992.

**Deadline for Receipt of Applications.** The application must be received in the Document Control Center of the Texas Education Agency no later than 5:00 p.m., Tuesday, November 30, 1993.

Issued in Austin, Texas, on October 25, 1993.

TRD-9330884      Lionel R. Meno  
Commissioner of Education

Filed: October 25, 1993

◆      ◆      ◆  
**General Services Commission/State  
Energy Conservation Office**

**Public Notice**

Notice is hereby given that the State Energy Conservation Office of the General Services Commission, formerly the Governor's Energy Office, has revised the Institutional Conservation Program (ICP) State Plan to comply with federal regulations (10 Code of Federal Regulations), Part 455) published February 19, 1993. The Institutional Conservation Program is a federal program that provides matching grants to schools, hospitals and colleges/universities for energy retrofits. Public review and comment is encouraged, although modifications will be made only to subsequent State Plans. If you wish to submit comments, please do so on or before December 31, 1993. Copies of the revised State Plan are available through the State Energy Conservation Office at 221 East 11th Street, State Insurance Annex Building, Austin, Texas 78701. Contact Karen Raven, ICP Program Manager at (512) 463-1931.

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

TRD-9330768      David A. Talbot  
General Counsel  
General Services Commission/State Energy  
Conservation Office

Filed: October 21, 1993

**Texas Department of Health**

**Administrative Changes to 25 TAC,  
Chapters 3, 14, 28, 29, 32, 33, 35,  
40, 56, and 79.**

The Texas Department of Health published notice in the *Texas Register* on September 7, 1993, concerning the administrative transfer of rules from the Texas Department of Human Services to the Texas Department of Health, concerning the Medicaid Program. The rules were administratively transferred in accordance with Acts, 1991, 72nd Legislature, First Called Session, Chapter 15, §1.07, which provided for the transfer of certain programs from the Texas Department of Human Services to the Texas Department of Health, effective September 1, 1993. The Texas Department of Health is the contract agency designated by the Texas Health and Human Services Commission to operate the programs that are part of the medical assistance program (Medicaid).

The rules transferred to 25 TAC, Chapters 3, 14, 28, 29, 32, 33, 35, 40, 56, and 79 in accordance with the chart published in the September 7, 1993 issue of the *Register*. Administrative changes, such as agency name changes, cross-references, and agency procedures will be submitted to the *Texas Register* as the department updates these rules.

Until the editorial changes are made, the following language changes are to be recognized as a result of the transfer.

1. "Texas Department of Human Services" means the "Texas Department of Health."
2. "TDHS" or "DHS" shall be "TDH".
3. Any hearings required by the transferred rules shall be conducted in accordance with the hearing procedures set out in 25 TAC, Chapter 1 (relating to the Texas Board of Health).

Other administrative changes that will need be made will include cross-referenced sections within the transferred rules that reference other sections in Title 40 that did not transfer to Title 25. For example, language in §56.306(g) reads "...services must continue according to §10.1013 of this title (relating to ....)." Since §10.1013 is not under Title 25, the language "of this title" is incorrect. It will be necessary to track the history of the section in order to know what the proper reference is.

Any substantive rule changes will be made through regular rule-making procedures.

The Texas Department of Health appreciates your patience with regard to administrative changes. In the interim, please call Linda Kotek at (512) 458-7236 for clarification to any questions or concerns you may have regarding these rules.

Issued in Austin, Texas, on October 22, 1993.

TRD-9330870      Susan K. Steeg  
General Counsel, Office of General  
Counsel  
Texas Department of Health

Filed: October 22, 1993

## Texas Higher Education Coordinating Board

### Consultant Proposal Request

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Higher Education Coordinating Board invites proposals from qualified consultants to assist with aspects of the State Postsecondary Review Program. The purpose of the Program is to "increase the accountability of institutions that participate in the Title IV, HEA Programs through expanded State oversight of these institutions." The consultant will be asked to assess all relevant state data information systems and investigate the feasibility, need and cost of utilizing these existing systems to satisfy the quantitative requirements of the Program as well as the need, cost and feasibility of establishing an additional, comprehensive information system that would integrate existing systems and include Title IV-eligible institutions not currently in existing systems.

Proposals from minorities and minority-owned firms and women and women-owned firms are encouraged.

**Project Deliverables.** The consultant will brief a Coordinating Board committee every three weeks during the term of the consulting contract. An interim report will be required halfway through the contract and a final report will be due at the end of the contract. The interim report will include an assessment of the existing systems at the Coordinating Board and at other agencies and will provide preliminary information about the need and feasibility of setting up an additional information system at the Coordinating Board. The final report will include recommendations regarding a plan for coordinating data systems and/or establishing a new information system and the costs of all options presented.

During the last four to six weeks of the project, the Coordinating Board plans to employ a systems analyst to implement the recommendations of the consultant. The consultant will be asked to work closely with this employee to achieve an efficient transition as recommendations are implemented.

**Selection Criteria.** The Coordinating Board committee referred to above will review proposals submitted and recommend the selection of a consultant to the Program Director. Selection will be based on demonstrated competence, knowledge and qualifications as well as the reasonableness of the proposed fees for service. If other considerations are equal, preference will be given to a consultant whose principal place of business is in Texas or who will manage the consulting arrangement wholly from one of its offices in the state. Preference will also be given to persons who demonstrate significant experience assessing information systems. Previous experience designing and/or managing information systems may be helpful but selection will not be made solely on these criteria.

**Proposal Format.** A proposal should be succinct as possible and no longer than 30 pages. It should include a description of the company, its history, and activities. The consultant should also describe other ongoing activities during the life of the contract. The proposed approach to the problem should be addressed, the personnel to be utilized and their resumes, a schedule of activities including a timeline, a project budget and a list of references with addresses and telephone numbers.

**Budget and Schedule.** Proposals are due November 24, 1993 and the award will be made by December 8, 1993. The budget should not exceed \$41,000. A payment of 40% will be made at the time of the interim report with final payment upon project completion and acceptance of the final report. All work must be completed by April 8, 1994.

**Application Procedure.** Funding for this project will not exceed \$41,000 and the contract period will extend from December 8, 1993 through April 8, 1994. The Texas Higher Education Coordinating Board reserves the right to accept or reject any or all proposals submitted under this RFP and to negotiate modifications to improve the quality or cost effectiveness of any proposal.

Proposals must be postmarked no later than the close of business (5:00 p.m.) on November 24, 1993. Ten copies of the final proposal should be sent to Dr. William H. Sanford, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or delivered to the Texas Higher Education Coordinating Board, Building 5, Room 5.386, 7745 Chevy Chase Drive, Austin by 5:00 p.m. on November 24, 1993.

For additional information, please contact Dr. William H. Sanford or Dr. Joan M. Matthews at (512) 483-6200.

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

TRD-9330858 James McWhorter  
Commissioner for Administration  
Texas Higher Education Coordinating Board

Filed: October 22, 1993

## Texas Department of Human Services Notice of Consultant Contract Award

In accordance with the provisions of the Texas Government Code, Chapter 2254, Subchapter B, the Texas Department of Human Services (TDHS) announces this consultant contract award. The invitation for consultant proposals was published in the August 27, 1993, issue of the *Texas Register* (18 TexReg 1767).

**Description of Services:** The consultant will perform a study for the planning and development of child care resource and referral services in Texas. The study will include the development of functions of resource and referral services, organizational structure, funding mechanisms; and a framework for standard data collection and service delivery standards.

**Name of Consultant:** The contract for consulting has been awarded to Texas Association of Child Care Resource and Referral Agencies, 3307 Northland, Suite 460, Austin, Texas 78731

**Due Dates of Reports:** All reports are due no later than September 30, 1994.

**Amount and Duration of Contract:** The total amount of the contract is \$90,000. The contract began on October 18, 1993, and expires on September 30, 1994.

Issued in Austin, Texas, on October 22, 1993

TRD-9330880 Nancy Murphy  
Section Manager, Policy and Document  
Support  
Texas Department of Human Services

Filed: October 22, 1993

## Texas Natural Resource Conservation Commission

### 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 7-22, 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 newspaper 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.

Addicks Utility District; the North Wastewater Treatment Facilities; the plant site is approximately one mile southeast of the intersection of Barker-Cypress Road and Clay Road in Harris County; renewal; 11696-01.

City of Athens; the North Wastewater Treatment Facilities; the plant site is east of One Mile Creek and approximately 3,100 feet northwest of the intersection of Prairieville Street and State Highway 19 in the City of Athens, Henderson County; renewal; 10143-01.

City of Athens; the West Wastewater Treatment Facilities; the plant site is south of Walnut Creek and approximately four miles southwest of the intersection of Prairieville and Corsicana Streets in the City of Athens, Henderson County; renewal; 10143-02.

Axtell Independent School District; the proposed wastewater treatment facility will serve an Axtell Independent

School District elementary school; the wastewater treatment facilities are at a point 2,500 feet northeast of the intersection of FM Road 1330 and St. Louis Southwestern Railway, near the Community of Axtell, McLennan County; new; 11576-02.

Carotex, Inc.; a barge and boat cleaning facility; the plant site is approximately one mile downstream and southeast of the Rainbow Bridge crossing over the Neches River and adjacent to Old Yacht Club Road in the City of Port Arthur, Jefferson County; amendment; 01674.

City of Copperas Cove; the New Northwest Plant Wastewater Treatment Facilities; the plant site is north of the City of Copperas Cove at a point approximately 1.8 miles north of the intersection of FM Road 116 and FM Road 1113, adjacent to the west side of FM Road 116, in Coryell County; renewal; 10045-05.

Cooper Industries, Inc.; the wastewater treatment facilities; are at the intersection of U.S. Highway 90 and FM Road 1909 and approximately three miles east of the City of Liberty in Liberty County; new; 13668-01.

Cypress Fairbanks Independent School District; the wastewater treatment plant; is on the grounds of Cy-Fair High School, southwest of the intersection of Cypress-North Houston Road and Tegle Road in Harris County; renewal; 10867-02.

Doyle Pack doing business as Doyle Pack Dairy; the dairy; is on the north side of FM Road 8, approximately one mile east of the intersection of FM Road 8 and FM Road 219 in Erath County; amendment; 03320.

Fort Davis Water Supply Corporation; the wastewater treatment plant; is one mile south of State Highway 17, approximately 500 feet north of Cemetery Road and 0.5 mile east of Fort Davis in Jeff Davis County; amendment; 10971-01.

Fort Bend County Water Control and Improvement District Number 2; the wastewater treatment facilities; are on Stafford Run, approximately 2,000 feet west of the intersection of Fifth Street and Staffordshire Road in the City of Stafford in Fort Bend County; renewal; 10086-01.

City of Freeport; the wastewater treatment facilities; are immediately south of State Highway 288 on the east bank of the Brazos River Diversion Canal in Brazoria County; renewal; 10882-01.

City of Galveston; the Pointe San Luis (White Sands) Wastewater Treatment Facilities; the plant site is approximately 4,200 feet northeast of the San Luis Pass Toll Bridge, approximately 2,000 feet north-northwest of FM Road 3005 (Termini-San Luis Pass Road), approximately 23.5 miles southwest of the City of Galveston in Galveston County; renewal; 10688-06.

City of Greenville; the wastewater treatment facilities; are approximately 1.3 miles east of the intersection of Interstate Highway 30 and U.S. Highway 69 in Hunt County; renewal; 10485-02.

Greenwood Utility District; the wastewater treatment facilities are at 11702 Tidwell Road and approximately 1,000 feet west of the intersection of John Ralston Road and Tidwell Road in Harris County; renewal; 11061-01.

Harris County Utility District Number 16; the wastewater treatment plant; is approximately one mile north of the intersection of Hardy Road and Farrell Road and approximately 2,000 feet west of Hardy Road in Harris County; renewal; 12614-01.



Harris County Municipal Utility District Number 216; the wastewater treatment plant; is adjacent to and south of the feeder road for Interstate Highway 10, approximately 0.6 mile east of Barker Cypress Road and approximately 2.0 miles west of State Highway 6 in Harris County; renewal; 12682-01.

Houston Lighting and Power Company; the Greens Bayou Electric Generating Station; is adjacent to and south of U.S. Highway 90 and east of Greens Bayou, northeast of the City of Houston, Harris County; renewal; 01031.

City of Katy; the wastewater treatment facilities; are at 25839 Interstate Highway 10 on the east bank of the Cane Island Branch of Buffalo Bayou, approximately 1,000 feet south of Interstate Highway 10 in the City of Katy in Fort Bend County; renewal; 10706-01.

Lackland Air Force Base; the Total Energy Plant; the power plant is approximately 1,000 feet northeast of Wilford Hall Hospital, which is at 2200 Berquist Drive, in the City of San Antonio, Bexar County; new; 03603.

Langham Creek Utility District; the wastewater treatment plant; is at 17255 Glenmorris Drive along the south bank of Langham Creek, approximately one mile south of FM Road 529 and 1-1/4 mile west of Highway 6 in Harris County; renewal; 11682-01.

Matagorda County Water Control and Improvement District Number 6; Van Vleck Wastewater Treatment Facilities; the plant site is approximately 3,000 feet east of the intersection of State Highway 35 and FM Road 2540 in Matagorda County; renewal; 10663-01.

Montgomery County Municipal Utility District Number 58; the wastewater treatment plant; is approximately 1,200 feet east of U.S. Highway 59 and approximately 2,200 feet north of Kingwood Drive in Montgomery County; renewal; 12530-01.

Movimex, Company; an entertainment and retail store complex (night club); the facility is approximately 3,500 feet north of the intersection of FM Road 149 and Spring Cypress Road and 1,300 feet east of the FM Road 149 in north Harris County; renewal; 02631.

New Braunfels Utilities; the Gruene Road Wastewater Treatment Facilities; the plant site is approximately 700 feet southwest of the crossing Gruene Loop Road over the Guadalupe River in Comal County; renewal; 10232-02.

Oiltanking Houston, Inc.; a for-hire bulk liquid storage terminal which handles petroleum and other liquids; the plant site is on the north side of the Houston Ship Channel and southwest of the intersection of Jacintoport Boulevard and Sheldon Road, Harris County; amendment; 02053.

City of Splendor; the wastewater treatment plant; is approximately 2,000 feet north of FM Road 2090 on the east side of Cox Street and adjacent to the T. & N.O. Railroad in the City of Splendor in Montgomery County; renewal; 13389-01.

Kathryn Stephen; the West Circle M/H Ranch Wastewater Treatment Facilities; the plant site is approximately 3,000 feet due west of the intersection of West Circle Drive and FM Road 105, 1,000 feet due south of West Circle Drive in Orange County; amendment; 12180-01.

T Bar M, Inc.; the T Bar M Tennis Ranch Wastewater Treatment Facilities; the facilities are approximately 0.5 mile northwest of the intersection of FM Road 1863 and State Highway 46, west of the City of New Braunfels in Comal County; renewal; 11279-01.

Texas Renaissance Festival, Inc.; the wastewater treatment facility and irrigation site; are adjacent to and west of FM Road 1774, approximately 4.2 miles northwest of the City of Magnolia in Grimes County; renewal; 12799-01.

City of Thrall; the wastewater treatment plant; is approximately 1-1/4 miles south of the intersection of U.S. Highway 79 and Bound Street, south of the City of Thrall in Williamson County; renewal; 13448-01.

Union Grove Independent School District; the wastewater treatment facilities; are approximately 3.5 miles northeast of the intersection of U.S. Highway 271 and U.S. Highway 80 in Upshur County; renewal; 13416-01.

West Harris County Municipal Utility District Number 10; the Winchester Regional Wastewater Treatment Facilities; are at 9606 Rio Grande Street, on the north bank of Whiteoak Bayou, approximately 1,300 feet north of the intersection of West Road and Rio Grande Street and approximately 3/4 mile east of Jones Road in Harris County; renewal; 12171-01.

West Texas Utilities Company, Inc.; the Oklaunion Steam Electric Station; the electric station is 3.8 miles southwest of the Town of Oklaunion and eight miles southeast of the City of Vernon in Wilbarger County; renewal; 02574.

Issued in Austin, Texas, on October 22, 1993.

TRD-9330877

Gloria A. Vasquez  
Chief Clerk  
Texas Natural Resource Conservation  
Commission

Filed: October 25, 1993

◆ ◆ ◆  
**Notice of Opportunity to Comment on  
Permitting Actions**

The following 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 ten days of the date notice concerning the application(s) is published in the *Texas Register*.

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 ten 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) 463-7898.

Permittee. E. I. Dupont de Nemours and Company, Inc., Sabine River works. Permit Number HW50230-001.

Location. Orange, Orange County, Texas.

Type Facility. Hazardous waste management.

Type of Permitting Action. Minor Amendment. The minor amendment would allow the permittee to operate an incinerator under post trial burn performance and operating standards recommended by the TNRCC's Office of Air Quality Division; modify the container storage areas, tanks, contingency plan and RFI plan.

Issued in Austin, Texas, on October 22, 1993.

TRD-9330378      Gloria A. Vasquez  
                         Chief Clerk  
                         Texas Natural Resource Conservation  
                         Commission

Filed: October 25, 1993

◆                    ◆                    ◆  
**North Central Texas Council of  
Governments**

**Request for Proposals**

This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

NCTCOG is requesting proposals from consultants to accomplish an external travel survey in the Dallas-Fort Worth Metropolitan Area during the spring of 1994. The external travel survey will collect data on the number and purpose of trips (both vehicle and person) that are outbound from the Dallas-Fort Worth Metropolitan Area on a typical nonsummer weekday. The survey procedure will be an on-site interview of every Nth outbound vehicle at all external stations (the value for N will vary by location and will be based on the number of vehicles passing during the survey period divided by the desired sample size).

**Contract Award Procedures.** The firm selected to perform this study will be recommended by the Project Review Committee. The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the PRC's recommendation and, if found acceptable, will issue an award of contract.

**Regulations.** NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

**Due Date.** Proposals must be submitted no later than 4:00 p.m., Tuesday, November 16, 1993, to Ken Cervenka, P.E., AICP, Senior Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P.O. Box 5888, Arlington, Texas 76005-5888. For more information and copies of the Request for Proposals, contact Shirley Henry, (817) 640-3300.

Issued in Austin, Texas, on October 18, 1993.

TRD-9330750      Mike Eastland  
                         Executive Director  
                         North Central Texas Council of  
                         Governments

Filed: October 21, 1993

◆                    ◆                    ◆  
This request by the North Central Texas Council of Governments (NCTCOG) for consultant services is filed under the provisions of Texas Civil Statutes, Article 6252-11c.

NCTCOG is requesting proposals from consultants to accomplish a workplace travel survey in the Dallas-Fort Worth Metropolitan Area during the spring of 1994. The workplace survey will obtain information on trip generation characteristics of employees and the number of trip ends due to nonemployees at both freestanding and nonfreestanding workplaces. Three data collection efforts will be used to develop attraction rates for the travel demand modeling process: one deals with employees, another deals with nonemployees, and a third identifies the total number of vehicles and/or persons arriving and departing the workplace during its hours of operation.

**Contract Award Procedures.** The firm selected to perform this study will be recommended by the Project Review Committee. The PRC will use evaluation criteria and methodology consistent with the scope of services contained in the Request for Proposals. The NCTCOG Executive Board will review the PRC's recommendation and, if found acceptable, will issue an award of contract.

**Regulations.** NCTCOG, in accordance with Title VI of the Civil Rights Act of 1964, 78 Statute 252, 41 United States Code 2000d to 2000d-4; and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 1, Nondiscrimination in Federally Assisted Programs of the Department of Transportation issued pursuant to such act, hereby notifies all proposers that it will affirmatively assure that in regard to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, age, national origin, or disability in consideration of an award.

**Due Date.** Proposals must be submitted no later than 4:00 p.m., Tuesday, November 16, 1993, to Ken Cervenka, P.E., AICP, Senior Transportation Planner, North Central Texas Council of Governments, 616 Six Flags Drive, Second Floor, or P.O. Box 5888, Arlington, Texas 76005-5888. For more information and copies of the Request for Proposals, contact Shirley Henry, (817) 640-3300.

Issued in Austin, Texas, on October 18, 1993.

TRD-9330749      Mike Eastland  
                         Executive Director  
                         North Central Texas Council of  
                         Governments

Filed: October 21, 1993

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 Northside Independent School District, San Antonio.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Northside Independent School District pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12393.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Northside Independent School District. The geographic service market for this specific service is the San Antonio area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9330854 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 22, 1993

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the City of Galveston, Galveston.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for the City of Galveston pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12402.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for the City of Galveston. The geographic service market for this specific service is the Galveston area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9330855

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

Filed: October 22, 1993

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to Public Utility Commission Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for the County of Nacogdoches, Nacogdoches.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for County of Nacogdoches pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12394.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for County of Nacogdoches. The geographic service market for this specific service is the Nacogdoches area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9330857 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 22, 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 Tyler Independent School District, Tyler.

**Docket Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for Tyler Independent School District pursuant to Public Utility Commission Substantive Rule 23.27(k). Docket Number 12396.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for Tyler Independent School District. The geographic service market for this specific service is the Tyler area.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas at 7800 Shoal Creek Boulevard, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

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

TRD-9330856 John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 22, 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 October 5, 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 for Mandatory Extended Area Service Between Lufkin-Conroe Telephone Exchange, Inc.'s (LCTX's) Apple Springs, Central, Diboll,

Etoile, Fuller Springs, Hudson, Lufkin, and Wells exchanges and LCTX's Alto Exchange. Project Number 12380, before the Public Utility Commission of Texas.

**The Joint Petition.** In Project Number 12380, LCTX's Alto Exchange and LCTX's Apple Springs, Central, Diboll, Etoile, Fuller Springs, Hudson, Lufkin, and Wells exchanges have requested mandatory, two-way, extended area service between the Alto Exchange and the other exchanges. If approved, the mandatory service will be available at the following rates:

<u>Class of Service</u>	<u>Existing Rate</u>	<u>Proposed Rate</u>	<u>Class of Service</u>	<u>Existing Rate</u>	<u>Proposed Rate</u>
R-1:			B-1:		
1-party	\$ 5.35	\$ 6.65	1-party	\$ 9.60	\$ 15.30
2-party	4.25	5.65	2-party	8.70	13.20
4-party	3.80	4.65	4-party	8.15	11.35
Trunk	8.85	10.85	Semi-Public	15.20	24.25
			Trunk	15.20	24.25

These rates are in addition to existing monthly recurring charges for basic local service.

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 (512) 458-0256 by Tuesday, December 28, 1993. The telecommunications device for the deaf (TDD) number for the Public Information Office is (512) 458-0221.

Issued in Austin, Texas, on October 22, 1993.

TRD-9330853      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 22, 1993

## Notice of Public Meeting

The Public Utility Commission of Texas will hold a public meeting for the purpose of organizing an advisory committee to receive and review information concerning a pilot project on integrated resource planning that will be conducted by Texas Utilities Electric Company.

The meeting will be held on November 9, 1993, at 10:00 a.m. in Hearing Room A, at the offices of the Public Utility Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757.

All parties who are interested in receiving information concerning the pilot project that will be conducted by Texas Utilities Electric Company are invited to attend. The meeting will be conducted by the Commission Staff and

will not be an open meeting of the Commission.

For additional information, please contact Assistant General Counsel Jess Totten, at the address listed above or at (512) 458-0365.

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

TRD-9330785      John M. Renfrow  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: October 21, 1993

## Questions Concerning Proposed Commission Rule on Rate Case Expenses

The Public Utility Commission of Texas requests interested parties to comment on questions related to the issue of reviewing rate case expenses. Interested parties who have inquiries about the proposed questions may contact Thomas L. Brocato, at the Public Utility Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0372.

The commission requests that interested persons respond to the questions that are set forth below and any other related issues. Comments that are longer than ten pages should include an executive summary. Interested persons should file 15 copies of their comments with the commission's Secretary, John M. Renfrow, at 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the publication of this notice in the *Texas Register*. Comments should refer to project number 12105.

This notice is not a formal notice of a proposed rulemaking, but the comments assist the commission in the rulemaking project concerning a proposed rate case ex-

pense rule (Project Number 12105).

Is it appropriate to distinguish between regulatory expenses (such as expenses related to CCN's, sale/transfer/mergers, etc.) and expenses incurred during a rate hearing (rate case expenses)? For the remaining questions assume that the phrase "rate case expenses" applies to both regulatory expenses and those expenses associated with an actual rate case.

Should costs related to a fuel reconciliation be included in fuel expenses or should they only be considered in the context of a rate case?

What criteria should be used to determine if rate case expenses are "reasonable and necessary"? Should this include expenses incurred related to alternative dispute resolution activities?

Is the Commission's current level of review for inclusion of rate case expenses appropriate? If yes, why? If no, what would be a more appropriate level of review?

Should rate case expenses be given a higher level of scrutiny than other operation and maintenance expenses? If no, should there be a separate phase for review of rate case expenses?

Should there be a limit on the total amount of rate case expenses that a utility can recover? If yes, should the limit be based upon a percentage of the requested rate increase or an amount per meter served by the utility?

Should some type of sharing mechanism between ratepayers and shareholders be developed for rate case expenses? For example, should a utility be allowed to recover only a certain percentage of their total rate case expenses?

What incentives can be or should be developed to ensure that utilities do not incur excessive rate case expenses?

Should rate case expenses be collected through a surcharge instead of included in base rates?

Should a municipality's rate case expenses be surcharged to only those municipalities participating in the rate case or should all ratepayers be required to share in the payment of these costs? What standard should be used for making such a determination?

Should the Commission set a standard amortization period for the recovery of rate case expenses? If yes, what is an appropriate time period for recovery?

Should rate case expenses be detailed separately on a customer's bill?

Should municipalities be allowed to receive reimbursement for rate case expenses that they have accrued but have not yet paid? If yes, what mechanism should be established to ensure that only payment for reasonably incurred costs are made?

Should there be a limit on the number and hourly fees of attorneys and consultants? If yes, what level is appropriate and should there be a good cause exception?

Should there be a limit on the amount of recoverable daily expenses for hotel rooms and meals? If yes, what level is appropriate and should there be a good cause exception?

Should expenses associated with limousine service, private planes and first class air travel be excluded? Why or why not?

Would it be sufficient for the Commission to review only a portion (a sample) of the invoices submitted for review?

If yes, what sampling mechanism should be established to determine which invoices are reviewed?

Should a utility be required to have an independent party review its expenses, including supporting documentation, prior to submitting them to the Commission? If yes, what criteria should apply to that review?

In a rate case, should a cut-off date be established such that rate case expenses that incurred after the cut-off date will not be considered in that rate case? If yes, how should the cut-off date be determined and how should expenses incurred after that date be reviewed?

If a cut-off date is employed, should a separate proceeding, in which rate case expenses incurred after the cut-off date will be reviewed, be held after the Commission issues a final order or should they be reviewed in a subsequent rate case?

If a cut-off date is used, should estimating of the remaining expenses be allowed? If yes, should estimating be limited to expenses incurred by municipalities?

Should the rule provide a formula for determining a level of expenses at which an irrebuttable presumption of reasonableness is assumed and no review is necessary? If yes, what should the formula be? For example, such a formula might provide that for a utility if expenses amount to either 0.5% of the requested rate increase or 0.5% of the total cost of service they will be assumed to be reasonable.

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

TRD-9330739

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

Filed: October 20, 1993

### ◆ ◆ ◆ Requests Comments on Amendments to PUC Substantive Rule §23.57

The Public Utility Commission of Texas (the Commission) has established a project (Project Number 12353) to consider possible amendments to PUC Substantive Rule §23.57, Telecommunications Privacy. The Commission seeks comments from interested parties in response to the following questions. Parties are requested to organize their comments to address the specific questions asked in the order asked and to address any jurisdictional issues associated with each response. Parties are encouraged to include an executive summary emphasizing the main points of their comments to each question.

Should the Commission amend Substantive Rule §23.57(e) to require that LECs ballot each customer to allow each customer the opportunity to restrict the use of his/her customer-specific CPNI? Why or why not?

Please address the manner in which subsection (e) and each paragraph of subsection (e) should be amended to require that LESs ballot each customer to allow each customer the opportunity to restrict the use of his/her CPNI.

Would a Substantive Rule that requires a LEC to ballot each customer in such a manner be preempted by the FCC? If yes, please explain why and reference specific language in relevant FCC order(s). If yes, how can the Commission draft a rule requiring LECs to ballot each customer regarding the use of his/her CPNI that would not be preempted by the FCC?

Should the Commission amend Substantive Rule §23.57, subsection (c), to require the LEC to identify all privacy issues that result from the implementation of the new service or feature, including those privacy issues that do not result in a lost degree of privacy? If yes, please address how subsection (c) should be amended to incorporate this.

Should the Commission amend Substantive Rule §23.57, subsection (c), to require the LEC, as part of its identification of privacy issues, to specifically identify any new entities to whom information about a customer will, or can potentially, be released as a result of the new feature or service? If yes, please describe how subsection (c) should be amended to incorporate this.

Should the Commission amend Substantive Rule §23.57, subsection (c), to require the LEC, as part of its identification of privacy issues, to specifically identify and describe any technical change in the manner in which information about a customer is transferred (e.g. a change from in-band to out-of-band signalling)? If yes, please describe how subsection (c) should be amended to incorporate this.

Should the Commission amend either the title and/or the content of Substantive Rule §23.57, subsection (d), Automatic Number Identification, to ensure that the requirements of this subsection also apply to new technologies and services in addition to ANI, for example, service provided over SS7 signalling such as Charge Number Parameter and Calling Party Number Parameter? If yes, please describe how subsection (d) should be amended to incorporate this.

Should the Commission amend the definition of "privacy issue," as defined by Substantive Rule §23.57, subsection (a)(4)? If yes, please describe how the definition of "privacy issue" should be amended and why it should be amended.

Parties interested in providing additional comments are welcome to do so. The Commission also welcomes data and documentation supporting the parties' comments.

General Counsel and staff will review the comments and use them in preparing a recommendation to the Commission.

Comments (13 copies) should contain a reference to Project Number 12353 and should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice. Reply comments should be submitted within 45 days of the date of publication of this notice.

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

TRD-9330738

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

Filed: October 20, 1993

## Requests Comments on Disconnection of Local Telephone Service

The Public Utility Commission of Texas has established a project (Project Number 12334) to examine questions regarding disconnection of local telephone service. The Commission seeks comments from interested parties in response to the following questions. Parties are requested

to respond to the questions in the order in which they are presented below and encouraged to include an executive summary of their comments.

Should the Commission engage in a rulemaking to examine the conditions under which local telephone service may be disconnected?

What is the justification for allowing a local exchange carrier to disconnect local telephone service for failure to pay a charge that is not part of local telephone service?

Does allowing a local exchange carrier to disconnect local telephone service for failure to pay long distance charges promote or hinder competition in billing and collection services?

Should the Commission's substantive rules prohibit a local exchange carrier from disconnecting a residential customer's local telephone service for failure to pay long distance charges? If so, why? If not, why not?

Should the Commission's substantive rules prohibit a local exchange carrier from disconnecting a business's local telephone service for failure to pay long distance service? If so why? If not, why not?

Should the Commission distinguish between intraLATA and interLATA long distance charges in its policy regarding disconnection of service for nonpayment of long distance charges?

Should the Commission distinguish between long distance service provided by the local exchange carrier and long distance service provided by others in its policy regarding disconnection of service nonpayment of long distance charges?

Should the Commission distinguish between MTS and other long distance service, such as 800 service, WATS-like service, and private line service, in its policy regarding disconnection of local telephone service for failure to pay long distance charges?

Should a local exchanged carrier be permitted to block access to outgoing long distance call if a customer does not pay distance charges? If so, are there circumstances in which blocking should not be permitted?

Should the Commission's substantive rules prohibit a local exchange carrier from disconnecting a business's or residential customer's local telephone service for failure to pay for merchandise or nonutility service provided by the local exchange carrier?

Please identify and comment on any issues related to the disconnection of local telephone service for failure to pay long distance charges that have not been addressed in the foregoing questions.

The Commission's staff and general counsel will review the comments and use them in preparing a recommendation to the Commission for further action. The Commission may formally propose amendments to its substantive rules the discontinuance of local telephone service, 16 TAC §23.46.

Comments (13 copies) should be submitted to John M. Renfrow, Secretary of the Commission, 7800 Shoal Creek Boulevard, Austin, Texas 78757 within 30 days of the date of publication of this notice. Comments should refer to Project Number 12334. The names and mailing addresses of commenters will be used to compile a service list for this project. The service list will be used to notify commenters of future proceedings in this project.

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

TRD-9330737

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

Filed: October 20, 1993

◆ ◆ ◆

## Requests Comments on Infrastructure Development for Telecommunications Utilities

The Public Utility Commission of Texas (the Commission) has established a project (Project Number 12322) to investigate the need for a policy for infrastructure development for telecommunications utilities. The Commission seeks comments from interested parties in response to the following questions. Parties are requested to organize their comments to address the specific questions asked in the order asked and to address any jurisdictional issues associated with each response. Parties are encouraged to include an executive summary emphasizing the main points of their comments to each question.

Should the Commission have a public policy that encourages the deployment of advanced telecommunications infrastructure in the state? If yes, why, and what should be the goals of such a policy for Texas? Include in your response your definition of "advanced telecommunications infrastructure."

How and in what areas (health, education, etc.) would an advanced telecommunications infrastructure promote public and social welfare in Texas? Why? What are the services and what are the characteristics of the services necessary to promote public and social welfare in Texas? Why?

How and in what manner (telecommuting, interactive multimedia, etc.) would an advanced telecommunications infrastructure promote economic development in Texas? Why? What are the services and what are the characteristics of the services necessary to promote economic development in Texas? Why?

In what additional ways would an advanced telecommunications infrastructure benefit Texas? Why? What are the services and what are the characteristics of the services necessary to provide those benefits? Why?

What telecommunications infrastructure is currently available to provide the services necessary to promote public and social welfare, promote economic development, and provide other benefits?

What additional telecommunications infrastructure is needed to provide the services necessary to promote public and social welfare, promote economic development, and provide other benefits? Why?

Who should design and build the telecommunications infrastructure? Why? Who should provide the necessary services? Why? Who (ratepayers, LEC stockholders, IXC stockholders, competitors, etc.) should share in the costs and risks of designing and building the advanced telecommunications infrastructure and in providing the necessary services in Texas? Why and how?

Should deployment of an advanced telecommunications infrastructure be mandated or market driven? Why? If deployment should be mandated, then what is the ideal schedule for deployment?

Should the Commission seek to encourage the deployment of advanced telecommunications infrastructure by establishing broad policy statements or by adopting rules requiring LECs to deploy specific technologies and/or services? Why? Are specific technologies necessary to promote public and social welfare and economic development in Texas? Why? Does the Commission have the authority to require LECs to deploy specific technologies and/or services? Why or why not?

What are the various policy options for encouraging infrastructure development? Please specifically address faster depreciation, use of yellow page revenues, removal of regulatory barriers to competition, use of excess local exchange company earnings, regulatory flexibility as a *quid-pro-quo* for infrastructure commitments and also discuss the pros and cons of each.

Please provide a comprehensive set of public policy principles for developing an advanced telecommunications infrastructure in Texas.

If the deployment of specific technologies should be ordered, what technologies should be included? Why?

Should LECs be required to provide advanced telecommunications technologies and/or services in rural areas at the same time that they provide such technologies and/or services in urban areas? Why?

How can the Commission maintain a high quality of service in rural areas, protect universal service, and maintain reasonable rates as it encourages the development of an advanced telecommunications infrastructure?

Should federal action, such as Senate Bill 1086 and The national Information Infrastructure, affect any action taken by this Commission? If yes, why and how?

Parties interested in providing additional comments are welcome to do so. The Commission also welcomes data and documentation supporting the parties' comments.

General Counsel and staff will review the comments and use them in preparing a recommendation to the Commission.

Comments (13 copies) should contain a reference to Project Number 12322 and should be submitted to John M. Renfrow, Secretary of the Commission, Public Utility Commission of Texas, 7800 Shoal Creek Boulevard, Austin, Texas 78757, within 30 days of the date of publication of this notice. Reply comments should be submitted within 45 days of the date of publication of this notice.

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

TRD-9330740

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

Filed: October 20, 1993

◆ ◆ ◆

## Railroad Commission of Texas Correction of Error

The Railroad Commission of Texas proposed new Subchapter T, 16 TAC §§5.371-5.381, concerning Single State Registration of Interstate Motor Carrier Operations. The rules were published in the October 26, 1993, *Texas Register* (18 TexReg 7451).

In the preamble to the proposed rules the Commission said comments would be accepted for 13 days after publication

in the *Texas Register*. Due to an editorial error by the *Texas Register* the comment period was misprinted as "30 days". The comment period should read "13 days".



The Railroad Commission of Texas proposed amendments to Subchapter R, 16 TAC §§5.334, 4.335, 5.337, 5.344, and 5.347, concerning Registration of Interstate Operations. The rules were published in the October 22, 1993, *Texas Register* (18 TexReg 7338).

In the preamble to the proposed rules the Commission said comments would be accepted for 13 days after publication in the *Texas Register*. Due to an editorial error by the *Texas Register* the comment period was misprinted as "30 days". The comment period should read "13 days".



### Notice of Public Hearing on Liquefied Natural Gas Rulemaking

The Railroad Commission of Texas will conduct a public hearing to receive comments on a working draft of safety rules governing the Liquefied Natural Gas (LNG) industry on Wednesday, December 8, 1993, at 8:30 a.m. until 4:30 p.m., in Room 12-126 of the William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701. The Commission has authorized the release of a working draft of the LNG rules prior to the hearing. A copy of the working draft can be obtained after November 15, 1993, by calling Rochelle Pemberton at (512) 463-6949; the charge is the cost to reproduce the document.

From 9:00 a.m. until noon, the commission will take comments on the issue of the odorization of liquefied natural gas. After a lunch break, the commission will take comments on the working draft of the LNG rules regarding issues other than odorization, from 1:30 p.m. until 4:30 p.m. Depending upon the number of speakers, the commission may limit the time for comments, to afford all interested parties an opportunity to comment.

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 officers 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 officers reserve the right to restrict comments in terms of time and repetitive content. Organizations, associations, and groups are encouraged to present their commonly held views and identical or similar comments through a single representative member where possible. Comments on the working draft should include citation to sections, subsections, paragraphs, etc., for proper reference. Any suggestions or requests for alternative language or other revisions in the text of the working draft 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 officers.

Any person with a disability who needs auxiliary aids and/or services in order to have an equal opportunity to communicate and participate effectively in this public hearing must request such aids or services by 3:00 p.m., Wednesday, November 17, 1993, by notifying the Personnel Office of the Railroad Commission by mail at P.O. Box 12967, Austin, Texas 78711-2967 or at (512) 463-7327 or TDD (512) 463-7284.

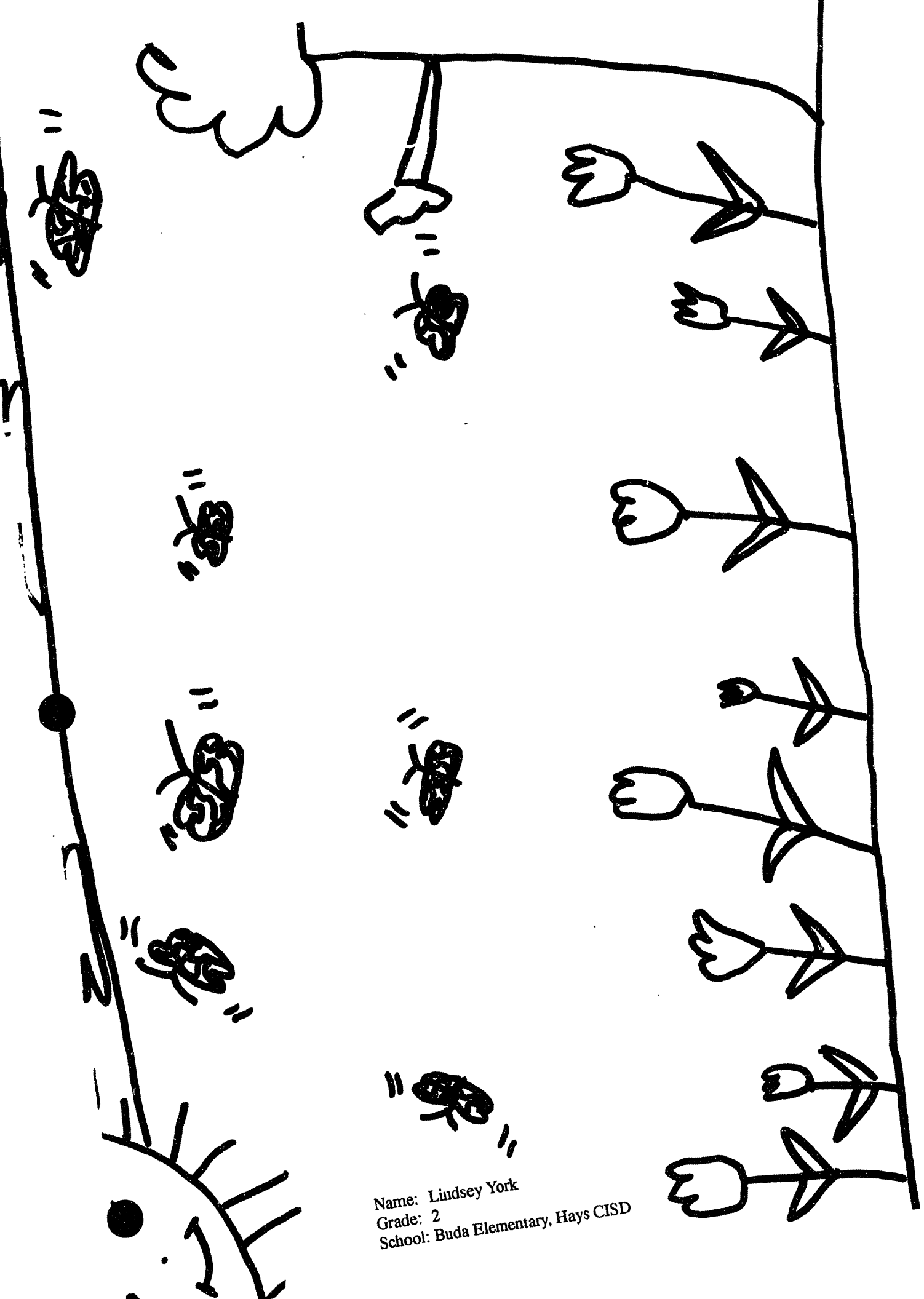
Issued in Austin, Texas, on October 21, 1993.

TRD-9330818      Mary Ross McDonald  
Assistant Director, Legal Division-Gas  
Utilities/L.P.-Gas Section  
Railroad Commission of Texas

Filed: October 22, 1993







Name: Lindsey York  
Grade: 2  
School: Buda Elementary, Hays CISD



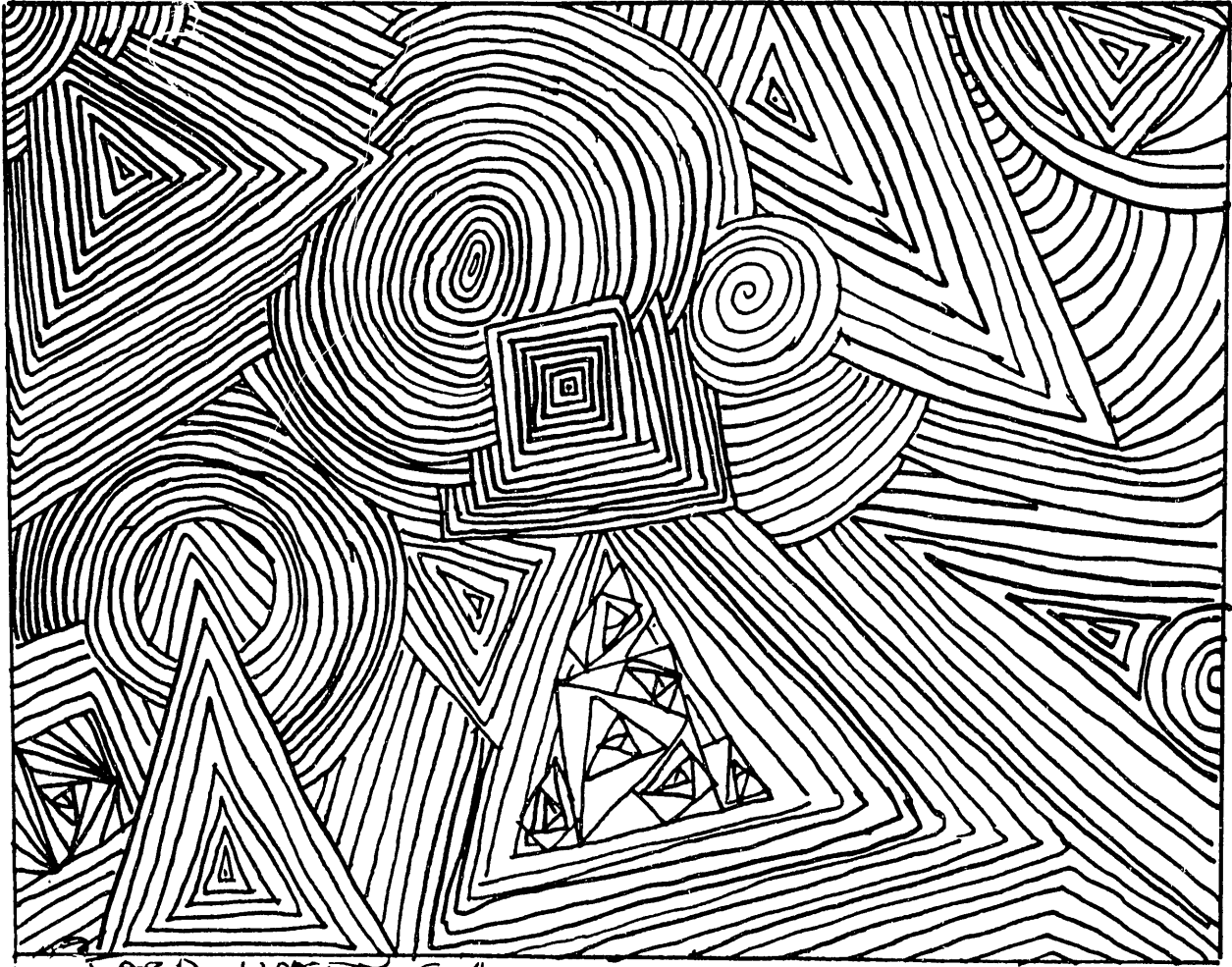
Name: Cynthia Gonzales  
Grade: 2  
School: Buda Elementary, Hays CISD

Don't touch Posini's

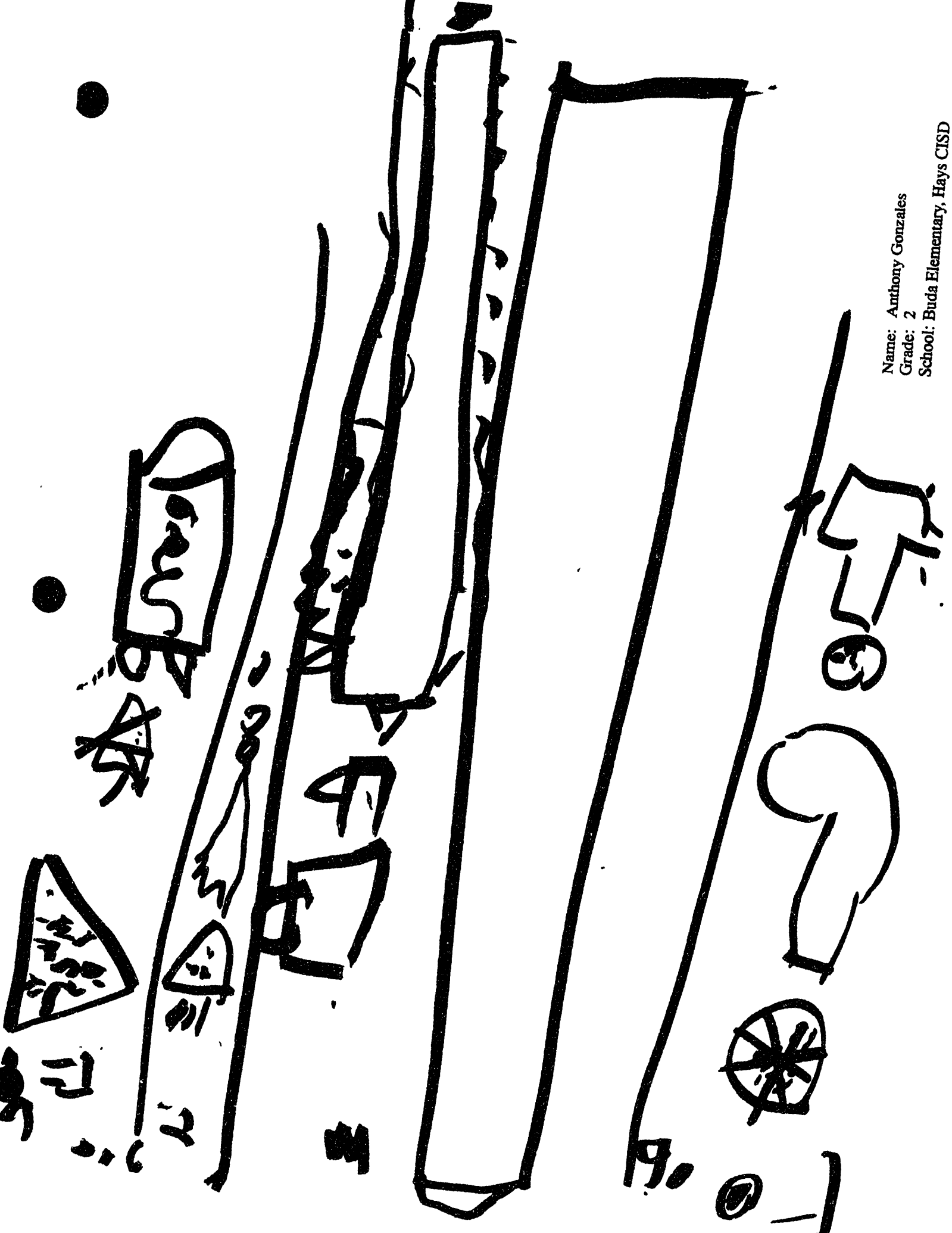
Don't touch Posini's



Name: Kyle West  
Grade: 2  
School: Buda Elementary, Hays CISD



Name: Lara Haagen  
Grade: 9  
School: Bailey Junior High, Arlington ISD



Name: Anthony Gonzales  
Grade: 2  
School: Buda Elementary, Hays CISD

## 1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week preceding publication. No issues will be published on July 30, November 5, November 30, and December 28. A asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
34 Tuesday, May 4	Wednesday, April 28	Thursday, April 29
35 Friday, May 7	Monday, May 3	Tuesday, May 4
36 Tuesday, May 11	Wednesday, May 5	Thursday, May 6
37 Friday, May 14	Monday, May 10	Tuesday, May 11
38 Tuesday, May 18	Wednesday, May 12	Thursday, May 13
39 Friday, May 21	Monday, May 17	Tuesday, May 18
40 Tuesday, May 25	Wednesday, May 19	Thursday, May 20
41 Friday, May 28	Monday, May 24	Tuesday, May 25
42 Tuesday, June 1	Wednesday, May 26	Thursday, May 27
43 *Friday, June 4	Friday, May 28	Tuesday, June 1
44 Tuesday, June 8	Wednesday, June 2	Thursday, June 3
45 Friday, June 11	Monday, June 7	Tuesday, June 8
46 Tuesday, June 15	Wednesday, June 9	Thursday, June 10
47 Friday, June 18	Monday, June 14	Tuesday, June 15
48 Tuesday, June 22	Wednesday, June 16	Thursday, June 17
49 Friday, June 25	Monday, June 21	Tuesday, June 22
50 Tuesday, June 29	Wednesday, June 23	Thursday, June 24
51 Friday, July 2	Monday, June 28	Tuesday, June 29
52 Tuesday, July 6	Wednesday, June 30	Thursday, July 1
53 Friday, July 9	Monday, July 5	Tuesday, July 6
Tuesday, July 13	SECOND QUARTERLY INDEX	
54 Friday, July 16	Monday, July 12	Tuesday, July 13
55 Tuesday, July 20	Wednesday, July 14	Thursday, July 15
56 Friday, July 23	Monday, July 19	Tuesday, July 20
57 Tuesday, July 27	Wednesday, July 21	Thursday, July 22
Friday, July 30	NO ISSUE PUBLISHED	
58 Tuesday, August 3	Wednesday, July 28	Thursday, July 29
59 Friday, August 6	Monday, August 2	Tuesday, August 3
60 Tuesday, August 10	Wednesday, August 4	Thursday, August 5
61 Friday, August 13	Monday, August 9	Tuesday, August 10
62 Tuesday, August 17	Wednesday, August 11	Thursday, August 12
63 Friday, August 20	Monday, August 16	Tuesday, August 17
64 Tuesday, August 24	Wednesday, August 18	Thursday, August 19

65 Friday, August 27	Monday, August 23	Tuesday, August 24
66 Tuesday, August 31	Wednesday, August 25	Thursday, August 26
67 Friday, September 3	Monday, August 30	Tuesday, August 31
68 Tuesday, September 7	Wednesday, September 1	Thursday, September 2
69 Friday, September 10	Friday, September 3	Tuesday, September 7
70 Tuesday, September 14	Wednesday, September 8	Thursday, September 9
71 Friday, September 17	Monday, September 13	Tuesday, September 14
72 Tuesday, September 21	Wednesday, September 15	Thursday, September 16
73 Friday, September 24	Monday, September 20	Tuesday, September 21
74 Tuesday, September 28	Wednesday, September 22	Thursday, September 23
75 Friday, October 1	Monday, September 27	Tuesday, September 28
76 Tuesday, October 5	Wednesday, September 29	Thursday, September 30
77 Friday, October 8	Monday, October 4	Tuesday, October 5
Tuesday, October 12	THIRD QUARTERLY INDEX	
78 Friday, October 15	Monday, October 11	Tuesday, October 12
79 Tuesday, October 19	Wednesday, October 13	Thursday, October 14
80 Friday, October 22	Monday, October 18	Tuesday, October 19
81 Tuesday, October 26	Wednesday, October 20	Thursday, October 21
82 Friday, October 29	Monday, October 25	Tuesday, October 26
83 Tuesday, November 2	Wednesday, October 27	Thursday, October 28
Friday, November 5	NO ISSUE PUBLISHED	
84 Tuesday, November 9	Wednesday, November 3	Thursday, November 4
85 Friday, November 12	Monday, November 8	Tuesday, November 9
86 Tuesday, November 16	Wednesday, November 10	Thursday, November 11
87 Friday, November 19	Monday, November 15	Tuesday, November 16
88 Tuesday, November 23	Wednesday, November 17	Thursday, November 18
89 Friday, November 26	Monday, November 22	Tuesday, November 23
Tuesday, November 30	NO ISSUE PUBLISHED	
90 Friday, December 3	Monday, November 29	Tuesday, November 30
91 Tuesday, December 7	Wednesday, December 1	Thursday, December 2
92 Friday, December 10	Monday, December 6	Tuesday, December 7
93 Tuesday, December 14	Wednesday, December 8	Thursday, December 9
94 Friday, December 17	Monday, December 13	Tuesday, December 14
95 Tuesday, December 21	Wednesday, December 15	Thursday, December 16
96 Friday, December 24	Monday, December 20	Tuesday, December 21
Tuesday, December 28	NO ISSUE PUBLISHED	

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 2.1% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

Change of Address

(Please print)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Back Issues Requested

(Please specify dates)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**YES**, I want to learn about the latest changes in Texas regulations that may affect the daily operation of my business. Please begin my subscription to the *Texas Register* today.

Name .....  
Organization .....  
Address .....  
City, ST Zip .....

I would like my subscription to be the  printed  electronic version.  
I'm enclosing payment for  1 year  6 months  7 week trial  
*7 week trial subscription not available for electronic subscriptions*  
Bill me for  1 year  6 months

Cost of a subscription is \$90 yearly or \$70 for six months for the electronic version. Cost for the printed version is \$95 yearly or \$75 for six months. Trial subscriptions cost \$14. Please make checks payable to the Secretary of State. Subscription fees will not be refunded. Do not use this form to renew subscriptions. Return to *Texas Register*, P.O. Box 13824 Austin, TX 78711-3824. For more information, please call (512) 463-5561.

Second Class Postage

PAID

Austin, Texas  
and additional entry offices