

Texas Register

Volume 18, Number 83, November 2, 1993

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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

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How to Use the Texas Register

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

Governor - Appointments, executive orders, and proclamations.

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

Secretary of State - opinions based on the election laws.

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

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

Proposed Sections - sections proposed for adoption.

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date

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

Open Meetings - notices of open meetings

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

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

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

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

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

Texas Administrative Code

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

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

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

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

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

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

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

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

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

TITLE: 40. SOCIAL SERVICES AND ASSISTANCE
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40 FAC §3.704.....950, 1820

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

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

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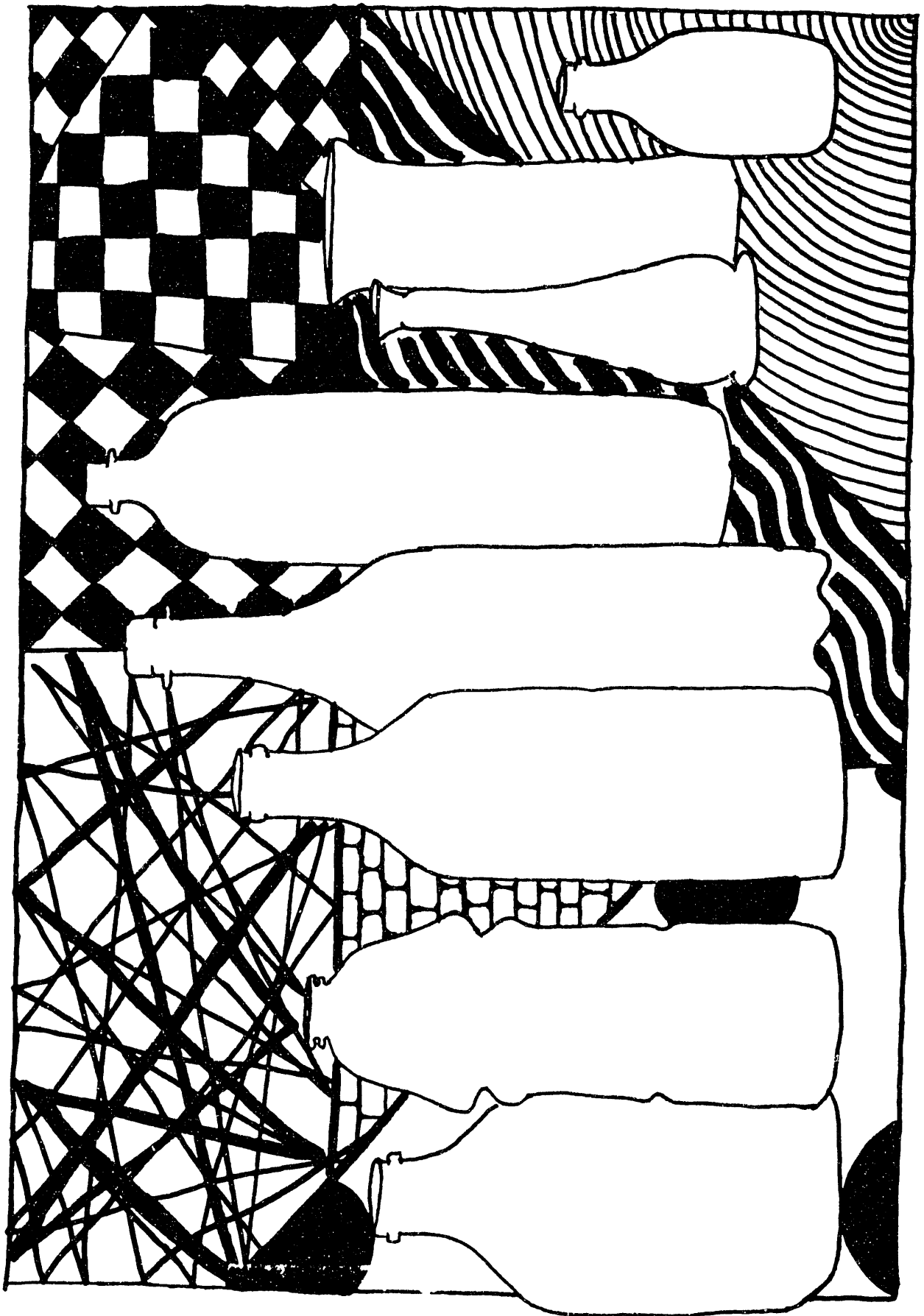
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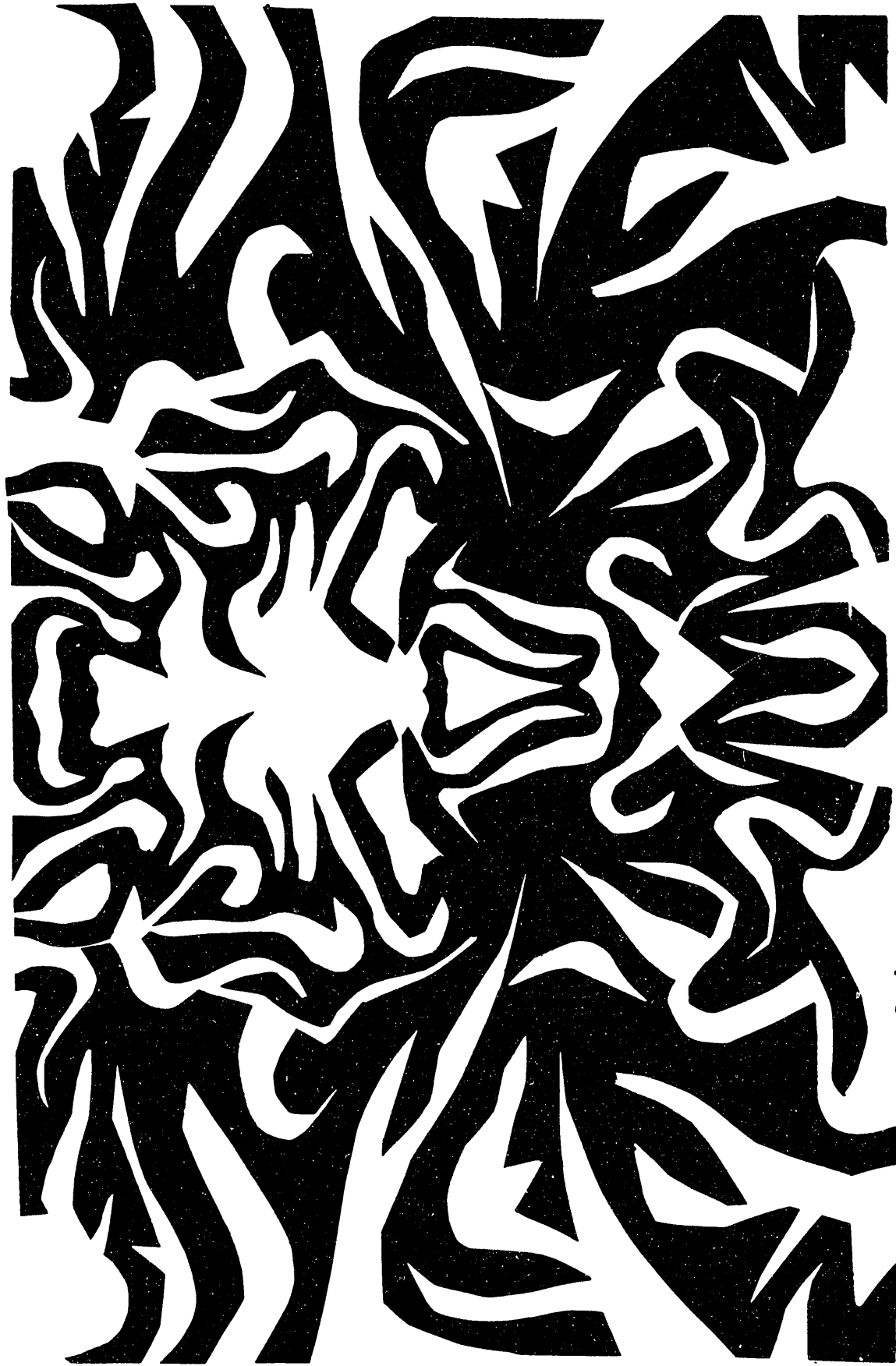
Texas Department of Transportation

Public Notice 7951



Richard Mercer

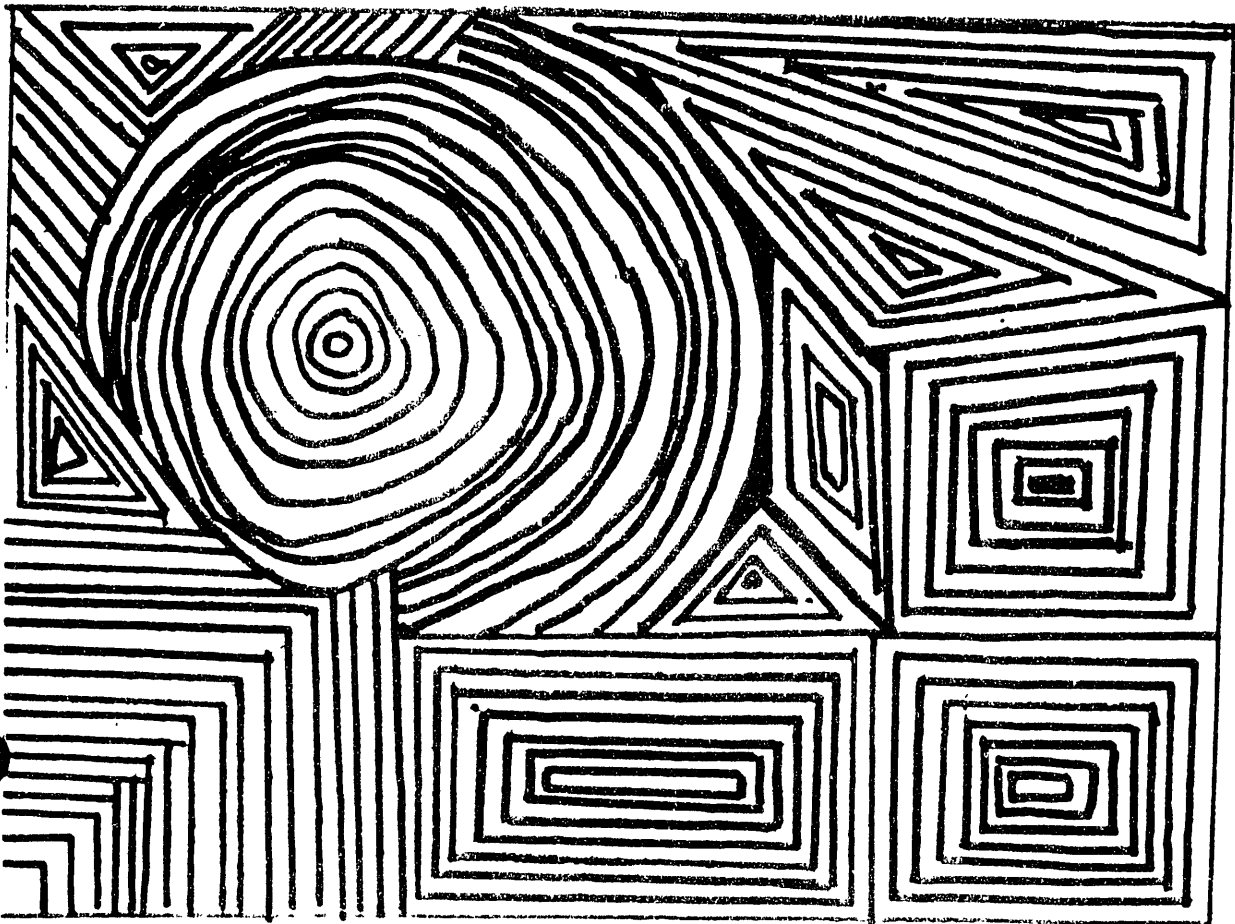
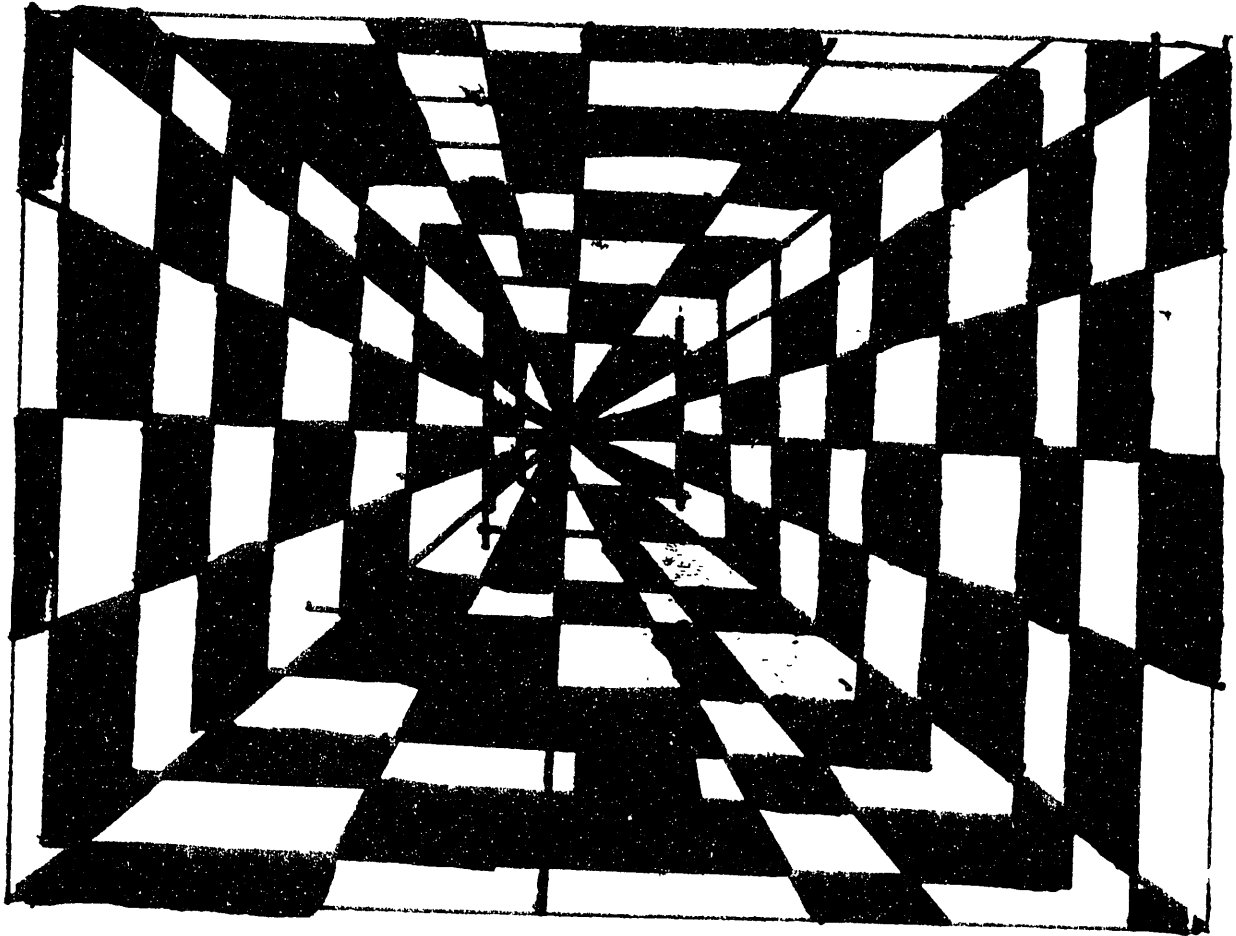
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School Bailey Junior High Arlington ISD



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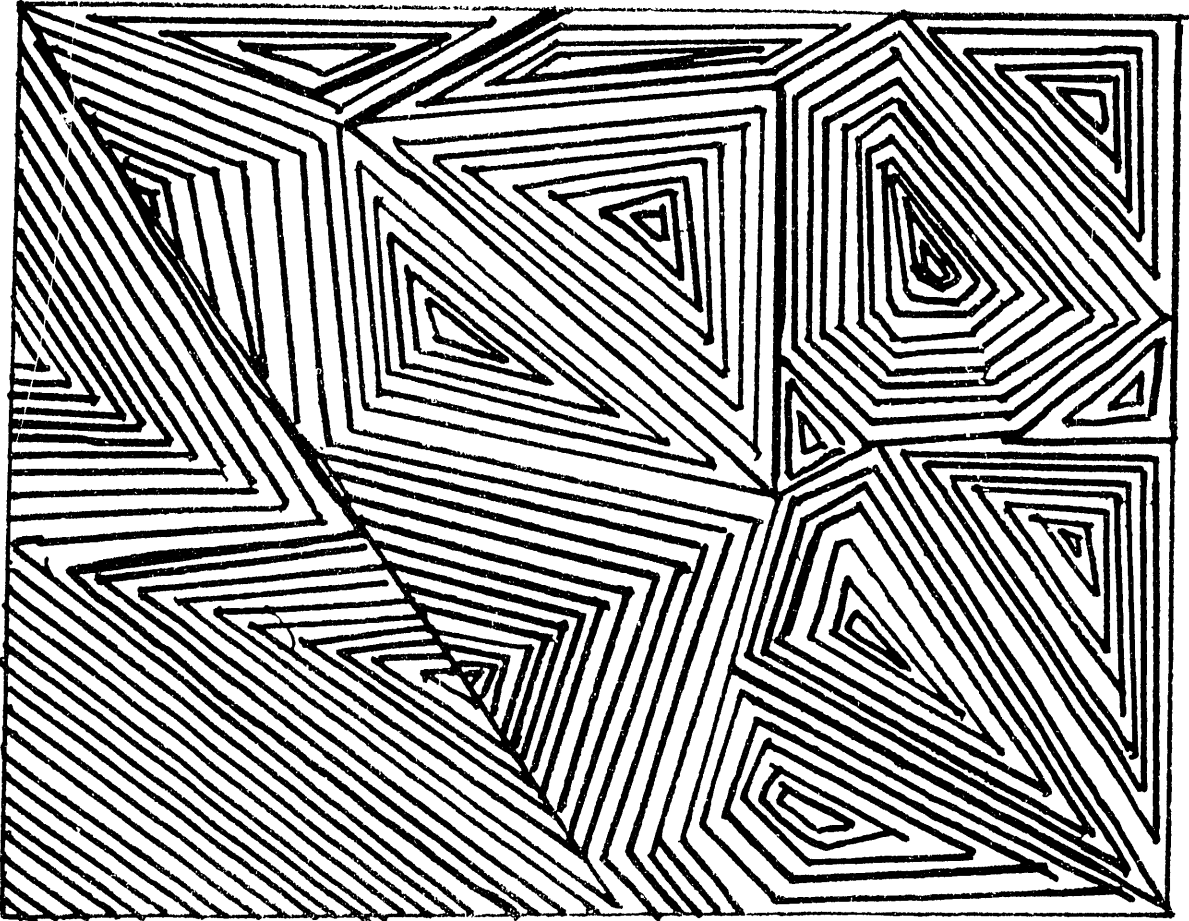
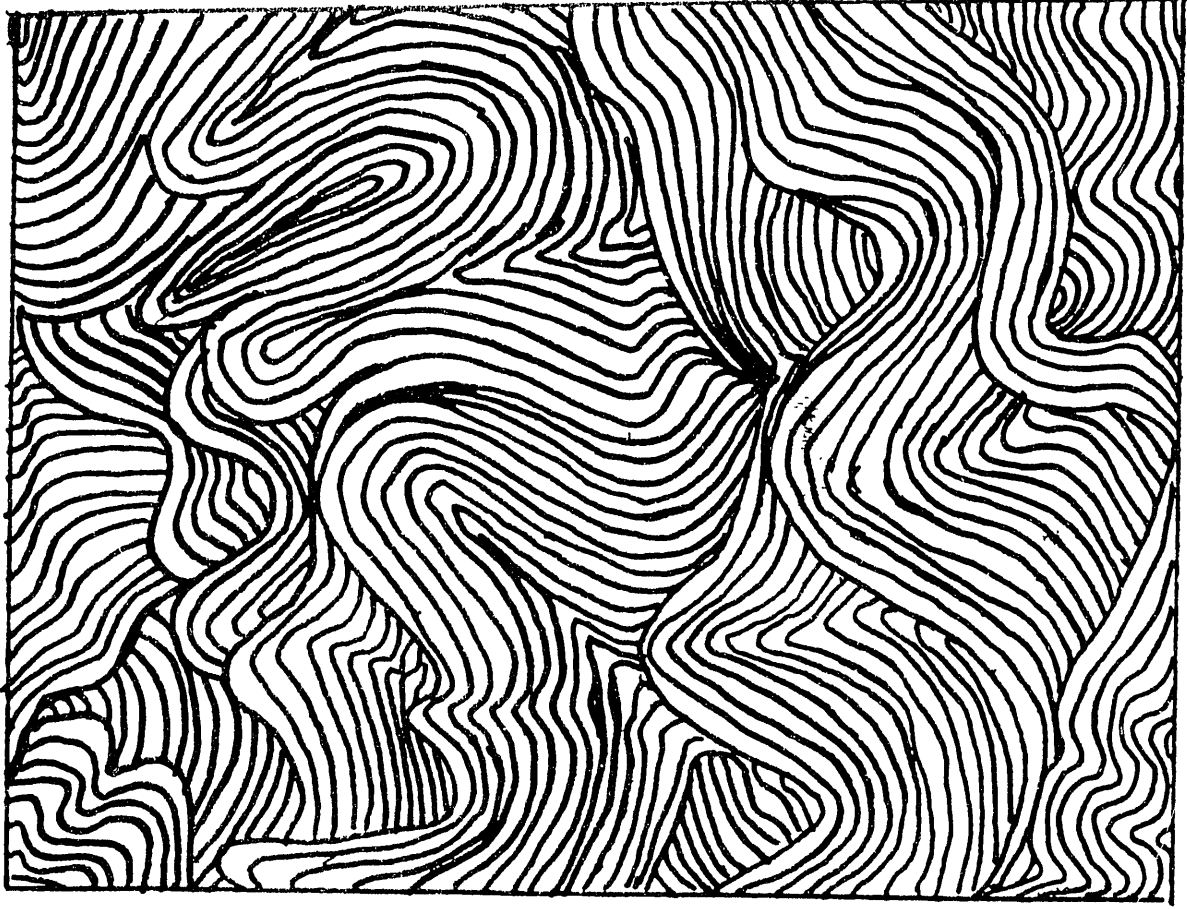
Name: Lara Haagen
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School: Bailey Junior High, Arlington ISD





Name: Ryan Grubbs
Grade 9
School: Bailey Junior High, Arlington ISD

Ryan Grubbs



Name: Ryan Grubbs

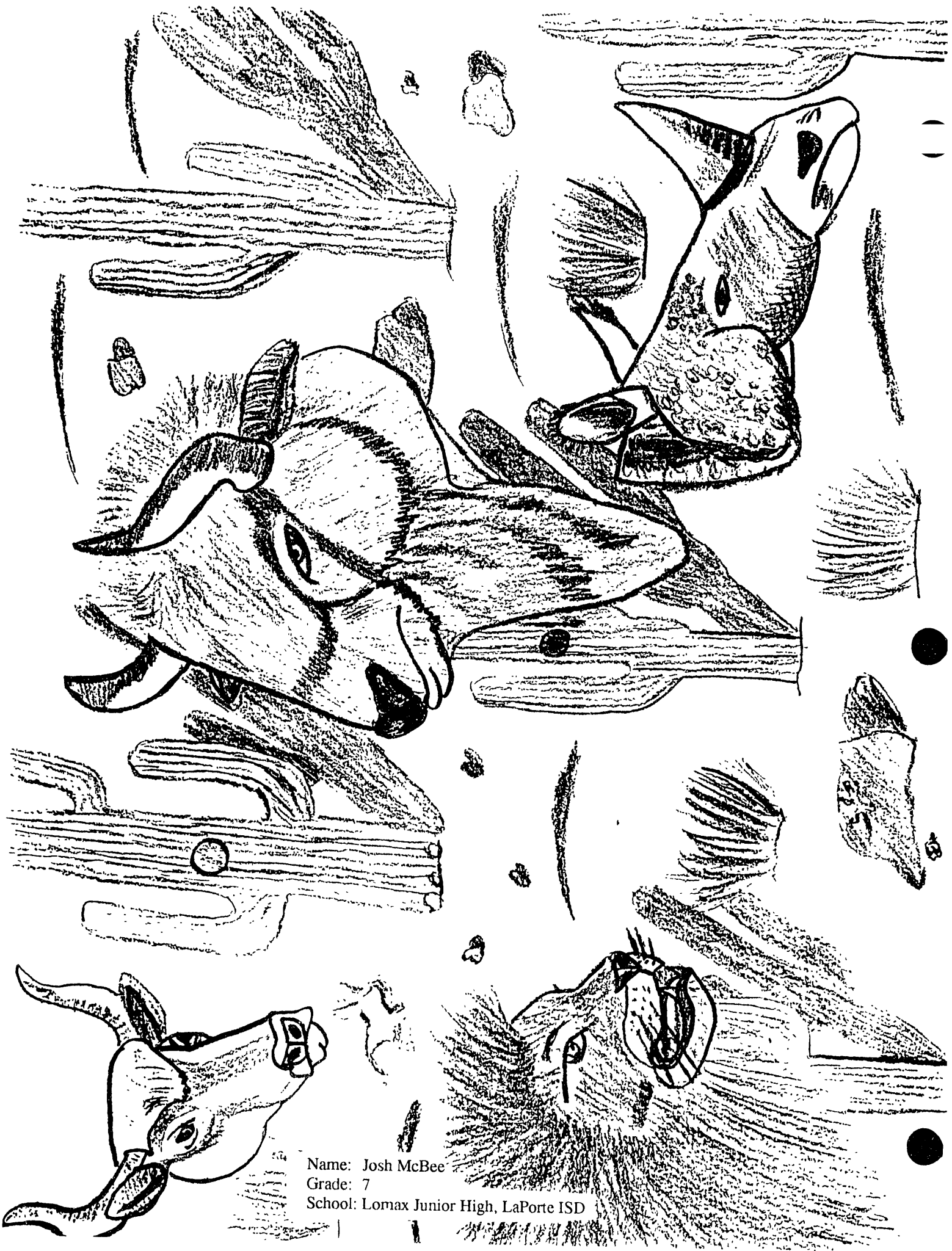
Grade: 9

School: Bailey Junior High, Arlington ISD





Name: Chris Martin
Grade: 7
School: Thomas Junior High, L. Loo, L.P.



Name: Josh McBee
Grade: 7
School: Lomax Junior High, LaPorte ISD

The Governor

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

Appointments Made October 20, 1993

To be a member of the **Texas Growth Fund Board of Trustees** for a term to expire February 1, 1997: C. T. "Carlos" Sharpless, 3504 Lindenwood, Dallas, Texas 75205. Mr. Sharpless will be filling the unexpired term of John H. Dalton of San Antonio, who resigned.

To be a member of the **Texas Growth Fund Board of Trustees** for a term to expire February 1, 1999: H. Scott Caven, 2169 Troon Road, Houston, Texas 77019. Mr. Caven is being reappointed.

To be Chairman of the **Governor's Committee on People with Disabilities** for a term at the pleasure of the Governor: Ralph

Dean Rouse, Jr., of Rowlett. Mr. Rowlett will be replacing Jerry D Cooper of Dallas, as chairman

Appointments Made October 21, 1993

To be a member of the **Brazos River Authority Board of Directors** for a term to expire February 1, 1999: Everet E Kennemer, III, P.O. Box 814, West Columbia, Texas 77486. Mr. Kennemer will be replacing Jim Atkins, Jr of Lake Jackson, whose term expired.

To be a member of the **Brazos River Authority Board of Directors** for a term to expire February 1, 1999: David F Lengefeld, 116 East Baker, Hamilton, Texas 76531 Mr Lengefeld will be replac-

ing Deborah Bell of Abilene, whose term expired

To be a member of the **Brazos River Authority Board of Directors** for a term to expire February 1, 1999: Hulen M. Davis, P.O. Box 2838, Prairie View, Texas 77446. Mr. Davis will be replacing Chauncey Bogan of Seabrook, whose term expired.

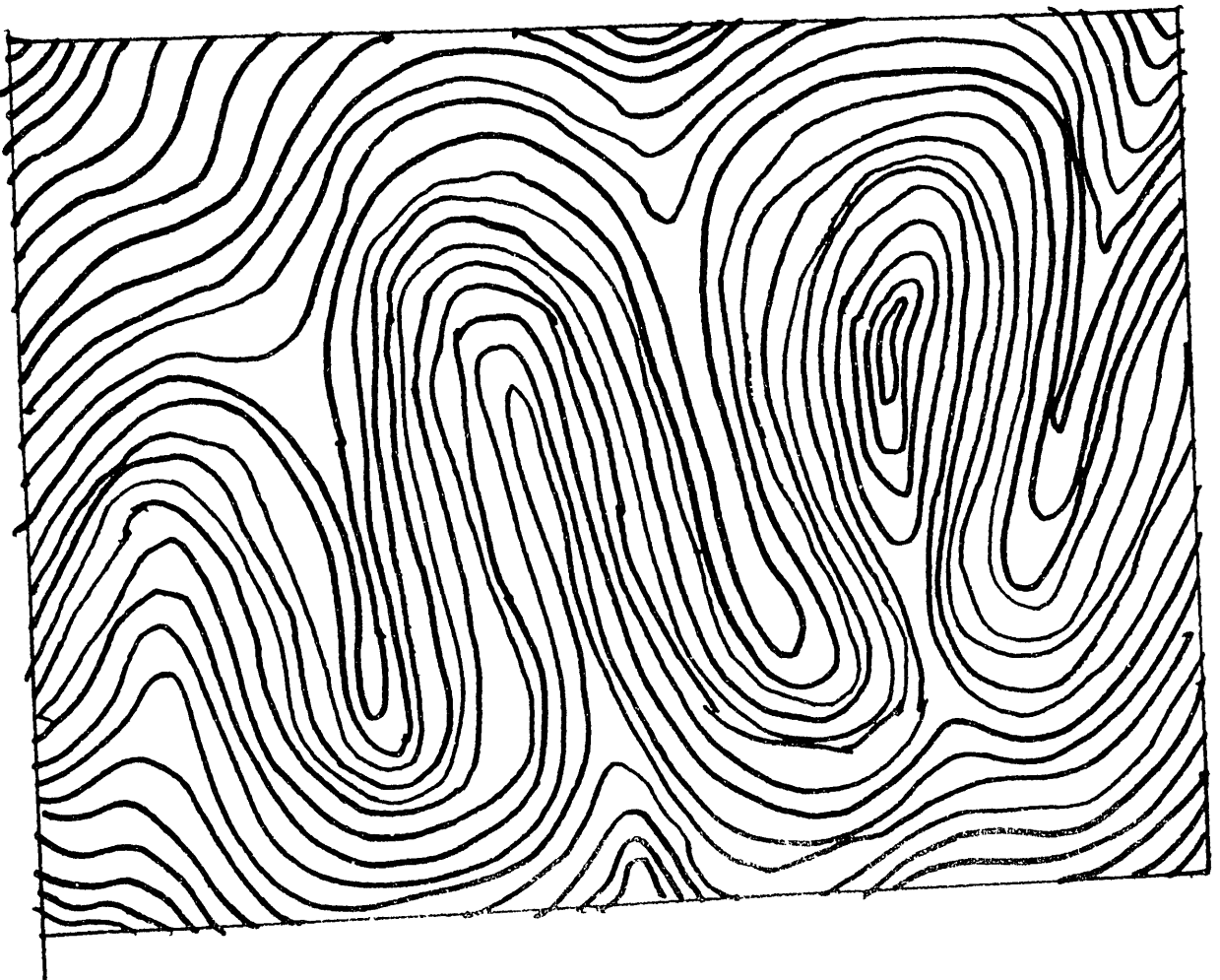
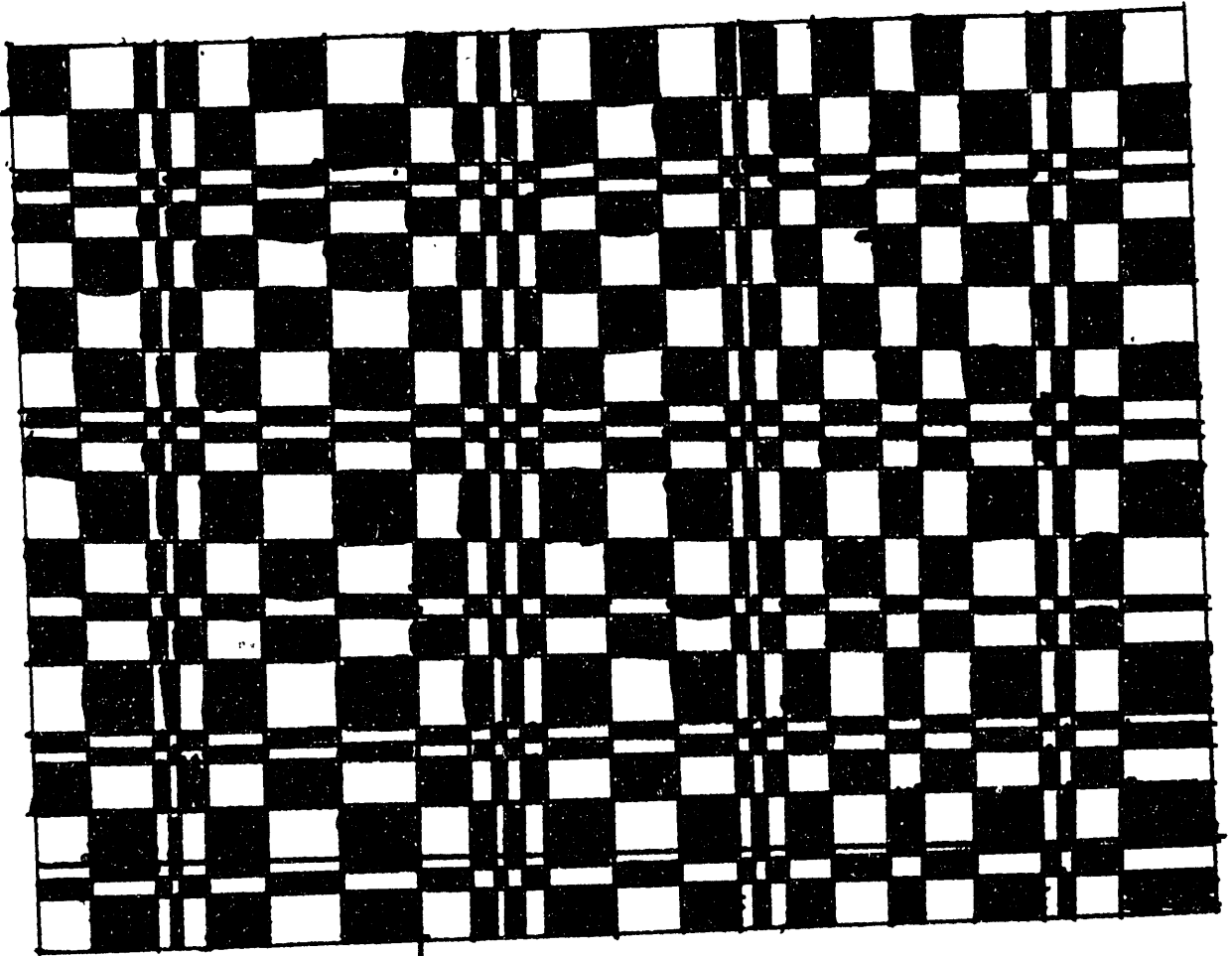
To be a member of the **Brazos River Authority Board of Directors** for a term to expire February 1, 1999: Johnween Smyth Mathis, 1607 Willow Drive, Hearne, Texas 77859 Mr. Mathis will be replacing Chester Upham of Mineral Wells, whose term expired

Issued in Austin, Texas, on October 25, 1993.

TRD-9330896

Ann W Richards
Governor of Texas





Name: Jason Freeman
Grade: 9
School: Bailey Junior High, Arlington ISD

Emergency Sections

An agency may adopt a new or amended section or repeal an existing section on an emergency basis if it determines that such action is necessary for the public health, safety, or welfare of this state. The section may become effective immediately upon filing with the *Texas Register*, or on a stated date less than 20 days after filing, for no more than 120 days. The emergency action is renewable once for no more than 60 days.

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

TITLE 1. ADMINISTRATION

Part V. General Services Commission

Chapter 113. Central Purchasing Division

• 1 TAC §113.19

The General Services Commission adopts on an emergency basis an amendment to §113.19, concerning the catalogue purchase procedure for automated information systems. The section adopted on an emergency basis is proposed also for public comment in this issue of the *Texas Register*.

The section is adopted on an emergency basis to ensure compliance with federal requirements so that pending purchases necessary to provide federally funded human and protective services may be completed on time.

The amendment is adopted on an emergency basis under Texas Civil Statutes, Article 601b, §3 081, which authorize the commission to adopt rules to implement that section.

§113.19. Catalogue Purchase Procedure for Automated Information Systems.

(a)-(o) (No change.)

(p) This subsection applies only to catalogue purchases which are funded in part with federal funds. A qualified information systems vendor may protest an action of an agency in making such a purchase.

(1) The protest must:

(A) be filed, in writing, with the Office of Administrative Hearings, 300 West 15th Street, P.O. Box 13025, Austin, Texas 78711-3025, within ten working days after the occurrence of the action which is the subject of the complaint;

(B) contain a statement of relevant facts and an explanation of the statutory or regulatory basis for the complaint;

(C) contain a certification that copies of the protest have been delivered to the agency making the purchase and its selected vendor; and

(D) be accompanied by a fee in the amount established by the Office of Administrative Hearings to cover its costs in working on the protest.

(2) Upon receipt of the protest and required fee, the Office of Administrative Hearings shall review the protest and issue a written decision on the matter within the time and manner established by that Office. The proposal for decision shall be submitted to the General Services Commission and shall be presented for final decision in accordance with the requirements of §111.3(g) of this title (relating to Protests/Dispute Resolution/Hearing) as though the proposal for decision constituted an appeal under §111.3.

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

TRD-9331028 Judith M. Porras
General Counsel
General Services
Commission

Effective date: October 27, 1993

Expiration date: December 26, 1993

For further information, please call: (512) 463-3583

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.31

The Railroad Commission of Texas is renewing the effectiveness of the emergency adop-

tion of amended §3.31, for a 60-day period effective November 12, 1993. The text of amended §3.31 was originally published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 4721).

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

TRD-9330958 Mary Ross McDonald
Assistant Director, Legal
Division, Gas Utilities
LP-Gas
Railroad Commission of
Texas

Effective date: November 12, 1993

Expiration date: January 11, 1994

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

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 133. Hospital Licensing

(Editor's note The following rules adopted on an emergency basis are being published in Part II of this issue of the Texas Register §§133 1-133 7, 133 11-133 14, 133 21-133 23, 133 29, 133 31, 133 32, 133 51-133 54, 133 71, 133 72, 133 101, 133 102, 133 111-133 113, 133 121, 133 131)

Chapter 134. Private Mental Hospitals and Mental Health Facilities Licensing

(Editor's note The following rules adopted on an emergency basis are being published in Part II of this issue of the Texas Register. §§134 1-134 3, 134 11-134 14, 134 21-134 23, 134 51-134 54, 134 71-134 73, 134 91, 134 101)



Name - Domic Wallace
Grade - 9
www.eric.ed.gov HEI - A-11-2004-150

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 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 71. Office of the Secretary of State

Private Use of the State [Great] Seal of Texas

- 1 TAC §§71.40-71.42, 71.45, 71.46, 71.48, 71.50

The Office of the Secretary of State proposes new §71.50 and amendments to §§71.40-71.42, 71.45, 71.46, and 71.48, concerning the private use of the state seal of Texas. The proposed new rule and amendments implement legislative changes enacted by the 73rd Legislative Session (1993). New §71.50 designates standard designs for the state seal, the reverse of the state seal, and the state arms. The amendments to §§71.40, 71.41, 71.45, 71.46, and 71.48 replace the term "Great Seal" with "state seal." Section 71.40 is also amended to reflect the definition of the reverse side of the state seal delineated in the new legislation. Amendments to §71.42 and §71.46 replace the term "Great Seal" with "state seal" as well as eliminate references to the former Sesquicentennial Commission.

Guy Joyner, staff attorney, 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. Joyner 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 make rules consistent with existing law and procedure. 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 Guy Joyner, Staff Attorney, Statutory Documents Sections, P.O. Box 12887, Austin, Texas 78711-2887.

The new rule and amendments are proposed under the Government Code, §2001.004(1) and the Business and Commerce Code, §17.08, which provide the secretary of state with the authority to prescribe and adopt rules. The new rule implements subsection (d) of new Article 6139f of Texas Civil Statutes. The new rule and proposed amend-

ments affect the Business and Commerce Code, §17.08.

§71.40. Definitions. The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise. Unless otherwise expressly provided, the past, present, or future tense includes the other; the masculine, feminine, or neuter gender each includes the other; and the singular and plural number each includes the other.

Abuse—Any departure from reasonable use: immoderate or improper use; use contrary to customary or accepted practices and protocols such as would be a misuse of the state [Great] seal [Seal] of Texas

Application—The act of making a formal request for licensed permission to use the state [Great] seal [Seal] of Texas

Commercial purpose—A purpose that is intended to result in a profit or other tangible benefit but does not include an official use in a state function or the use of the state [Great] seal [Seal] of Texas or a representation of the state [Great] seal [Seal] of Texas for a political purpose by an elected official of this state.

State [Great] seal [Seal] of Texas—A seal which contains a five-point star encircled by olive and live oak branches, and the words "the State of Texas," or depicts the reverse side of the state [Great] seal [Seal] of Texas.

License—Permission by the secretary of state to conduct the use, manufacture, distribution, mass production, replication, sale or incorporation into advertisement, draft, or design the state [Great] seal [Seal] of Texas within the accepted criteria of this title.

Licensed product—A state [Great] seal [Seal] of Texas product which has been approved by a license.

Licensee—The applicant who receives permission to use the state [Great] seal [Seal] of Texas

Nonexact representation—A deceptively similar representation of the state [Great] seal [Seal] of Texas, including a state agency's seal which incorporates the state [Great] seal [Seal] of Texas

Nonofficial use—Any use of the state [Great] seal [Seal] of Texas that is not an official use.

Official use—The use of the state [Great] seal [Seal] of Texas by an officer or employee of this state in performing a state function

Representation of the state [Great] seal [Seal] of Texas—Includes a nonexact representation that the secretary of state determines is deceptively similar to the state [Great] seal [Seal] of Texas.

Reverse side of the state [Great] seal [Seal] of Texas—Comprised of a shield, consisting of a depiction of the Alamo, the [a] cannon of the **Battle of Gonzales**, and **Vince's [a] bridge**. The shield is encircled by live oak and olive branches, and the unfurled flags of the kingdom of France, the kingdom of Spain, the **United Mexican States**, [Mexico], the Republic of Texas, the Confederate States of America, and the United States of America. Above the shield is emblazoned the motto, "Remember the Alamo," and beneath it are the words, "Texas one and indivisible," with a white five-pointed star hanging over the shield, centered between the flags [all].

State arms—Comprised of a white star of five points, on an azure ground, encircled by olive and live oak branches.

§71.41 Application Process.

(a) Any person not a state public official, or under the express direction of a state agency and conducting official state business must, prior to any use of the state [Great] seal [Seal] of Texas in any commercial reproduction, distribution, advertisement, manufacture, promotion, replication, sale, or any such activity reasonably construed to be embraced by this description:

(1) complete and file with the Office of the Secretary of State, on a form prescribed by that office, an application for a license for the private nonofficial use of the state [Great] seal [Seal] of Texas;

(2) (No change)

(b) A complete application must

(1) (No change)

(2) include a specific description of the intended usage involving the state [Great] seal [Seal] of Texas,

(3) be accompanied by a precise description and the specification of the actual product to bear the state [Great] seal

[Seal] of Texas in the form of an architectural drawing, an engineer's draft to scale, sales brochure, or lucid photograph; and

(4) (No change.)

(c)-(d) (No change)

(e) Except as otherwise provided by law, no seal of any state agency, which incorporates the state [Great] seal [Seal] of Texas, may be used for a nonofficial use by any person including any official or employee of said state agency. Unless a license is first obtained pursuant to the procedures herein described, a person may not use a state agency's representation of the state [Great] Seal of Texas for a commercial purpose.

§71.42. Exemptions.

(a) State agencies and officials who use the state [Great] seal [Seal] of Texas for official uses or state functions have no application or fee requirement; however, in an effort to achieve uniformity and continuity, state agencies and officials are encouraged to submit their intended uses and renditions of the state [Great] seal [Seal] of Texas to the Secretary of State.

(1) When a manufacturer or vendor solely produces for, or solely sells or distributes to a state agency a product bearing the state [Great] seal [Seal] of Texas for an official use or for a state function, no application or license is required.

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

(4) When a manufacturer or vendor produces for, or sells or distributes to a state agency a product bearing the state [Great] seal [Seal] of Texas that is also available to the general public, the manufacturer or vendor must file an application in accordance with §71.41(a) of this title (relating to Application Process), obtain a license in accordance with §71.45(a) of this title (relating to Licensing), and pay, except as otherwise provided by these administrative regulations, all fees required by §71.44 of this title (relating to Fees; Payment of Money).

(5) (No change.)

(b) Elected officials who use the state [Great] seal [Seal] of Texas for political purposes have no application or fee requirement.

(1) When a manufacturer or vendor solely produces for, or solely sells or distributes to an elected official a product bearing the state [Great] seal [Seal] of Texas for a political purpose, no application or license is required.

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

(4) When a manufacturer or vendor produces for, sells, or distributes to

an elected official a product bearing the state [Great] seal [Seal] of Texas that is also available to the general public, the manufacturer or vendor must file an application in accordance with §71.41(a) of this title (relating to Application Process), obtain a license in accordance with §71.45(a) of this title (relating to Licensing), and pay, except as otherwise provided by these administrative regulations, all fees required by §71.44 of this title (relating to Fees; Payment of Money).

(5) (No change.)

(c) The manufacturer of a product bearing the state [Great] seal [Seal] of Texas bears the responsibility for filing the necessary application, obtaining the appropriate license, and the payment of all fees required by the statute and these administrative regulations.

(1) Vendors or resellers are exempt from the application, licensing, and fee requirements of the statute and these administrative regulations where the manufacturer of the product transferred has obtained the required state [Great] seal [Seal] of Texas license, provided the vendor or reseller, prior to resale, obtains from the manufacturer, on a form prescribed by the secretary of state's office, a certification of the manufacturer's license.

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

(d) Gross receipts received from the sale of licensed products to the general public are exempt from the royalty fee required by the statute and §71.44 of this title (relating to Fees; Payment of Money) where a royalty is paid to the Texas Sesquicentennial Commission (Texas Civil Statutes, Article 6145-11) for the sale of the licensed products.]

§71.45. Licensing.

(a) Grant of license. Upon approval of an application, and payment of the licensing fee as set forth in §71.44 of this title (relating to Fees; Payment of Money), any individual or corporation may be granted a license which will certify to all that such person has complied with the requirements of application and filing. Licensees may engage in the reproduction of the state [Great] seal [Seal] of Texas for private and public nonofficial uses. It is accepted that the licensee will use the state [Great] seal [Seal] of Texas in an exemplary manner. Any and all transactions which involve the vendor, manufacturer, or distributor of the state [Great] seal [Seal] of Texas and the public are expected to be handled in an honest and conscientious fashion. A licensee must display the license in a conspicuous manner in the licensee's office or place of business

(b) Renewal of license. A renewal of a license must take place annually on the

renewal application and license form provided by the secretary of state's office. A renewal may not be granted if licensee:

(1) has used the state [Great] seal [Seal] of Texas in a manner that is detrimental to the image of the state and not in its best interests; or

(2) (No change.)

(c) Suspension of license. The licensee's use of the state [Great] seal [Seal] of Texas must not be detrimental to the image of the state and its best interests, by virtue of its draft, design, presentation, association, distribution, manufacture, or sale. Any such use, late payment, or nonpayment of a required fee, violation of either the statute or these administrative regulations will result in the suspension of the license.

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

(d) Revocation of an existing license.

(1) A license may be revoked for, but not limited to, the following reasons:

(A) (No change.)

(B) abusive use of the state [Great] seal [Seal] of Texas;

(C) criminal use of the state [Great] seal [Seal] of Texas;

(D)-(G) (No change.)

(2) (No change.)

§71.46. Quarterly Report.

(a) Licensees must file with the Office of the Secretary of State a statement (i.e. quarterly report), on a form prescribed by that office, containing the following:

(1) (No change.)

(2) a statement of the total quantity of licensed products sold upon which a royalty was paid to the Texas Sesquicentennial Commission;]

(2)(3) the total amount of gross receipts received from the sale of licensed products during the quarter,

(4) the total amount of gross receipts received from the sale of licensed products during the quarter upon which a royalty was paid to the Texas Sesquicentennial Commission;]

(3)(5) where the licensee has obtained an exemption under §71.42(a)(5) of this title (relating to Exemptions), the total amount of gross receipts received from the sale of licensed products during the quarter to state agencies.

(4)[(6)] where the licensee has obtained an exemption under §71.42(b)(5) of this title (relating to Exemptions), the total amount of gross receipts received from the sale of licensed products during the quarter to elected officials;

(5)[(7)] the total amount of gross receipts derived by the licensee from other uses of the state [Great] seal [Seal] of Texas during the quarter;

(6)[(8)] the amount of any royalty fee due for the quarter.

(b)-(d) (No change.)

§71.48. *Enforcement.* In addition to the suspension or revocation of a state [Great] seal [Seal] of Texas License, the Office of the Secretary of State may:

(1) request that the Texas Attorney General bring a civil action to enjoin

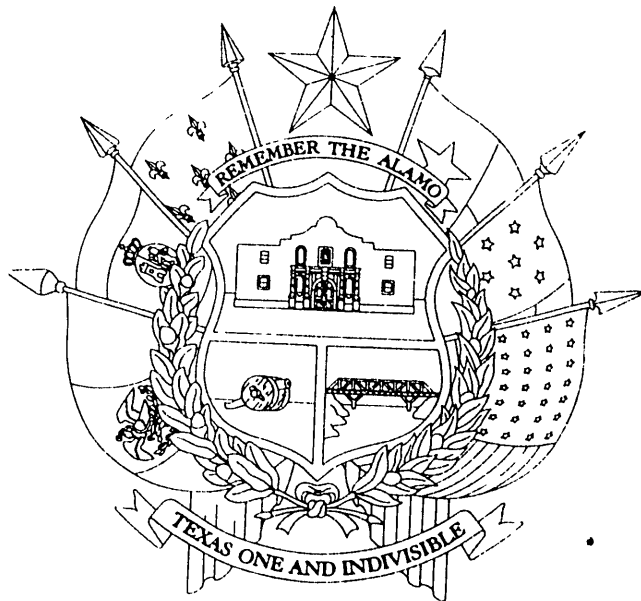
either a violation of the statute or these administrative regulations relating to the state [Great] seal [Seal] of Texas, or to collect delinquent fees;

(2) (No change.)

§71.50. *Standard Designs.* The following illustrations depict the standard designs for the state seal, the reverse of the state seal, and the state arms.



STATE SEAL



REVERSE OF THE STATE SEAL



STATE ARMS

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 26, 1993

TRD-9330960

Audray Selden
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption. December 3, 1993

For further information, please call (512) 463-5558

◆ ◆ ◆ Part V. General Services Commission

Chapter 111. Executive Administration Division

Administration

• 1 TAC §111.2

The General Services Commission proposes new §111.2, concerning definitions. The new section states definitions for words and terms that pertain generally to the activities of the commission. The section is a restatement in simpler and clearer language of definitions that were previously contained in §113.2 pertaining to the commission's central purchasing division.

Judith M. Porras, general counsel, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as

a result of enforcing or administering the section.

Ms. Porras 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 clearer rules. 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 Judith M. Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. 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 Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of the Article.

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

Act—The State Purchasing and General Services Act, Texas Civil Statutes, Article 601b.

Best interests of the state—Most advantageous to the state in light of all relevant circumstances.

Commission—The General Services Commission.

Competitive bidding—The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is

made to the lowest and best bidder meeting the specifications. The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plane of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the state. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or unduly restrict competition, favor a particular vendor, or increase the cost of goods or services without providing a corresponding benefit to the state.

Electronic data interchange (EDI)—Exchange of information electronically between business parties in a structured format, including but not limited to computer direct or indirect electronic information exchange, exchange of computer tapes and disks, and telefacsimile transmission.

Local government—A county, municipality, school district, special district, junior college district, or other legally constituted political subdivision of the state.

Minor technicality—A requirement in a bid invitation which, if waived or modified by the commission when evaluating bids, would not give a bidder an unfair advantage over other bidders or result in a material change in the contract.

Nonresident bidder—A bidder whose principal place of business is not in Texas, but does not include a bidder whose major-

ity owner or parent company has its principal place of business in Texas.

Payment bond—A deposit, pledge, or contract of guaranty supplied by a successful bidder to protect the state against loss due to the bidder's failure to pay material suppliers and subcontractors. Acceptable forms of payment bonds are: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution subject to the laws of Texas; a surety or blanket bond from a company chartered or authorized to do business in Texas; United States treasury bond; or certificate of deposit.

Performance bond—A deposit, pledge, or contract of guaranty supplied by a successful bidder to protect the state against loss due to the bidder's inability to complete the contract as agreed. Acceptable forms of performance bonds are those listed in the definition of payment bond.

Principal place of business in Texas—A permanent business office located in Texas from which a bid is submitted and from which business activities are conducted other than submitting bids to governmental agencies, where at least one employee works for the business entity submitting bids.

Texas resident bidder—A bidder with its principal place of business in Texas, including a bidder whose majority owner or parent company has its principal place of business in Texas.

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 26, 1993.

TRD-9331030 Judith Porras
General Counsel
General Services
Commission

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For further information, please call. (512) 463-3583

◆ ◆ ◆
Chapter 113. Central
Purchasing Division

Purchasing

• 1 TAC §113.2, §113.6

The General Services Commission proposes amendments to §113.2, concerning definitions and §113.6 concerning bid evaluation and award. The amendment to §113.2 adds definitions for terms relating to recycling in order to assist state agencies in achieving statutorily mandated goals for the procurement of products with recycled material content, remanufactured products, and environmentally sensitive products. The amendment to §113.6 permits the commission to resolve tie bids by drawing lots, this amendment is necessary to restore a sub-

stantially similar provision that was inadvertently repealed in the course of adopting simplified purchasing rules.

Pat Martin, director, purchasing division, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Ms. Martin 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 clearer guidelines for purchases by state agencies of products containing recycled materials and environmentally sensitive products, and clearer guidelines for resolving tie bids.

Comments on the proposal may be submitted to Judith M. Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Civil Statutes, Article 601b, §3.01 and §3.33, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of Article 3.

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

Consumable procurement budget—That portion of an agency's budget as identified by the comptroller's expenditure codes attributable to consumable supplies, materials and equipment.

Environmentally sensitive products—Products that protect or enhance the environment, or that damage the environment less than traditionally available products.

Pre-consumer materials—Materials or by-products that have not reached a business entity or consumer for an intended end use, including industrial scrap material, and overstock or obsolete inventories from distributors, wholesalers, and other companies. The term does not include materials and by-products generated from, and commonly reused within, an original manufacturing process or separate operation within the same or a parent company.

Post-consumer materials—Finished products, packages or materials generated by a business entity or consumer that have served their intended end uses, and that have been recovered or otherwise diverted from the waste stream for the purpose of recycling.

Recycled material content—The portion of a product made with recycled materials consisting of pre-consumer materials (waste), post-consumer materials (waste), or both.

Recycled materials—Materials, goods or products that contain recyclable material, industrial waste, or hazardous waste that may be used in place of raw or virgin materials in manufacturing a new product.

Recycled product—A product that meets the requirements for recycled material content as prescribed by the rules established by the Texas Natural Resource Conservation Commission in consultation with the General Services Commission.

Remanufactured product—A product that has been repaired, rebuilt, or otherwise restored to meet or exceed the original equipment manufacturer's (OEM) performance specifications; provided, however, the warranty period for a remanufactured product may differ from the OEM warranty period.

Total expenditures on products with recycled material content, remanufactured products, and environmentally sensitive products—The total direct acquisition costs (vendor selling price plus delivery costs) of all such products.

§113.6. Bid Evaluation and Award.

(a) (No change.)

(b) Award.

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

(3) In case of tie bids which cannot be resolved by application of one or more preferences described in §113.8 of this title (relating to Preferences), an award shall be made by drawing lots.

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 26, 1993.

TRD-9331025 Judith Porras
General Counsel
General Services
Commission

Earliest possible date of adoption: December 3, 1993

For further information, please call. (512) 463-3583

◆ ◆ ◆
• 1 TAC §113.19

(Editor's Note. The General Services Commission proposes for permanent adoption the new section it adopts on an emergency basis in this issue. The text of the new section is in the Emergency Rules section of this issue.)

The General Services Commission proposes an amendment to §113.19, concerning the catalogue purchase procedure for automated information systems. The amendment provides a protest procedure for federally funded catalogue purchases.

Pat Martin, director for purchasing, Purchasing Division, 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. Martin 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 ensuring the ability of state agencies to make purchases in the most efficient manner permitted by state law without jeopardizing the continued availability of federal funds. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule, except that persons who choose to file protests under the procedure will be required to pay the costs of the process.

Comments on the proposal may be submitted to Judith Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 601b, §3. 081, which provide the General Services Commission with the authority to promulgate rules necessary to accomplish the purpose of the section.

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

Issued in Austin, Texas, on October 26, 1993

TRD-9331029

Judith M. Porras
General Counsel
General Services
Commission

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For further information, please call (512) 463-3583

Chapter 117. Centralized Services Division

Central Store

• 1 TAC §117.51

The General Services Commission proposes an amendment to §117.51, concerning central supply store operations. The amendment streamlines and consolidates existing rules and outlines the scope of central supply store operations for governmental entities.

Michael N. Powers, director for inter-agency services division, 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. Powers 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 is in effect state

agencies and other governmental entities will benefit from streamlined regulations. 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 may be submitted to Judith Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 601b, Article 11, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of the Article.

§117.51. Operation Authority [General].

(a) The Central Store is operated pursuant to Texas Civil Statutes, Article 601b, §11.04, for state agencies to [where they can] secure [their] small, desk top supply items, without delay and with a minimum of paperwork and administrative cost.

(b) Purchases from the central store may only be made by authorized personnel from state agencies who possess a credit card issued by the commission for this purpose.

(c) The commission is not responsible for loss of any merchandise after charge slips are signed by state agency employees making purchases.

(d) After the close of each month, the commission shall submit a purchase voucher, along with a copy of signed charge slips to agencies purchasing items at the central store.

(e) Agencies shall promptly process any purchase voucher prepared by the commission. The commission may refuse to permit additional sales transactions for an agency so long as that agency holds unprocessed a previous voucher.

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 26, 1993

TRD-9331031

Judith Porras
General Counsel
General Services
Commission

Earliest possible date of adoption: December 3, 1993

For further information, please call (512) 463-3583

Central Store

• 1 TAC §§117.52-117.57

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the

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

The General Services Commission proposes the repeal of §§117.52-117.57, concerning central supply store operations. The repeal will consolidate existing rules. The significant content of these repealed sections is proposed to be consolidated into amended §117.51.

Michael N. Powers, director for inter-agency services division, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Powers also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will benefit from simplified regulations. 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 may be submitted to Judith Porras, General Counsel, General Services Commission, P.O. Box 13047, Austin, Texas 78711-3047. Comments must be received no later than 30 days from the date of publication of the proposal in the *Texas Register*.

The repeals are proposed under Texas Civil Statutes, Article 601b, Article 11, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of that Article.

§117.52. Purchases.

§117.53. Credit Card.

§117.54. Responsibility for Loss of Merchandise.

§117.55. Supplies.

§117.56. Purchase Vouchers.

§117.57. Prompt Processing.

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 26, 1993

TRD-9331032

Judith Porras
General Counsel
General Services
Commission

Earliest possible date of adoption:

For further information, please call (512) 463-3583

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 26. Texas Agricultural Diversification Program: Linked Deposits

- 4 TAC §§26.1-26.3, 26.5, 26.6, 26.8, 26.10, 26.12

The Texas Department of Agriculture (the department) proposes amendments to §§26.1-26.3, 26.5, 26.6, 26.8, 26.10, and 26.12, concerning the administration, implementation, practice, and procedure for participation in the Texas Department of Agriculture Linked Deposit Program. The amendments are proposed in order to provide new definitions, clarify the program's purpose, make application procedures consistent with new definitions, allow for use of loan proceeds for the purchase of water conservation equipment, establish new program limitations, correct information on submitting communications regarding the program and comply with House Bill 1622 passed by the Texas Legislature, 73rd session.

Robert Kennedy, deputy assistant commissioner for finance and agribusiness development, has determined that for the first five-year period the rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rules.

Mr. Kennedy also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be the potential to generate up to \$5 million in new agricultural loans. There will be no effect on small business. There will be no anticipated economic cost to persons who are required to comply with the rules 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 this proposal in the *Texas Register*.

The amendments are proposed under the Texas Agriculture Code, §44.007, which provides the Texas Department of Agriculture with the authority to adopt rules and procedures for administration of its linked deposit program. The sections of the Code which will be affected by these rules include Chapter 44 of the Code.

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

Current market rate—The rate of interest on a United States treasury bill or note, the [whose] maturity date of which most closely matches the maturity date of the loan, or the end of the next biennium

of the state, whichever is sooner, as determined by reference to the United States treasury bill or note section of the Wall Street Journal published on the day the loan is priced.

Customarily grown—Crops, including grapefruit, produced in this state that utilize conventional management systems, and have cash receipts equal to or exceeding \$5 million as listed in the 1991 Texas Agricultural Cash Receipts and Price Statistics, [1986-1988 Texas Agricultural Statistics,] compiled by the Texas Agricultural Statistics Service as published in November 1992 [April 1990] for the period ending 1991 [1988], except for experimental varieties of these crops.

Eligible borrower—A person who is in the business or entering the business of:

(A) processing and marketing agricultural crops in this state;

(B) producing alternative agricultural crops in this state;

(C) producing agricultural crops in this state, the production of which has declined markedly because of natural disasters; or

(D) producing agricultural crops in this state using water conservation equipment for agricultural production purposes.

Lender—A financial institution [(which is an approved state depository)] that makes commercial loans, agrees to participate in the linked deposit program, and is certified as a state depository by the treasury.

Loan—The note or other evidence of indebtedness entered into between the eligible borrower [applicant] and the lender under the program.

Linked deposit—A time deposit governed by a written deposit agreement between the state and the lender that provides that:

(A) the lender pay interest on the deposit at a rate that is not less than the greater of:

(i) the current market rate minus 2.09%; or

(ii) 1.5%;

(B) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(C) the eligible lending institution agree to lend the value of the deposit to an eligible borrower at a maxi-

um rate that is the current market rate plus 4.0%.

Program—The Linked Deposit Program authorized by the Act, §44.007, [§44].

§26.2. Introduction. Pursuant to the authority granted by the Act, the department prescribes the following rules regarding the administration, implementation, practice, and procedure of the program [Linked Deposit Program].

§26.3. Purpose. The purpose of the program is to encourage private commercial loans for the enhanced production, processing, and marketing of certain agricultural crops and for the purchase of water conservation equipment for agricultural production purposes. These sections are adopted to provide standards of eligibility and procedures for obtaining financial assistance under the Act.

§26.5. Application Procedures for Applicant

(a) An applicant must comply with the following procedures to obtain approval of the application for participation in the program:

(1) (No change)

(2) an applicant shall submit a complete and accurate application and any required credit documentation to the lender; and

(3) (No change.)

(b) The eligible borrower shall notify the department in Austin in writing upon receipt of the loan proceeds indicating the amount received, date received, and the total amount of loan drawn to date.

§26.6. Application Procedures for the Lender A lender must comply with the following procedures to obtain approval of an application for participation in the program.

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

(5) A loan, while under the program, shall be set at a rate of interest established according to the prescribed linked deposit formula under the Act. The linked deposit rate will be recalculated at the end of the fiscal biennium. The eligible borrower's loan rate shall not exceed the current market rate plus 4.0%

(6) (No change.)

(7) A lender shall estimate the proposed rate of interest to be charged the eligible borrower [applicant] in the [linked deposit] application filed with the department. The lender must certify via telephone communication with the treasury at the time the loan is priced, the actual rate of interest

before issuance of the linked deposit. A copy of the certification of the eligible borrower's loan rate shall be sent to the department, as part of the compliance report. In no event shall the actual rate of interest exceed the maximum rate of interest allowable under the Act.

(8) In no instance will the linked deposit be wired to the lender until the loan proceeds have been paid to the eligible borrower. In most cases the entire approved linked deposit amount will be placed as a linked deposit with the applicable lender, except for linked deposits greater than \$100,000 which are subject to incremental funding commensurate with principal draw downs.

(9)-(11) (No change.)

§26.8. Acceptance and Rejection Procedures.

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

(d) The treasury shall determine the terms and conditions of the linked deposit once the maturity date is established (it cannot be set beyond the end of the biennium in which the linked deposit is placed), the applicable interest rate for the linked deposit can be determined by referring to the United States treasury bill or note section of the current issue of the Wall Street Journal corresponding with the day the loan is priced. The maturity date is matched to the closest treasury bill maturity. If longer than a year, it is matched to the treasury note with the maturity closest to the linked deposit maturity. In the case of a multiple maturity listing, the maturity with the lowest yield to arrive at the linked [link] deposit rate should be used.

(e)-(g) (No change.)

(h) If a lender ceases to be a state depository, the treasury shall withdraw the linked deposits. If the lender [lending institution], which has a linked deposit, is purchased by another lending institution, the linked [time] deposit will be reissued to the purchasing institution. Should the linked deposit loan not be obtained by the purchasing institution, then the linked [time] deposit will be returned to the state treasury. The department and the treasury will allow the borrower 90 days to place the loan [application] with another lender [lending institution].

(i) A late payment on a loan by an eligible borrower [a participant] does not affect the validity of the linked deposit through the period of the fiscal biennium. Should an eligible borrower [a participant] default on a loan and the lender [lending institution] proceed [proceeds] with collection by foreclosure, the linked deposit must be returned to the treasury.

§26.10. Program Limitations. In addition to the limitations already set forth in these rules, the following limitations apply:

(1) (No change.)

(2) The maximum amount of a loan to produce alternative crops is \$250,000 [\$100,000].

(3) The maximum amount of a loan to produce crops which have declined markedly because of a natural disaster is \$250,000.

(4) The maximum amount of a loan to purchase water conservation equipment for agricultural production purposes is \$250,000.

(5)[(3)] The maximum amount of a loan to process or market agricultural crops is \$500,000 [\$250,000].

(6)[(4)] All linked deposits placed under this program shall expire upon expiration of the biennium; however, subject to legislative authorization and approval by the department and the treasury, linked deposits that expired as a result of the expiration of the biennium may be renewed.

(7)[(5)] The state shall not be liable for any failure to comply with the terms and conditions of the loan, or any failure to make any payments or any other losses or expenses that occur directly or indirectly from the program.

(8)[(6)] An applicant may have more than one application and linked deposit loan with the program provided that [providing] the total applications and total linked deposits approved do not exceed the limitations of the program maximums as defined in paragraphs (2)-(5) [and (3)] of this section, and that any previous outstanding linked deposit loans with a lender be of a satisfactory status. The total of all linked deposit loans to an applicant cannot exceed a maximum of \$500, 000 [\$250,000]

(9)[(7)] A person shall not receive approval of an application if a previous loan under the program is in default.

(10)[(8)] An applicant who proposes operations to produce crops that are customarily grown in this state is not eligible for participation in the production financing for alternative crops portion of the program.

(11)[(9)] The following customarily grown crops are not eligible for participation in the production financing for alternative crops portion of the program bell peppers, broccoli, cabbage, cantaloupe, carrots, cattle, celery, corn, cotton, cottonseed, cucumbers, eggs, grapefruit, certain greenhouse or nursery products, hay, hogs, honeydew melons, lambs, cow's milk, mohair, oats, spring and summer onions, [or-

anges.] peanuts, pecans, potatoes, poultry, quarter horses, rice, sheep, soybeans, sorghum grain, spinach, sugarbeets, sugarcane, sweet potatoes, turkeys, turnips, watermelons, wheat, and wool.

(12)[(10)] The following alternative crops that are not customarily grown in this state are eligible for participation in the production financing portion of the program: aloe vera, barley, beets other than sugar, blueberries, buffalo, canola, cashmere goats, catfish, cauliflower, [celery.] crambe, crawfish, cut flowers, dairy goats, eggplant, emu, experimental varieties of customarily grown crops, exotic game species for venison, table and wine grapes, greens, herbs, honey, thoroughbred horses, jalapenos, jojoba, kenaf, llamas, lean and natural beef, lettuce, longhorn cattle, mesquite, mushrooms, native plants, oriental vegetables, peaches, oranges, ostrich, pinto beans, pistachios, pumpkins, quail, rabbits, redfish, rhea, rye, shrimp, snap beans, squash, strawberries, sunflowers, sweet corn, tilapia, tomatoes, turnips, Christmas trees, wildflowers, and other crops not currently produced in the state. The department may, on a case by case basis, approve for program participation crops which are not listed in this paragraph

(13) An agricultural crop produced in this state, the production of which has declined markedly because of a natural disaster, and which shall be eligible for participation in the production financing portion of the program, is any crop produced in the state which has been declared in a state of disaster by the United States Department of Agriculture or the President of the United States, with the term of eligibility for participation being dependent upon the maturity or growing cycle of the type of crop being declared eligible for disaster assistance.

(14) The following types of equipment considered as water conservation equipment for agricultural production purposes are eligible for financing in the production financing portion of the program: underground pipe; in-line valves; pipe increasers/reducers; gate valves; fittings and bushings; flow meters and accessories; circular watering systems complete; drip irrigation systems complete with installation; and any other equipment which can be identified and verified as water conservation equipment for use within the state.

§26.12. Communications with the Department All communications about the program should be directed to the Deputy Assistant Commissioner for Finance and Agribusiness Development [Program Director], Agricultural Diversification Program], Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (512) 475-1614 [463-7624].

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-9330945 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Earliest possible date of adoption: December 3, 1993

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

◆ ◆ ◆
**TITLE 16. ECONOMIC
REGULATION**
**Part I. Railroad
Commission of Texas**
**Chapter 5. Transportation
Division**

**Subchapter H. Tariffs and
Schedules**

• 16 TAC §5.137

The Railroad Commission of Texas proposes an amendment to §5.137, concerning circumstances where the weighing provisions of §5.136 are unnecessary. The amendment is proposed pursuant to a petition from Texas Motor Transportation Association, Inc. The amendment will allow specialized motor carriers to assess freight charges based on the shipper's representation of weight and count when transporting new iron and steel angles, bars, beams, channels, flats, strips, plate, sheets, and/or new and unused pipe.

Jackye S. Greenlee, assistant director—Central Operations, 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.

John S. Teer, hearings examiner, has determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the section is to reduce shipping delays, traffic congestion, and costs incurred by carriers who otherwise would have to locate and utilize scales in major metropolitan areas. Small businesses will not be affected as a result of the proposed amendment. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

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

The amendment is proposed under the Texas Motor Carrier Act, Texas Civil Statutes, Article 911b, §4(a), which vest the commission

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

The statute affected by this rule is Texas Civil Statutes, Article 911b.

§5.137. *Weighing Unnecessary.*

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

(i) In lieu of weighing as required by §5.136 of this title (relating to Weights to Be Used in Assessing Freight Charges) on shipments of new iron and steel angles, bars, beams, channels, flats, strips, plate, sheets, and/or new and unused pipe via specialized motor carriers, weights may be determined by accepting shipper's representation of weight and count, but the weight and count so supplied shall be subject to check by the carrier or authorized representative of the Commission.

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

Issued in Austin, Texas, on October 25, 1993

TRD-9330959 Mary Ross McDonald
Assistant Director, Legal
Division-Gas Utilities/LP
Gas
Railroad Commission of
Texas

Earliest possible date of adoption: December 4, 1993

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

◆ ◆ ◆
**TITLE 25. HEALTH SER-
VICES**
**Part I. Texas Department
of Health**
**Chapter 133. Hospital
Licensing**

(Editor's note The following rules being proposed are being published in Part II of this issue of the Texas Register §§133 1-133 7, 133 11-133.14, 133.21-133 23, 133.29, 133.31, 133.32, 133 51 - 133 54, 133.71, 133 72, 133.101, 133 102, 133 111-133 113, 133 121, 133 131)

◆ ◆ ◆
**Chapter 134. Private Mental
Hospitals and Mental Health
Facilities Licensing**

(Editor's note. The following rules being published are being published in Part II of this issue

of the Texas Register: §§134.1-134.3, 134.11-134.14, 134.51-134.54, 134.71-134.73, 134.91, 134.101.)

◆ ◆ ◆
Chapter 229. Food and Drug
**Minimum Standards for Licen-
sure of Tattoo Studios**

• 25 TAC §§229.401-229.412

The Texas Department of Health (department) proposes new §§229.401-229.412, concerning the licensure of tattoo studios. The sections cover general provisions, definitions, licensing fee and procedures, physical facilities, personnel responsibilities, client qualifications, sterilization, care of the tattoo, tattooing equipment, report of infection or allergic reactions, disposal of infectious waste and refusal/revocation/suspension of license. House Bill 1217, 73rd Legislature, 1993, amends the Health and Safety Code by adding Chapter 146, which mandates the licensure of tattoo studios by January 1, 1994.

The proposed rules establish requirements for standards of sanitation, use of aseptic technique, sterilization of equipment, instruction in care of the tattoo, and recordkeeping.

Dennis E. Baker, director, Division of Food and Drugs, has determined that for the first five-year period the section will be in effect, there will be fiscal implications as a result of enforcing or administering the rule. The effect on State government will be an estimated additional cost of \$44,285 each year of the five years, based on additional department staff needed for inspection and licensing of facilities. The licensing fees are projected to generate additional revenue of \$45,500 per year, which will offset the additional costs of administering this program. There will be no effect on local government.

Mr. Baker also has determined that for each year of the first five years the proposed sections are in effect the public benefit anticipated as a result of the proposed sections will be the protection of public health by reducing the possibility of communicable diseases transmission in tattoo studios. The cost to small businesses is anticipated to be minimal. There will be no effect on local employment. There will be minimal economic cost to persons required to comply with the rules as proposed.

Comments on the proposal may be submitted to Dennis E. Baker, Acting Director, Division of Food and Drugs, Texas Department of Health, 1100 West 49th Street, Austin, Texas, 78756, (512) 458-7248. Comments will be accepted for 30 days following the date of publication of this proposed rule in the *Texas Register*. In addition, a public hearing on the proposed rule will be held at 9:00 a.m., Tuesday, November 9, 1993, in the Texas Department of Health Auditorium, 1100 West 49th Street, Austin

The sections are proposed under the Texas Health and Safety Code, §146.010(a) and §146.015(a), which provides the department with the authority to adopt necessary regulations pursuant to the enforcement of Chapter

146; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, The Texas Department of Health and the Commissioner of Health.

§229.401. *General Provisions.*

(a) These sections provide for the licensing and regulation of tattoo studios.

(b) The "Tattoo Parlor Act," House Bill 1217, 73rd Legislature, Regular Session, 1993, Health and Safety Code, Chapter 146, requires the Texas Board of Health to adopt rules regulating tattoo studios.

§229.402. *Definitions.* The following words and terms when used in these sections shall have the following meanings unless the context clearly indicates otherwise.

Act—The Tattoo Parlor Act, House Bill 1217, 73rd Legislature, Regular Session, 1993, Health and Safety Code, Chapter 146.

Aseptic Technique—A practice which prevents and hinders the transmission of disease producing micro-organisms from one person or place to another person or place.

Authorized agent—An employee of the department designated by the Commissioner to enforce the Act.

Clients—A person contracting for the application of a tattoo.

Commissioner—Commissioner of the Texas Department of Health.

Cosmetic—An article or substance intended to be rubbed, poured, sprinkled, or sprayed on or introduced into or otherwise applied to the human body for cleansing, beautifying, promoting attractiveness or altering appearances; or an article or substance for use as a component of such an article, except that the term does not include soap.

Department—The Texas Department of Health.

Operator—An individual designated by the permit holder to control operations of the tattoo studio or a facility where tattooing or permanent cosmetic is being conducted.

Sanitize—To treat a clean surface and destroy pathogenic microorganisms.

Single-service items—Articles intended for one-time, one-person use and are to be discarded after such use.

Tattoo—The practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related devices.

Tattooist—A person who performs tattooing or permanent cosmetics

Tattoo Parlor or Tattoo Studio—An establishment or a facility where tattooing or permanent cosmetic application is per-

formed. Henceforth in these sections, tattoo parlors shall be referred to as tattoo studios.

Temporary location—An individual operator's tattooing area at a fixed location where tattooing is performed for a specified length of time of not more than seven days in conjunction with a single event or celebration.

§229.403. *Licensing Fee and Procedures.*

(a) License fee. All tattoo studios are required to be licensed annually and all temporary locations shall be licensed as indicated in paragraph (2) of this subsection with the Texas Department of Health (department) and shall pay a license fee for each place of business as follows:

(1) \$130—per tattoo studio; and

(2) \$50—seven-day license for a temporary location.

(b) License forms. License forms may be obtained from the Texas Department of Health, Division of Food and Drugs, 1100 West 49th Street, Austin, Texas, 78756-3182.

(c) License application. The tattoo studio license application shall be signed and verified on the department furnished license application, and shall contain the following information:

(1) the full or legal name under which the tattoo studio is conducted;

(2) the address of each tattoo studio that is to be licensed;

(3) if a proprietorship, the name and residence address of the proprietor; if a partnership, the names and residence addresses of all partners; if a corporation, the date and place of incorporation and name and address of its registered agent in the state; or if any other type of association, then the names of the principals of such association;

(4) for each tattoo studio, the names and residence addresses of the individuals in charge thereof;

(5) name(s) of the tattoo studio's tattooist(s);

(6) days and hours of operation of each tattoo studio,

(7) description of all services to be provided at the tattoo studio, and

(8) an application form which shall be verified and signed by the owner or manager

(d) Pre-licensing inspection. On receipt of the initial license application, the department shall inspect the proposed tattoo studio to determine compliance with these sections and to determine compliance with existing building and zoning codes applica-

ble to the studio.

(e) Issuance of license. The department may issue a license to a tattoo studio after determination that the studio is in compliance with applicable statutes, rules, and building and zoning codes.

(1) The initial license shall be valid for one year from the date of issuance which becomes the anniversary date.

(2) The renewal license shall be valid for one year from the anniversary date.

(3) The license shall be displayed in a prominent place in the tattoo studio.

(f) Renewal of license.

(1) Each year, a tattoo studio shall renew its license in accordance with the requirements of this section.

(2) A person who holds a license issued by the Department under the Health and Safety Code shall renew the license by filing an application for renewal on the form prescribed by the department accompanied by the appropriate licensure fee. A licensee must file for renewal before the expiration date of the current license. A person who files a renewal application after the expiration date must pay an additional \$100 as a delinquency fee.

(3) Failure to submit the renewal annually shall subject the tattoo studio to the enforcement provisions of the Act and also to the provisions of §229.412 of this title (relating to Refusal, Revocation or Suspension of License).

(A) Amendment of license. A license must be amended when the name, ownership, or location of the licensed tattoo studio is changed. Such changes require submission of the fees as outlined in subsection (a) of this section

(B) Notification of change of location of tattoo studio

(i) Not fewer than 30 days in advance of the change, the licensee shall notify the commissioner or the commissioner's designee in writing of the licensee's intent to change the location of a licensed tattoo studio. The notice shall include the address of the new location, and the name and residence address of the individual in charge of the tattoo studio at the new location

(ii) Notice will be deemed adequate if the licensee provides the intent and verification notices to the commissioner or the commissioner's designee within the established time frames of clause (1) of this subparagraph by certified mail, return receipt requested, mailed to the

Texas Department of Health, Division of Food and Drugs, 1100 West 49th Street, Austin, Texas, 78756.

§229.404. Physical Facilities.

(a) A tattoo studio must be in a permanent, nondwelling building located in an area in which the location is permissible under local zoning codes, if any.

(b) The tattoo studio shall be maintained in a sanitary condition. Approved sanitizing agents shall be used for all working surfaces. There shall be written procedures assigning responsibility for sanitation and describing in sufficient detail the cleaning methods, equipment, and the use of acceptable disinfectants or a 1:100 dilution of household bleach and water (1/4 cup bleach and 1 gallon of water) to be used in cleaning the building and all work surfaces.

(c) The walls, ceilings, and floors shall be kept in good repair. Tattooing areas and restrooms shall be of smooth, hard surfaces that are easily cleanable.

(d) Tattoo studios shall have adequate lighting of at least 50 foot-candles of illumination in the tattooing area.

(e) Adequate ventilation shall be provided.

(f) Each tattoo studio shall be provided with adequate, conveniently located hand-washing facilities for its personnel, including a lavatory or lavatories equipped with hot and cold or tempered running water, germicidal soap, sanitary towels or other approved hand-drying devices, and refuse container. Such facilities shall be kept clean and in good repair.

(g) Animals are not permitted in the tattoo studios, except for guide or service animals accompanying persons with disabilities.

(h) Smoking and the use of tobacco in any form shall be prohibited in tattoo studios.

(i) The tattoo studio shall be rodent-proof and protected from infestation by insects.

§229.405. Personnel Responsibilities.

(a) All tattooists while applying tattoos shall wear clean outer garments, maintain a high degree of personal cleanliness, and conform to hygienic practices while on duty.

(b) All tattooists shall wash their hands thoroughly in hot water with a germicidal soap before and after applying a tattoo and as often as necessary to remove soil and contamination.

(c) Tattooists must wear approved single-service latex (rubber) gloves while applying tattoos.

(d) When a tattoo session is interrupted:

(1) gloves shall be removed and discarded; and

(2) hands shall be washed and a fresh pair of gloves used.

(e) Any open sores or lesions on the tattooist's hands shall be adequately protected.

(f) The area of the client's skin to be tattooed shall be adequately cleaned with a germicidal skin preparative and the tattooist shall treat the skin with 70% isopropyl alcohol, iodophor, or other acceptable anti-septic products.

(g) Single-service razors shall be used if shaving is required.

(h) Each tattooist shall be trained in the practice of aseptic techniques. There shall be written documentation showing the name of the tattooist, and the date and type of training received. The training shall be conducted by a qualified individual on a continuous basis and with sufficient frequency.

§229.406. Client Qualifications, Disclosure, and Records.

(a) Clients must be a minimum of 18 years of age and have a positive identification card in their possession. Documentation of verification of age must be provided by recording driver's license number or type of identification provided.

(b) No person may be tattooed who appears to be under the influence of alcohol or drugs.

(c) Tattooing shall not be performed on any skin surface which manifests any evidence of unhealthy conditions such as rashes, boils, infections, or abrasions.

(d) Each client shall be informed in advance about the possible risk and dangers associated with the application of each tattoo.

(e) The tattoo studio shall maintain proper records of each client. The information shall be permanently recorded and made available for examination by the authorized agent in the tattoo studio for at least two years following the date of the last entry. These permanent records shall include:

(1) the name, address, and telephone number of the client,

(2) the date tattoo was applied,

(3) the client's date of birth;

(4) the design, location, and specific color or colors of the tattoo applied to the client and when available, the manu-

facturer's catalogue or identification number of each color used;

(5) the name of the tattooist; and

(6) the signature of the client.

§229.407. Sterilization.

(a) A tattoo studio shall contain sterilization equipment adequate in size to accommodate needles, tubes, tips, and other necessary utensils and equipment.

(b) Each tattooist is required to be trained, by a qualified individual, in proper sterilization procedures. There shall be written documentation showing the name of the tattooist and the date and location where training was received.

(c) After each use, the tattooing equipment shall be cleansed to remove blood and tissue residue before sterilization as described in §229.409(h) of this title (relating to Tattooing Equipment).

(d) Each batch of equipment sterilized shall be monitored for sterilization by the use of chemical/heat sensitive indicators.

(e) Sterilized equipment shall be stored, wrapped, or covered in a manner which will ensure that it will remain sterile until used. Each batch shall be labeled with the date of sterilization and the initials of the person sterilizing.

(f) Each tattoo studio shall maintain sterilization records, which shall include the following information:

(1) date of sterilization,

(2) quantity and type of equipment to be sterilized; and

(3) name of individual sterilizing the equipment.

(g) Sterilized equipment stored in an approved manner and not used within thirty days after sterilization shall no longer be considered sterile and shall be re-sterilized before use.

(h) One of the following methods of sterilization shall be used.

(1) Autoclave—steam under pressure.

(A) 121 degrees Celsius (250 degrees Fahrenheit) and a pressure of at least 15 pounds per square inch for not less than 30 minutes after the chamber of the autoclave has been evacuated of air and has reached temperature, and

(B) as specified in the manufacturer's operator's manual

(2) Dry heat sterilization

(A) 160 degrees Celsius (320 degrees Fahrenheit) for not less than two hours under atmospheric pressure after the sterilizer has reached the required temperature; and

(B) as specified in the manufacturer's operator's manual.

§229.408. Care of the Tattoo.

(a) Each time a tattoo is applied the client shall receive oral and written instructions on the care of the newly-applied tattoo.

(b) The client shall sign a written statement acknowledging that the client has read and understood the recommended instructions for the care of the newly applied tattoo. A copy of the signed instruction statement must be kept by the operator at the tattoo studio for six months after the application of the tattoo.

(c) The written instructional statement on the care of the tattoo shall include at least the following instructions:

- (1) to limit exposure to the sun;
- (2) to properly cleanse the tattooed area;
- (3) to apply antibiotic ointment or cream;
- (4) to use sterile bandage(s) when necessary;
- (5) the name, address, and telephone number of tattoo studio;
- (6) to consult a health care provider at the first sign of infection or an allergic reaction; and
- (7) the signature of the client.

§229.409. Tattooing Equipment.

(a) Needles, bars, and tubes shall be constructed in a manner that permits easy cleaning and sterilization.

(b) All dyes or pigments used in tattooing shall be non-toxic, free from adulteration, and made from materials generally regarded as safe.

(c) Only single-service pigment or dye containers shall be used for each client. Individual containers of dye or pigment shall be discarded after use.

(d) In order to minimize transmission of body fluids and disease, single-service plastic covers shall be used to cover spray bottles or other reusable accessories that are handled by the tattooist during application of tattoos to multiple clients.

(e) All acetate tattoo stencils shall be single-service, or cleaned and then disinfected with an effective cutaneous antiseptic before each use.

(f) Contaminated needles and tubes will be placed in a covered container of germicidal solution such as Cidex, full strength (not to be construed as all-inclusive), until they can be cleaned and sterilized.

(g) All containers holding contaminated needles and tubes and container lids will be cleaned and sanitized daily or as often as needed.

(h) Needles and tubes will be cleaned prior to sterilization by one of the following methods:

(1) mechanically pre-cleaned using a clean cotton-ball or swab moistened with a solution of low-residue detergent and cool water, with care taken to ensure removal of any pigment inside tube/tubes not visible to the eye, thoroughly rinsed with warm water and then drained, and cleaned by soaking in a protein-dissolving detergent-enzyme cleaner used according to manufacturer's instructions; or

(2) cleaned in an ultrasonic cleaning unit used according to manufacturer's instruction; and

(3) rinsed and dried prior to packaging for sterilization.

(i) Cleaning records shall be maintained and kept for a period of one year.

§229.410. Report of infection or allergic reactions. A written report of any infection or allergic reaction resulting from the application of a tattoo shall be forwarded to the Texas Department of Health within five working days of its occurrence or knowledge thereof. The report shall include:

- (1) the name of the affected client;
- (2) the name and location of the tattoo studio;
- (3) the location of the infection and causative organism, if known;
- (4) the name and address of health care provider, if any;
- (5) the name of the tattooist; and
- (6) any other information considered relevant to the situation

§229.411. Disposal of Infectious Waste.

(a) Used tattoo needles shall be subjected to the methods of treatment and disposal described in §1.136 of this title (relating to Approved Methods of Treatment and Disposition) and Title 30, Texas Administrative Code, Chapter 330, Subchapter Y, which regulates the disposal of sharps

(b) Other infectious waste, i.e., cotton balls, Q-tips, Kleenex, paper towels, gloves, pigment containers and soiled linens

(not to be construed as all-inclusive) shall be disposed of by deposition in a sanitary landfill in accordance with Title 30, Texas Administrative Code, §330.136 (b)(1) (relating to Disposal of Special Waste).

§229.412. Refusal, Revocation, or Suspension of License.

(a) Basis. The Texas Department of Health (department) may, after providing opportunity for hearing, refuse to license a tattoo studio, or may revoke or suspend the license for violations of the requirements in these sections or for any reasons described in the Act, or in the Texas Health and Safety Code, Chapter 431.

(b) Hearing. Any hearings for the refusal, revocation or suspension of a license are governed by the department's formal hearing procedures in Chapter 1 of this title (relating to the Board of Health) and the Administrative Procedure Act, Texas Civil Statutes, Chapter 2001.

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

Issued in Austin, Texas on October 27, 1993

TRD-9331024

Susan K Steeg
General Counsel, Office of
General Counsel
Texas Department of
Health

Proposed date of adoption: December 16, 1993

For further information, please call. (512) 458-7248

Part II. Texas Department of Mental Health and Mental Retardation

Chapter 402. Client Assignment and Continuity of Services

Subchapter F. Continuity of Services-Mental Retardation Campus-based Components

• 25 TAC §§402.214-402.219

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

The Texas Department of Mental Health and Mental Retardation (TXMHR) proposes the repeal of §§402.214-402.219 of existing Chapter 402, Subchapter F governing continuity of services-mental retardation campus-based components. The process and requirements described in those sections involving the movement of individuals with mental retardation from state facilities to settings in the

community have been revised and incorporated into new §§402.311-402.323 of Chapter 402, Subchapter I, concerning movement of individuals with mental retardation from department facilities. The new sections are proposed for public comment contemporaneously in this issue of *Texas Register*

The purpose of repealing the sections as proposed is to permit the adoption of new sections which reflect the approach being taken by the TXMHMR service system to move individuals with mental retardation from the campus-based settings of state facilities into community-based living arrangements.

Leilani Rose, director, Financial Services Department, has determined that for the first five year period the proposed new rules are in effect, there will be no fiscal implications for state or local government as a result of enforcing the rules.

Jaylon Fincannon, deputy commissioner, Mental Retardation Services, has determined that for each year of the first five years the repeal of the sections is in effect the public benefit anticipated as a result will be the clear delineation of the requirements and procedures at each stage of the process which will enable individuals with mental retardation to move from state facilities to living arrangements in the community. 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.

Written comments on the proposal may be sent to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

A public hearing will be held to accept testimony on the repeal of the sections in Chapter 402, Subchapter F and the proposed new subchapter on Monday, November 29, 1993, at 2:00 p.m., in the TXMHMR Central Office Auditorium at 909 West 45th Street, Austin, Texas 78756. If interpreters for the hearing impaired are required, please notify Ms. Logan 72 hours prior to the hearing by calling 512/465-4670.

The repeals are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation Board with rulemaking authority.

§402.214 *Requirements for Community Placement.*

§402.215. *Community Placement: Reassignment from MR Campus-Based Component to MRA.*

§402.216. *General Requirements for Discharge of Reassignment.*

§402.217. *Additional Requirements Specific to Type of Discharge.*

§402.218. *Review Procedures Concerning Return to MR Campus-Based Component.*

§402.219. *Quality Assurance Requirements.*

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

Issued in Austin, Texas, on October 27, 1993.

TRD-9331076

Ann K. Utley
Chairman
Texas Board of Mental
Health and Mental
Retardation

Earliest possible date of adoption: December 3, 1993

For further information, please call: (512) 465-4670

Subchapter I. Movement of Individuals with Mental Retardation from Department Facilities

• 25 TAC §§402.311-402.323

The Texas Department of Mental Health and Mental Retardation (TXMHMR) proposes new §§402.311-402.323 of Chapter 402, Subchapter I, concerning movement of individuals with mental retardation from department facilities. The new sections would replace §§402.214-402.219 of existing Chapter 402, Subchapter F governing Continuity of Services-Mental Retardation Campus-based Components which are contemporaneously proposed for repeal in this issue of *Texas Register*. The proposed sections would affect the Texas Health and Safety Code, Title 7

The purpose of the proposed sections is to describe the process and requirements for moving individuals with mental retardation from the campus-based settings of state facilities into community-based living arrangements. The sections require that private providers of community-based residential services sign a memorandum of agreement with the mental retardation authority in whose local service area the provider is located. The MOA spells out the responsibilities of both parties and confer eligible provider status on the provider.

Leilani Rose, director, Financial Services Department, has determined that for the first five-year period the sections are in effect there will be no significant fiscal impact on state government as a result of enforcing the sections as proposed. There will be some additional costs which would be incurred by mental retardation authorities (MRAs) to implement provisions of the sections; these costs have been compensated through the allocation of additional funds in FY 1993 and FY 1994. These costs were considered in early FY 1993, and additional allocations were made to each MRA to cover these costs. The Texas MHMR Board at its November 1992 meeting approved the allocation of amounts ranging from a minimum of \$15,000 to a maximum of \$150,000 to community center MRAs for a total of \$1,259,860 with an additional \$287,026 to state school MRAs

and \$103,114 to state center MRAs. These funds were for the specific purposes of planning, coordinating, and monitoring the activities for individuals moving to community living arrangements from campus-based facilities under the expansion of the continuity of services network. Funding is continued in FY 1994, as the FY 1993 allocations became part of the FY 1994 base. In addition, MRAs will recoup some of the overhead costs of moving individuals to the community through Prospective Payment Program and Companion Program payments.

Jaylon Fincannon, deputy commissioner, Mental Retardation Services, 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 clear delineation of the requirements and procedures at each stage of the process which will enable individuals with mental retardation to move from state facilities to living arrangements in the community. 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.

Written comments on the proposal may be sent to Linda Logan, director, Policy Development, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, within 30 days of publication.

A public hearing will be held to accept testimony on the sections as proposed Tuesday, November 30, 1993, at 2:00 p.m., in the TXMHMR Central Office Auditorium at 909 West 45th Street, Austin, Texas 78756. If interpreters for the hearing impaired are required, please notify Ms. Logan 72 hours prior to the hearing by calling (512) 465-4670.

The new sections are proposed under the Texas Health and Safety Code, Title 7, §532.015, which provides the Texas Board of Mental Health and Mental Retardation Board with rulemaking authority.

§402.311. *Purpose.* The purpose of this subchapter is to establish criteria and procedures for.

(1) mental retardation authorities (MRA) to develop and/or provide services for individuals residing at facilities of the Texas Department of Mental Health and Mental Retardation who are or may be recommended for community living; and

(2) ongoing monitoring of services provided to individuals with mental retardation who have moved or will move into the community from department facilities.

§402.312. *Application* This subchapter applies to:

(1) all facilities of the Texas Department of Mental Health and Mental Retardation which provide inpatient and/or residential services to individuals with mental retardation; and

(2) mental retardation authorities (MRAs).

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

Actively involved—Involvement with the individual which the IDT deems to be of a quality nature based on the following:

(A) observed interactions of the person with the individual;

(B) advocacy for the best interests of the individual;

(C) knowledge of and sensitivity to the individual's preferences, values and beliefs;

(D) ability to communicate with the individual; and

(E) availability to the individual for assistance or support when needed.

Capacity—A term consistent with provisions of the Texas Probate Code which is used to designate the ability of an individual with mental retardation to give legally adequate consent as determined by the interdisciplinary team.

CARE—The department's Client Assignment and Registration System, an on-line data entry system developed to provide demographic and other data about individuals served by the department.

Community living profile—The first section of the Community living plan which is completed at any IDT staffing when a recommendation is made for movement of the individual to community living. The profile provides descriptive information as well as a list of information, recommendations, and preferences that must be considered when searching for a community home.

Community living plan—A plan developed by the individual's interdisciplinary team (IDT) which documents the reasons why the individual is recommended for community living and makes specific recommendations regarding the services, programs, treatment needs, and arrangements needed when the individual moves to community living. The plan is followed until an individual habilitation plan (IHP) or support plan is developed for the individual by the new community IDT.

Community program—Any community-based program, including private or publicly owned community services, that provides supervision, support,

habilitative services, and/or residential services in which programs are designed to improve the individual's capabilities to function optimally or to maintain the individual's present level of functioning.

Continuity of services activities—The activities designed to ensure coordination of services to an individual which include, but are not limited to:

(A) development of the community living plan which addresses the individual's choices and needs;

(B) joint community living planning;

(C) exchange of information pertinent to service needs/training/support;

(D) implementation of services which address the individual's choices and needs; and

(E) visits to the individual following the move to the community.

Department—The Texas Department of Mental Health and Mental Retardation.

Deputy commissioner—The department's deputy commissioner for Mental Retardation Services.

Eligible provider—For individuals moving from a facility, any provider of community-based residential mental retardation services or a home and community-based service (HCS) program located in the local service area of an MRA which has entered into a memorandum of agreement (MOA) with that MRA and which is:

(A) TXMHMR certified;

(B) deemed from certification by TXMHMR i.e. intermediate care facilities/mental retardation (ICF/MR), HCS, Texas Department of Protective and Regulatory Services (PRS) foster homes for children, and Accreditation Council for People with Disabilities (ACD); or

(C) in provisional status for such certification or licensure. The eligible provider requirements shall not apply to non-residential services except for HCS programs.

Facility—Any state hospital, state school, or state center of the department which provides inpatient or residential services to individuals with mental retardation

Individual—A person with mental retardation who has received or is receiving inpatient or residential services provided by a facility and who has moved or is moving from a facility to a community program.

Interdisciplinary team (IDT)—A group of mental retardation professionals and paraprofessionals plus other concerned

persons who assess the individual's treatment, training, and habilitation needs and make recommendations for services. This group functions as a team and includes:

(A) the individual;

(B) the legally authorized representative of an individual who lacks capacity;

(C) as specified by the facility, persons who are professionally qualified, certified, or both, in various professions with special training and experience in the diagnosis, management, needs, and treatment of individuals with mental retardation;

(D) persons who are directly involved in the delivery of mental retardation services to the individual;

(E) representative(s) of the appropriate MRA, and

(F) member(s) of the facility's public responsibility committee (PRC), if requested by the PRC, the individual with capacity, or any legally authorized representative.

Legally adequate consent—A term consistent with provisions of the Health and Safety Code, Title 7, §591.006 concerning consent obtained from an individual with mental retardation which is legally adequate when each of the following conditions has been met:

(A) legal status: The individual giving the consent is of the minimum legal age and has not had a guardian appointed to manage personal affairs by an appropriate court of law;

(B) comprehension of information: The individual giving the consent has been informed of and comprehends the nature, purpose, consequences, risks, and benefits of and alternatives to the procedure, and the fact that withholding or withdrawal of consent shall not prejudice the future provision of care and services to the individual with mental retardation; and

(C) voluntariness. The consent has been given voluntarily and free from coercion and undue influence

Legally authorized representative—The parent of an individual who is a minor, the guardian of an individual who has been determined by a court to lack capacity, or the managing conservator of an individual

Local service area—A geographic area composed of one or more Texas counties delimiting the population which may receive services from an MRA.

MRA (mental retardation authority)—The entity designated by the commissioner to plan, develop, coordinate, and/or provide services to individuals with mental retardation in a particular local service area of the state as are required to be performed at the local level by state law and the department. Unless otherwise specified, this is the MRA serving the individual's county of residence.

Mental retardation services—All services concerned with research, prevention, and the detection of mental retardation and all services related to the education, training, habilitation, care, treatment, and supervision of individuals with mental retardation, except the education of school-age individuals that the public educational system is authorized to provide.

Parent—the natural or adoptive mother or father of the individual, but not a mother or father whose parent-child relationship has been legally terminated.

Regional monitor—An employee of TXMHMR Central Office who:

(A) is responsible for approving living situations for individuals moving from facilities to community programs;

(B) conducts periodic and follow-up reviews; and

(C) serves as a technical resource to MRAs.

TXMHMR service delivery system—All campus-based facilities and community-based services operated or contracted for by the department.

§402.314. Philosophy and Principles.

(a) Each individual receiving residential services through the TXMHMR service delivery system is entitled to choice and decision-making authority. To make choice possible and relevant, the individual requires supports, experiences, and options. If an individual cannot communicate preferences related to activities and expectations or does not choose to communicate, the questions are asked of those actively involved persons (family members, guardians, friends, and/or those who provide personal support) who spend the most time with the individual and are sensitive to and aware of how the individual expresses likes and dislikes, choices, preferences, and desires

(b) The following principles support choice and decision-making by the individual. Each facility and MRA is required to put these principles into practice as they carry out continuity of services activities.

(1) The choices, preferences, expectations, likes and dislikes of the individual and any legally authorized representative are the dominant force behind all decisions.

(2) Individuals making choices are entitled to training, counseling, and opportunities to experience and to try the options involved in making choices.

(3) The same range of options for residential and support services that are available to all people should be available for individuals receiving services from the TXMHMR service delivery system.

(4) Visits and interviews with the individual, a legally authorized representative, and other actively involved persons, as well as observations, are the primary basis for collecting data and information to determine if the individual's choices and needs are being met across time and services.

(c) The MRA shall assume an affirmative responsibility to ensure continuing residential services, if needed and requested, to any individual with mental retardation who was in a facility and who is discharged from a community home.

§402.315. General Provisions.

(a) The department shall compile the following lists and provide them to the MRA:

(1) quarterly list of all individuals from the MRA's local service area who are diagnosed as having mental retardation and who are residing in facilities with each individual's level of care, I.Q., adaptive behavior level (ABL), mobility status, health status, behavior management status, hearing and vision status, and whether the individual has been recommended for community living;

(2) quarterly list of all individuals from the MRA's local service who have been moved to community living since August 7, 1991, with the location of the home;

(3) quarterly list of all individuals from other MRAs who have been moved into the local service area of the MRA since August 7, 1991, with the location of the home; and

(4) twice annually a list of all TXMHMR certified or deemed status community providers and those pending TXMHMR certification or deemed status.

(b) Before the initiation of movement activities or referrals to a residential community program not operated by the MRA, the MRA and the provider of residential community services shall enter into a memorandum of agreement (MOA) which is described in §402.322 as Exhibit A. Those providers are eligible providers

(1) A single MOA may cover more than one eligible provider operated by a company in the MRA's local service area.

(2) If the MRA chooses to use a substitute MOA, it must be approved by the deputy commissioner or designee.

(3) The MRA shall enter into an MOA with all providers which wish to provide services to individuals served by the MRA and which meet the requirements outlined in the MOA. Disputes as to whether the provider meets the requirements shall be submitted for arbitration to the deputy commissioner or designee.

(c) The MRA shall have procedures in place to ensure that all eligible providers have equal access to information about individuals recommended for community living.

(d) The MRA and facility shall have and implement procedures which ensure that the necessary consents for release of information to eligible providers and providers of non-residential community services are obtained as described in Chapter 403, Subchapter K of this title (relating to Client-Identifying Information).

(e) The MRA and the facility shall have and implement procedures which ensure that necessary planning-linking activities between the MRA, facility, and involved community resources (both public and private) occur to assure that individuals residing in the facility move to the appropriate living option.

(1) For an individual not currently recommended for community living, planning-linking activities shall include:

(A) evidence that the MRA incorporates the individual's choices and needs into ongoing agency service planning for future consideration;

(B) identification by the facility interdisciplinary team (IDT) of services the individual would require to reside successfully in the community; and

(C) monitoring by the MRA of the status of such services, especially those being developed or yet to be developed.

(2) For an individual recommended for community living, a designated MRA staff person shall:

(A) obtain relevant information regarding the individual's status and progress through visits and interactions with the facility currently responsible for provision of services;

(B) communicate information regarding eligible providers, both public and private, and any other providers of appropriate non-residential community services to the facility currently responsible for provision of services; and

(C) communicate relevant information to eligible.

(f) A staff person from the MRA shall be invited to attend the individual's IDT meetings. If the MRA staff person is unable to attend the meeting, the MRA shall ensure that the facility has the information needed to assist the IDT in making a decision regarding community living.

(g) The individual, regardless of capacity, always has the right to be present and to participate in IDT meetings and administrative hearings. The desires and aspirations of the individual, regardless of capacity, shall be the dominant factor considered when recommendations are made concerning movement.

(h) Communication devices and techniques (including the use of sign language) shall be utilized, as appropriate, to facilitate the individual's involvement in the process and to ensure that the individual is able to make those desires and aspirations known.

(i) The individual with capacity has the right to exclude a parent or other actively involved persons from participation in:

(1) meetings of the interdisciplinary team (IDT) at which movement of the individual is to be discussed; and

(2) all review and appeal procedures.

(j) If the individual with capacity wishes to include a parent or other actively involved persons, facility staff shall encourage the attendance and participation by those persons. Every reasonable attempt shall be made to schedule meetings at a time that is convenient for the those persons.

(k) When the IDT fails to reach consensus while meeting as described in §402.316 of this title (relating to Recommendation for Community Living) or in §402.317 of this title (relating to Selecting a Community Living Option), the review and appeal processes described in Chapter 402, Subchapter H of this title (relating to Placement Appeals Procedures—Mental Retardation Services) shall be followed.

§402.316. Recommendation for Community Living.

(a) When the IDT makes a recommendation that an individual should move

into the community, the recommendation shall be made:

(1) using information from the mental retardation authority (MRA) regarding all applicable community resources, and

(2) as described in the department's rules governing placement appeals procedures (Chapter 402, Subchapter H) in §402.286 of this title (relating to Placement Recommendation by Interdisciplinary Team) and in §402.287 of this title (relating to Appeal to the Placement Review Team).

(b) When a recommendation for community living is made, the IDT shall designate specific staff members at the facility and the MRA shall designate its own staff members. The staff members will cooperate in researching community living options and report their recommendations to the IDT.

(c) A community living profile, i.e. the first section of the community living plan which is described in §402.322 of this subchapter as Exhibit B, shall be completed by facility staff at the IDT meeting when a recommendation for community living is made and forwarded to the MRA within 14 calendar days of the IDT meeting or placement review team meeting, whichever is appropriate. The placement review team process is described in §402.287 of this title (relating to Appeal to the Placement Review Team). The community living profile shall

(1) outline any preferences the individual and any legally authorized representative has about community living (e.g., type of home, geographic preferences, vocational or habilitation services);

(2) outline any medical needs to be communicated to the physician who will be providing care in the community, and any other special needs to be communicated to community-based service providers, and

(3) indicate whether or not a determination of mental retardation has been conducted since September 1, 1993, as described in Chapter 405, Subchapter D of this title (relating to Determination of Mental Retardation and Appropriateness for Admission to Mental Retardation Services) or a comprehensive diagnosis and evaluation before September 1, 1993, and the date of such.

(d) The MRA shall solicit the thoughts, opinions, choices, and desires of the individual and any legally authorized representative when reviewing the various community living options. The review shall include all eligible providers which have contacted the MRA regarding available services and vacancies and any other providers of appropriate none-residential community services. The MRA shall also obtain input from the facility IDT staff regarding all appropriate community resources

(e) The MRA shall send the community living profile to all eligible providers and to any providers identified by the individual and any legally authorized representative provided that the appropriate consents for release of information are obtained as described in Chapter 403, Subchapter K of this title (relating to Client-Identifying Information).

(f) The MRA may send the community living profile to eligible providers and any other providers of appropriate non-residential community services in the local service areas of other MRAs if:

(1) appropriate services are not available in the MRA's local service area;

(2) the individual or any legally authorized representative desires services outside the MRA's local service area, and

(3) the MRA serving that area and the facility keep each other informed of these referrals.

(g) If additional information (e.g., assessments or a report from the annual planning meeting) is required, the community program provider shall submit a written request to the facility. The facility shall compile the information and forward it to the community program provider.

(h) Eligible providers shall notify the MRA in writing if they are interested and are available to provide the services.

(i) Once all community living options are known to the MRA, they shall be reviewed with the individual, any legally authorized representative, and designated facility staff.

(1) The individual with capacity or a legally authorized representative shall choose which community living options shall be considered in greater detail by the IDT as described in §402.317 of this title (relating to Selecting a Community Living Option). If needed, the regional monitor or other facility staff may assist the individual and any legally authorized representative to make the decision.

(2) The ability of the home to meet the needs of the individual shall provide the basis of the decision.

(j) If the individual with capacity or a legally authorized representative does not make a choice of which options are to be considered in greater detail by the IDT, the staff designated by the IDT as described in subsection (b) of this section shall make the decision based on the following:

(1) characteristics of the home best suited for the individual;

(2) medical and health care needs,

(3) social relationships and support network;

(4) emotional and behavioral factors;

(5) transportation;

(6) financial;

(7) employment, vocational, and educational; and

(8) any other needs as outlined by the individual, the individual's parent, the IDT, and as identified by the MRA staff.

(k) The MRA shall coordinate with the facility to assist the individual and any legally authorized representative in making arrangements for preselection visits to proposed homes.

(1) If overnight visits are utilized, the facility first shall assure that staff at the proposed home receive the following prior to or at the time of the preselection visit:

(A) identifying data,

(B) the individual's legal status,

(C) the individual's determined disability(ies);

(D) pertinent medical/medication information;

(E) adequate medication supply;

(F) behavioral data;

(G) fiscal resources;

(H) clothing, personal items, and adaptive equipment; and

(I) other pertinent treatment information.

(2) If a proposed home is outside the local service area of the individual's MRA, that MRA shall notify the appropriate MRA of the planned visit.

§402.317. *Selecting a Community Living Option.*

(a) An IDT meeting shall be scheduled to approve a home for the individual as described in rules of the department governing placement appeals procedures in §402.288 of this title (relating to Specific Alternate Placement Recommendation by IDT).

(1) The meeting may be called by the individual with capacity, any legally

authorized representative, or the case manager.

(2) If an MRA staff person, preferably a case manager, has not been assigned already by the MRA, this shall be done prior to scheduling the meeting.

(b) The following people shall be invited to the meeting.

(1) individual;

(2) any legally authorized representative,

(3) staff from the MRA serving the individual's county of residence;

(4) the MRA which serves the local service area where the individual may be moving, if different;

(5) staff of the program where the individual may be moving;

(6) facility IDT staff, and

(7) other actively involved persons.

(c) For school-aged individuals, a representative of the local independent school district in which the home is located shall be notified by the MRA of the meeting and encouraged to participate and to assist in coordinating educational services for the individual

(d) If circumstances preclude attendance in person by any of those invited, that person or persons may participate via telephone

(e) The individual with capacity or any legally authorized representative may

(1) choose the proposed home,

(2) choose a home with no vacancies and be placed on a waiting list for that home if the provider agrees, or

(3) request the MRA to facilitate development of a specific living arrangement not yet available. Requests for alternatives not available shall be used in the MRA's planning processes to develop and/or expand services.

(f) If there is no consensus by the IDT concerning the choice made by the individual with capacity or any legally authorized representative as described in subsection (e) of this section, then the IDT shall notify the head of the facility within one working day of the need for an administrative hearing as described in Chapter 402, Subchapter H of this title (relating to Placement Appeals Procedures—Mental Retardation Services).

(g) If the provider of residential services is eligible but is in provisional status regarding certification or licensure the MRA shall verify that there are adequate life safety provisions and that there are no environmental concerns

(h) The facility shall send the following to the regional monitor:

(1) report from the last annual planning meeting of the IDT,

(2) most recent psychological, social, medical, and vocational/educational assessments;

(3) report from any interim meetings of the IDT which addressed community living issues not addressed at the annual planning meeting, and

(4) the community living profile

(i) If a home is being considered which is outside the local service area of the individual's county of residence MRA, the following shall occur.

(1) The county of residence MRA shall inform the receiving MRA where the community home is proposed that the individual is considering moving into the area

(2) The receiving MRA shall be asked to assume responsibilities for arranging the community living option, monitoring, and case management. If the receiving MRA agrees then the county of residence designation shall be changed when the individual moves. If the change is time limited, a MOA shall be executed as described in §402.320 of this title (relating to Guidelines for Changing County of Residence)

(3) If the receiving MRA does not want to be a part of the community living option and the county of residence MRA wants to continue to seek movement of the individual to that location, the MRAs shall submit the issue to the deputy commissioner or designee for arbitration

(A) Each MRA shall submit the reasons for its position in writing to the deputy commissioner with copies to the other MRA and to the individual and any legally authorized representative

(B) The individual and any legally authorized representative shall be asked to submit their opinions to the deputy commissioner regarding the disagreement.

(C) The county of resident MRA shall inform the individual, any legally authorized representative, and the facility of the final agreement.

(j) The current facility shall inform any new facility that may serve the individual of staff experiences and recommendations regarding how best to serve the individual.

(k) All MRAs and facilities that are involved must be notified and invited to

participate in any planning meeting(s) for the individual.

§402.318. Planning Moves Into the Community.

(a) When a recommendation of a specific home for the individual in the community has been made as described in rules of the department governing placement appeals procedures in §402.288 of this title (relating to Specific Alternate Placement Recommendation by IDT) or by the hearing officer as described in §402.293 of this title (relating to Final Decision), the facility IDT shall meet to complete the community living plan which shall include:

- (1) a statement of the individual's choices and needs;
- (2) a list of supports and services necessary for the individual to succeed in the chosen home and persons identified who will facilitate such;
- (3) identification of the MRA case manager assigned to provide continuity of services activities as well as a facility contact person;
- (4) all current physician orders and treatments, including rationale for all medications prescribed and dispensed by the facility, and amount dispensed which will be continued after movement;
- (5) the name of the physician or health care entity that will become the individual's primary health care provider;
- (6) documentation that the individual and any legally authorized representative has had an opportunity to participate in the development of the community living plan with notations concerning their reactions;
- (7) statement that the individual and any legally authorized representative has been counseled on the relative advantages and disadvantages of the proposed home with concurrent documentation of their opinions, ideas, and suggestions;
- (8) the reason for the move to a community home;
- (9) a brief summary of findings, events, and progress during the period of service to the individual;
- (10) current diagnoses;
- (11) date of the move to the home;
- (12) any referrals made or instructions provided to and/or for the individual at reassignment, to include a copy of the community living plan, if applicable, naming the services and/or supports the individual requires in the new home and the agency(ies) responsible for provision; and

(13) the signatures of all participants.

(b) The facility shall send copies of the completed community living plan to the:

- (1) regional monitor;
- (2) MRA county of residence;
- (3) provider; and
- (4) any legally authorized representative.

(c) As soon as possible, but no later than two weeks after receiving the community living plan, the regional monitor shall visit the proposed setting, if necessary, and notify the MRA of any concerns and whether the home is approved.

(d) The MRA shall arrange for department funding, if applicable.

(e) The MRA shall notify the facility when the setting is approved. The facility shall ensure the following:

- (1) a 30-day supply of prescribed medications has been provided;
- (2) individual's personal belongings are prepared to accompany the individual;
- (3) all necessary financial arrangements and agreements are addressed;
- (4) appropriate special instructions for the individual or others are furnished in writing and orally prior to or at the time of departure;
- (5) the records described in subsection (i) of this section shall accompany the individual unless the movement is to the individual's home; and
- (6) the appropriate Social Security office has been notified of the individual's impending move.

(f) The MRA shall maintain evidence that the physician, direct care staff, consultants, and others who will be delivering services to the individual are informed of the individual's community living plan prior to provision of service.

(g) The MRA shall coordinate and ensure satisfactory transition of the individual to the community-based option through involvement of the facility staff in the process. The MRA shall assure that staff from the MRA and/or facility accompany the individual to the community home (if other than the family's home) and shall remain there for a period of time which is determined to be necessary for satisfactory transition. The case manager shall arrange to meet the individual at the home as soon as possible.

(h) If an individual on regular admission to a facility is placed in a setting outside the local service area of that facility, then 180 days after moving to a community

home the individual shall be reassigned to the facility serving that area. Written notification shall be sent by the original facility to the individual or legally authorized representative, case manager, and the facility serving the area.

(i) The following records, as applicable, shall be provided by the facility and shall accompany the individual:

- (1) a copy of birth certificate, if required by the community services provider;
 - (2) copies of any legal documents, if required by the community-based facility;
 - (3) a copy of the individual's Social Security card;
 - (4) a photograph current within one year;
 - (5) a copy of the immunization record;
 - (6) a copy of the height and weight record;
 - (7) a copy of the seizure record;
 - (8) a copy of the treatment and diet record;
 - (9) a copy of the most recent medical and dental examination;
 - (10) copies of all laboratory tests conducted within the past 30 days and any additional significant reports made within the past year (including, X-ray, EEG, and EKG);
 - (11) copies of the physician's progress reports;
 - (12) a copy of the social history and the most recent psychological examination; and
 - (13) copy of Medicaid, Medicare, or third-party insurance cards;
 - (14) nursing care plan; and
 - (15) any other data requested by the community program.
- (j) Prior to or at the time of movement, the facility physician shall prepare a letter summarizing the highly relevant medical information to be given to the new physician or health care entity that will be providing services to the individual in the community. Whenever possible, the facility physician shall communicate directly with the new physician.
- (k) The facility shall transmit the completed community living plan and any other necessary information regarding treatment needs to the physician who will provide care in the community. The MRA county of residence shall document that the information is sent.

(l) The MRA shall notify the regional monitor within three days of the date of the move

(m) The individual shall be reassigned in CARE by the facility to the serving MRA. If necessary, the county of residence shall be changed at this time

§402 319 Requirements for Continuity of Service Activities Following Movement.

(a) The MRA is responsible for assigning a case manager to maintain an ongoing relationship with the individual who moves into the community to determine if:

(1) there are factors which may preclude the successful attainment of the individual's choices and needs relative to their quality of life,

(2) the individual's choices and needs that affect continuing the placement are met in the community setting,

(3) the individual continues to be eligible for the setting, and

(4) the home continues to be appropriate for the individual

(b) The MRA may request a case management waiver in accordance with LXMIMR procedures.

(c) The case manager shall visit the individual as frequently as needed, but no less frequently than monthly. If the individual has an approved waiver, the visits shall be made quarterly.

(d) The MRA shall use visits and interviews with the individual and others, as well as observations, as the primary basis for collecting data and information to determine if the individual's choices and needs are being met across time and services. It is not the MRA's responsibility to monitor the facility to see if it meets the certification standards of another agency.

(e) Visits shall be documented on progress notes by the MRA and pertinent information shall be shared with the provider and, if needed, the assigned facility and the MRA staff administratively responsible for community living activities.

(1) Significant problems not resolved during the visit shall become a part of the MRA's system for problem analysis and monitoring.

(2) The MRA shall maintain evidence of problem correction. Problems related to certification standards of another agency shall be reported to the appropriate staff in those agencies.

(3) Concerns regarding rights violations or abuse and neglect issues shall be reported in accordance with applicable laws and regulations.

(f) Visits shall be accomplished with the participation from the facility if considered by either party to be in the best

interest of the individual. If the facility and the MRA accomplish this process together for the individual, it shall be a joint visit resulting in one progress note and one reporting process.

(g) Facility staff shall be invited to participate in the 30-day staffing and shall be available for on-going consultation and information.

(h) The regional monitor shall conduct a 30-day review, a 90-day review, and annual reviews, with follow-up reviews as necessary.

(i) Annually the MRA shall assess the individual using the Case Management Assessment format. The information shall be included in the individual's annual planning staffing.

§402 320 Guidelines for Changing County of Residence

(a) It is the preference of the department that where the individual lives in the community be the county of residence. Other considerations would include:

(1) preferences of the individual and family,

(2) anticipated length of stay, if known, in the county; and

(3) recommendations of the individual's treatment team.

(b) If a change in county of residence is indicated, staff requesting the change shall inform the affected MRAs in writing.

(c) Disagreements regarding a change in county of residence shall be resolved, whenever possible, by staff of the affected MRAs. If this is not possible, the matter shall be referred to the appropriate assistant deputy commissioner(s).

(d) Time limited change of county of residence are acceptable and must be documented with a memorandum of agreement between the MRAs.

(e) There shall be no "out of state" county of residence designations. If an out of state transfer is indicated the MRA shall contact the Office of Consumer Services and Rights Protection for assistance.

(f) The county of residence shall be recorded or updated in CARE. Only an individual's current MRA can change the county of residence in the CARE system.

§402 321 References Documents referenced in this subchapter include:

(1) Texas Health and Safety Code, Title 7, Chapters 591-596,

(2) Texas Administrative Code, Title 40, Part I, Chapter 27, concerning Texas Intermediate Care Facility/Mental Retardation (ICF/MR) Standards for Partici-

pation (rules of the Texas Department of Human Services);

(3) Chapter 402, Subchapter H of this title (relating to Placement Appeals Procedures—Mental Retardation Services);

(4) Chapter 403, Subchapter K of this title (relating to Client-Identifying Information);

(5) Chapter 405, Subchapter D of this title (relating to Determination of Mental Retardation and Appropriateness for Admission to Mental Retardation Services); and

(6) Chapter 410, Subchapter A of this title (relating to Public Responsibility Committees).

§402 322 Exhibits. The following exhibits are referenced in this subchapter and copies can be obtained by writing to Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711.

(1) Exhibit A. Example of Memorandum of Agreement (MOA), and

(2) Exhibit B. Community Living Plan.

§402 323 Distribution.

(a) This subchapter shall be distributed to members of the Texas Board of Mental Health and Mental Retardation, deputy commissioners, associate deputy commissioners, assistant deputy commissioners, directors and section chiefs of Central Office, superintendents and directors of all department facilities, and board chairpersons and executive directors of all community mental health and mental retardation centers.

(b) The superintendent, director, or executive director shall ensure distribution of this subchapter to appropriate staff.

(c) A copy of this subchapter shall be made available upon request to any staff member, any individual with mental retardation, the individual's parent; counsel of record of any individual with mental retardation, or to any interested party.

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 27, 1993

TRD-9331041

Ann K Utley
Chairman
Texas Department of
Mental Health and
Mental Retardation

Earliest possible date of adoption. December 3, 1993

For further information, please call (512) 465-4670

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

• 31 TAC §57.500

The Texas Parks and Wildlife Commission proposes an amendment to §57.500, concerning the marking of vehicles that transport fish for commercial purposes. This amendment will correct a typographical error.

Robin Riechers, staff economist, 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. Riechers 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 simply correct a typographical error in the proclamation and will not effect the public. There will be no effect on small businesses. It is anticipated that there will be no fiscal implications to persons who are required to comply with the section as proposed. The Department has not filed a local employment impact statement with the Texas Employment Commission in compliance with the Administrative Procedure and Texas Register Act, §4A, as this agency has determined that the section as proposed will not impact local economics.

Comments on the proposal may be submitted to Charles Hensley, Director of Law Enforcement, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 75744; (512) 389-4845 or 1 (800) 792-1112, extension 4845.

The amendment is proposed under the Texas Parks and Wildlife Code, Chapter 66, §66.104, which provides the Texas Parks and Wildlife Commission with the authority to regulate the identification of vehicles transporting aquatic products.

Cross reference to statute: Parks and Wildlife Code, Chapter 47

§57.500. Marking of Vehicles. All motor vehicles, trailers, or semitrailers transporting fish for commercial purposes shall exhibit the inscription "fish" on the right, left, and rear sides of the vehicle. The inscription shall read from left to right and shall be plainly visible at all times while transporting fish. The inscription "fish" shall be attached to or painted on the vehicle, trailer, or semitrailer in block [black] arabic letters of good proportion in contrasting color to the background and be at least eight inches in height.

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 26, 1993.

TRD-9330981

Paul M Shinkawa
Director, Legal Services
Texas Parks and Wildlife
Department

Earliest possible date of adoption: December 3, 1993

For further information, please call: 1 (800) 792-1112, Ext. 4433 or (512) 389-4433

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 91. Discipline and Control

Disciplinary Practices

• 37 TAC §91.3

The Texas Youth Commission (TYC) proposes an amendment to §91.3, concerning rules of conduct, contraband, and dress. The amendment allows individual superintendents or the facility administrator with approval of the director of institutions or director of community services, to prohibit symbolic expressions that have been shown to precipitate violence or potentially violent behavior which presents an imminent peril to the health and safety of our youth, staff, and visitors.

John Franks, director of fiscal affairs, 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. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a safe environment for TYC staff and visitors, and youth in the custody of the Texas Youth Commission. 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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules appropriate to the proper accomplishment of its functions.

§91.3. Rules of Conduct, Contraband and Dress.

- (a) (No change.)
- (b) Rules.
 - (1)-(4) (No change.)

(5) Symbolic Expression.

(A) A facility superintendent/facility administrator may adopt rules for the facility to prohibit any symbolic expression(s) that have been shown to precipitate violent behavior which endangers the safety of youth, staff or visitors at the facility. All rules adopted by a superintendent/facility administrator and approved by the director of institutions/director of community services must be clearly communicated to each youth and posted at the same place as other rules set out in this policy. [Unless it is repealed earlier, the authority granted in this subsection expires on March 31, 1993.]

(B) When the symbolic expression rule is authorized by the director of institutions or director of community services for a specific facility, the superintendent or facility administrator shall semi-annually submit to the appropriate director a report to include at least:

- (i) date rule approved and initiated;
- (ii) date approved rule to expire;
- (iii) impact of the rule on overall behaviors of the entire student population;
- (iv) impact of the rule on behaviors of specific students to whom the rule is directed (include description of impact on violence); and
- (v) anticipated length of rule extension.

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-9330895

Jay Lindgren
Acting Executive Director
Texas Youth Commission

Earliest possible date of adoption: December 3, 1993

For further information, please call: (512) 483-5244

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Rehabilitation Commission

Chapter 103. Vocational Rehabilitation Services Program

Subchapter A. Provision of Vocational Rehabilitation Services

• 40 TAC §103.7

The Texas Rehabilitation Commission (TRC) proposes an amendment to §103.7, concerning Mental Restoration Services. The purpose of the amendment is to conform to the Health and Human Services Commission Coordinated Strategic Plan by providing quality services to clients

Charles Harrison, deputy commissioner, Financial and Planning Services, 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

Lena Jackson, program specialist, also has determined that for each year of the first five years the amendment is in effect the public benefits anticipated as a result of enforcing the section as proposed will be to emphasize the Texas Rehabilitation Commission's commitment to provide quality services to clients of the agency. 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.

Questions about the content of the proposal may be directed to Lena Jackson, Program Specialist, Programs Administration, at (512) 483-4113, in the Texas Rehabilitation Commission. Comments on the proposal may also be submitted to Lena Jackson, Program Specialist, Program Administration, Texas Rehabilitation Commission, 4900 North Lamar Boulevard, Suite 5413, Austin, Texas 78751-2399, within 30 days of publication in the *Texas Register*

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

No codes or statutes are affected by the proposed amendment.

§103.7. *Mental Restoration Services.*

(a)-(c) (No change)

(d) The commission provides mental restoration services utilizing only physicians licensed by the State and skilled in the diagnosis and treatment of mental or emotional disorders, or psychologists licensed or certified in accordance with State law.

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-9330996 Charles W. Schlessner
Associate Commissioner
for Legal Services
Texas Rehabilitation
Commission

Earliest possible date of adoption: December 3, 1993

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

Part III. Texas Commission on Alcohol and Drug Abuse

Chapter 147. Approved Drug Offender Education Program

General Provisions

• 40 TAC §§147.1, 147.2, 147.4

The Texas Commission on Alcohol and Drug Abuse proposes amendments to §147.1, 147.2, and 147.4, concerning Approved Drug Offender Education Programs. In §147.1 the definitions of approval period and drug offender are amended to include misdemeanor offenses. Section 147.2 amends the objective of the program to include misdemeanor offenses. Section 147.4 allows for an agency to submit payment for fees by an agency voucher.

Denise Hudson, director, fiscal services, has determined that there will be fiscal implications as a result of enforcing or administering the sections. For state and local government there is no known basis for calculating costs for each program. Costs will vary depending on the fees each program chooses to assess each participant.

Ms. Hudson 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 section will be the establishment of quality programming in drug offender education programs approved by the Texas Commission on Alcohol and Drug Abuse. The cost of compliance with the sections for small businesses will be unknown. There is no known basis for calculating costs. Cost will vary with each program depending on whether they raise the fee per participant to cover any additional costs incurred for complying. Cost for persons will vary depending on the fees each program chooses to assess each drug offender education pro-

gram participant. Approximate costs to person will be \$0-\$125 for fiscal years 1994-1998.

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 78701-2576.

The amendments are proposed under Texas Civil Statutes, Article 6687b, §24B, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards for the operation of approved drug offender education programs for persons convicted of certain drug offenses and who must complete an approved drug offender education program in order to have the driver's license reinstated.

The statute affected by these rules is Texas Civil Statutes, Article 6687b, §24B.

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

Approval period—That period of time beginning with the date the approval was granted and ending August 31 of every odd-numbered year [is valid for two years from the date of issuance].

Drug offender—A person convicted of a misdemeanor or felony offense under the Controlled Substances Act (21 United States Code, §321 et seq), a drug [felony] offense as assigned by 23 United States Code, §159(c) and includes an offense under Texas Civil Statutes, Article 67011-1, or the Penal Code, §19.05(a)(2) committed as a result of the introduction into the body of any substance the possession of which is prohibited under the Controlled Substances Act, [§ 104, as amended by Public Law Number 101-516, §333,] or a felony under the Texas Health and Safety Code, Chapter 481, that is not a drug offense.

§147.2 *Objective.* The intent of the commission by adoption of this chapter and in cooperation with the Department of Public Safety is to promulgate written rules, regulations, and standards reflecting minimum standards for the uniform operation of programs designed to educate persons on the dangers of drug abuse. Adoption of these rules is authorized by Texas Civil Statutes, Article 6687b, §24B, which provide that persons convicted of a misdemeanor or felony drug offense [offenses] must attend and successfully complete an educational program approved by the commission designed to educate persons on the dangers of drug abuse prior to having their driver's licenses reinstated.

§147.4. *Fees*

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

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check, [or] money order, or agency voucher.

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 26, 1993.

TRD-9330957

David P. Tatum
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: December 3, 1993

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

Drug Offender Education Program Standards

• 40 TAC §147.33

The Texas Commission on Alcohol and Drug Abuse proposes an amendment to §147.33, concerning Approved Drug Offender Education Programs. The amendment adds misdemeanor offenses in order to comply with the Texas Civil Statutes, Article 6687b, §24B.

Denise Hudson, director, fiscal services, has determined that there will be fiscal implications as a result of enforcing or administering the sections. For state and local government there is no known basis for calculating costs

for each program. Costs will vary depending on the fees each program chooses to assess each participant.

Ms. Hudson 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 section will be the establishment of quality programming in drug offender education programs approved by the Texas Commission on Alcohol and Drug Abuse. The cost of compliance with the sections for small businesses will be unknown. There is no known basis for calculating costs. Cost will vary with each program depending on whether they raise the fee per participant to cover any additional costs incurred for complying. Cost for persons will vary depending on the fees each program chooses to assess each drug offender education program participant. Approximate costs to person will be \$0-\$125 for fiscal years 1994-1998.

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 78701-2576.

The amendment is proposed under Texas Civil Statutes, Article 6687b, §24B, which provide the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards for the operation of approved drug offender education programs for persons convicted of certain drug offenses and who must complete an approved drug offender education program in order to have the driver's license reinstated.

The statute affected by this rule is Texas Civil Statutes, Article 6687b, §24B.

§147.33. Program Admission. The following persons are eligible for admission to an Approved Drug Offender Education Program:

(1) any person convicted of a misdemeanor or felony offense under the Controlled Substances Act (21 United States Code, §321 et seq); a drug [felony] offense as assigned by 23 United States Code, §159(c) and includes an offense under Texas Civil Statutes, Article 67011-1, or the Penal Code, §19.05(a)(2), committed as a result of the introduction into the body of any substance the possession of which is prohibited under the Controlled Substances Act, [§ 104, as amended by Public Law Number 101-516, § 333,] or a felony under the Texas Health and Safety Code, Chapter 481, that is not a drug offense; and

(2) (No change.)

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

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

TRD-9330956

David P. Tatum
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Earliest possible date of adoption: December 3, 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 Act, the Government Code, Chapter 2001, does not apply to board action under Articles 5.96 and 5.97.

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

The State Board of Insurance, of the Texas Department of Insurance, at a Board meeting scheduled for 9:00 a.m., November 17, 1993 in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider a forms filing by the

Texas Department of Banking (Department) for a new surety bond form entitled "BOND FOR WITHDRAWAL OF EXCESS FUNDS, Form Number 092293.WEF". This bond form is required by Acts of the 73rd Legislature.

The proposed new BOND FOR WITHDRAWAL OF EXCESS FUNDS, Form Number 092293. WEF (the Bond) is required by the revisions to Texas Civil Statutes, Article 548b, §5, (the Act). The Act allows a permit holder who sells prepaid funeral benefits or contracts to withdraw from trust accounts excess earnings that exceed 110% of all sums paid by purchasers of contracts. Certain documentation and specific criteria must be furnished to the Department for approval of the withdrawal. Permit holders must either have an unqualified opinion by a certified public accountant of an audited financial statement within 18 months of application or an audited financial statement with a qualified opinion which is accompanied by the Bond in an amount equal to the amount of the requested withdrawal. The Bond will be written in favor of the Commissioner of the Department and shall be reduced on an annual basis by an amount equal to ten percent per year.

The Act further provides the Commissioner shall approve an application to withdraw excess earnings unless the Commissioner determines that the seller's ability to deliver the contracted services and merchandise would be materially jeopardized by the withdrawal due to. (1) the amount of the requested withdrawal exceeds the net worth of the seller, however, the Commissioner may approve the withdrawal if the application is accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 20% per year; (2) if the seller has experienced a net loss from operations in any of the last three years; however, the Commissioner may approve the withdrawal if accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 10% per year, and (3) if the contingent liabilities other than commitments disclosed on the face of the seller's audited financial sheet exceeds the seller's net worth as of the date of the financial statement, however, again, the Commissioner may approve the withdrawal if accompanied by the Bond. Such bond shall be reduced on an annual basis by an amount equal to 10% per year. There are numerous

other reasons that do not have the Bond as an option that would allow the Commissioner to deny a withdrawal.

Copies of the full text of the proposed bond form for the Texas Department of Banking are available for review in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the text, please contact Angie Arizpe at (512) 322-4147, (refer to Reference Number A-0993-23).

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts the Board's action on this filing from the requirements of the Government Code, Chapter 2001.

This 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 26, 1993.

TRD-9330998 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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



The State Board of Insurance, at a Board hearing scheduled for 9:00 a.m., December 2, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider adoption of revisions to the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Texas Experience Rating Plan Manual as proposed by the staff of the Workers' Compensation Division of the Texas Department of Insurance.

The revisions as proposed by staff combine the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers Liability Insurance and the Texas Experience Rating Plan Manual into one manual entitled Texas Workers' Compensation Manual of Rules, Classifications, Endorsements and Experience Rating ("Manual"). The proposed re-writing and revising of the manual includes but is not limited to the following: (1) editorial changes necessary because the State Board of Insurance no longer sets Workers' Compensation rates; (2) the elimination of Texas from interstate rating for employers with operations in states other than Texas; (3) amendments to various classification footnotes due to the changes adopted to the classification system; (4) proposal of a rule concerning applying initial and renewal experience modifier if modifier is calculated during the applicable policy period; (5) proposal of a rule for calculation of a contingent modifier based on experience available at the time of calculating the experience modifier; and (6) proposed change in rule pertaining to employer who leaves an employee leasing arrangement.

A copy of the petition containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe (512) 322-4147, (refer to Reference Number W-1093-26-1).

The staff and the State Board of Insurance request that written comments to these proposed amendments be submitted to the office of the Chief Clerk prior to the public hearing on December 2, 1993. Public testimony at the public hearing on December 2, 1993, is also invited.

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

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 27, 1993.

TRD-9331084 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

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



Adopted Sections

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

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

TITLE 1. ADMINISTRATION

Part V. General Services Commission

Chapter 117. Centralized Services Division

Business Machine Repair

• 1 TAC §117.41

The General Services Commission adopts an amendment to §117.41, concerning business machine repair services, without changes to the proposed text as published in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5940).

The amendment to §117.41 will streamline and consolidate existing rules.

The amendment to §117.41 outlines the scope of business machine repair for governmental entities.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of the Article.

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 26, 1993.

TRD-9331027 Judith Porras
General Counsel
General Services
Commission

Effective date: November 17, 1993

Proposal publication date: September 7, 1993

For further information, please call: (512) 463-3583

• 1 TAC §117.42, §117.43

The General Services Commission adopts the repeal of §117.42 and §117.43, concerning business machine repair services, without changes to the proposed text as published in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5941).

The repeal of these sections will consolidate existing rules.

The repeal of §117.42 and §117.43 will delete burdensome language that is to be consolidated into amended §117.41.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 601b, which provide the General Services Commission with the authority to promulgate rules to accomplish the purpose of that Article.

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 26, 1993.

TRD-9331026 Judith Porras
General Counsel
General Services
Commission

Effective date: November 17, 1993

Proposal publication date: September 7, 1993

For further information, please call: (512) 463-3583

Part XV. Health and Human Services Commission

Chapter 351. Coordinated Planning and Delivery of Health and Human Services

• 1 TAC §351.1

(Editor's note. The preamble of the following rule was published in the September 17, 1993, issue of the Texas Register (18 TexReg 6297). Due to a publishing error the preamble was published without the text of the rule.)

The Health and Human Services Commission (HHSC) adopts new §351.1 with changes to the proposed text as published in the July 16, 1993, issue of the *Texas Register* (18 TexReg 4556).

The justification for the new section is to ensure that rules promulgated by component agencies comply with the commission's coordinated strategic plan, existing statutory authority, and rules of other health and human services agencies. Additionally, the commission is to review rules for budgetary implications. The new rule describes the commission's procedures for review of all component agencies' rules except for Medicaid rules. The State Medicaid Office, a func-

tion of HHSC, approves and issues Medicaid rules.

The new section will function by providing a more efficient, coordinated and cost effective service delivery system for health and human services.

HHSC received comments from the Texas Department of Protective and Regulatory Services, Texas Department of Health, Texas Department of Human Services, Texas Commission on Alcohol and Drug Abuse, Texas Association of Regional Councils, and the Texas Medical Association.

The following comments were received concerning the proposed rule.

Comment: One commentor recommended that the following sentence be added to §351.1(c). "The commission's review of emergency rules will take place after those emergency rules are published as proposed rules."

Response: HHSC agrees and has added this phrase.

Comment: One commentor questioned HHSC's authority to review public comments.

Response: There may be instances in which HHSC should consider all public comments received by the rulemaking agency in order to fully understand the issues of the proposed rule.

Comment: One commentor requested that the HHSC amend §351.1(d) to notify component agencies when a proposed rule meets with approval.

Response: HHSC believes that the absence of a request to withdraw or amend a proposed rule serves as notification that the HHSC does not object to a proposed rule; therefore, HHSC is adopting the rule without the recommended change.

Comment: One commentor recommended that §351.1(d) be revised to require that HHSC notify a component agency of the reason it requires withdrawn or amendment of a proposed rule.

Response: HHSC agrees, and has added the phrase "of its reasons for the request."

Comment: Two commentors requested that HHSC amend the proposed rule to define the "designated review period" to be the public comment period for the proposed rule.

Response: HHSC will consider issues raised in public comments on rules. Therefore, HHSC is adopting the rule without the recommended change.

Comment: One commenter requested that cost implications for local governments be built into the commission's review process of agency rules.

Response: State law requires this. See Article 6252-13a, §5(a)(4), Texas Civil Statutes.

Comment: One commenter recommended that decentralizing program administration be encouraged as policy by the HHSC.

Response: HHSC will consider this recommendation in connection with its strategic planning.

The new rule is adopted under Texas Revised Civil Statutes, Article 4413(502) §15, which provide the commission with authority to review all proposed rules of health and human services agencies for compliance with its coordinated strategic plan, existing statutory authority, rules of other health and human services agencies, and budgetary implication; and the authority to notify an agency within the designated review period for a proposed rule if the commission requires withdrawal or amendment of the proposed rule.

§351.1. Health and Human Services Commission Review of Component Agency Rules.

(a) Purpose. This rule implements the Health and Human Services Commission (HHSC) review of its component agencies' rulemaking. State law empowers HHSC to review all proposed rules of its component agencies for compliance with its coordinated strategic plan, existing statutory authority, rules of other health and human services agencies, and budgetary implications. HHSC may notify its component agencies that it requires withdrawal or amendment of their proposed rules. Article 4413(502) §15, Texas Civil Statutes. This rule describes the procedures for all rules except Medicaid rules. The State Medicaid Office, a function of HHSC, approves and issues Medicaid rules.

(b) Notice by Publication. Publication of a proposed rule in the *Texas Register* is notice to the commission that a component agency proposes to adopt a rule.

(c) Notice of Emergency Rules. The power of the component agencies to enact emergency rules is not impaired by the commission's review of component agency rules. The commission's review of emergency rules will take place after those emergency rules are published as proposed rules.

(d) Notice of Requirement for Withdrawal or Amendment. Before a component agency adopts a rule, if the commission requires the withdrawal or amendment of the rule, the commission will notify the component agency in writing of its reasons for the request. The commission signifies its approval of a proposed rule by not notifying the component agency in writing that the

commission requires the withdrawal or amendment of the rule before the component agency adopts a rule.

(e) Procedures. HHSC will inform the component agencies from time to time of its procedures by which component agencies shall keep HHSC informed as they develop rules.

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

Issued in Austin, Texas, on September 10, 1993.

TRD-9328678 Debby Gardner
General Counsel
Health and Human
Services Commission

Effective date: October 1, 1993

Proposal publication date: July 16, 1993

For further information, please call: (512) 502-3200

TITLE 4. AGRICULTURE Part IX. Texas Veterinary Medical Diagnostic Laboratory

Chapter 162. Pullorum Disease and Fowl Typhoid Program

• 4 TAC §§162.1-162.10

(Editor's Note: New §§162.1-162.10 were inadvertently proposed as §§102.1-102.10. This sequence of section numbers does not correspond with Part IX. The section numbers are being adopted as §§162.1-162.10. However, the language to these rules is being adopted without changes.)

The Texas Veterinary Medical Diagnostic Laboratory adopts new §§162.1-162.10, without changes to the proposed text as published in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5941).

Through this program, the Texas poultry industry (eggs, broiler, turkey and other poultry) is able to meet and maintain the National Poultry Improvement Plan-APHIS-VS testing requirements for "U.S. Pullorum-Typhoid Clean State." The program allows the Texas poultry industry to be competitive with other states and increase the health status of their birds.

Through TVMDL-TAMUS personnel, poultry flocks will be systematically tested, positive flocks removed as breeders and necessary records maintained to verify poultry flock disease status under this program.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Agriculture Code, §168.002, which provides the Texas Agricultural Experiment Station with the authority to promulgate and administer a program to control and eradicate pullorum disease and fowl typhoid.

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 College Station, Texas, on October 21, 1993.

TRD-9330974 A. K. Eugster
Executive Director
Texas Veterinary Medical
Diagnostic Laboratory

Effective date: November 16, 1993

Proposal publication date: September 7, 1993

For further information, please call: (409) 845-9000

TITLE 16. ECONOMIC REGULATION Part I. Railroad Commission of Texas Chapter 3. Oil and Gas Division

Conservation Rules and Regulations

• 16 TAC §3.50

The Railroad Commission of Texas adopts an amendment to §3.50, concerning enhanced oil recovery projects-approval and certification for tax incentive, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5545).

Adoption of the amendment will provide for an extended time to apply for enhanced oil recovery project approval. Adoption of the proposed amendment will encourage the production of high-cost oil and gas resources.

One commenter suggested removal of the phrase "the operator must" in subsection (d)(1) for clarity. The commission disagrees. The phrase does not cause confusion.

Texas Mid-Continent Oil and Gas Association was in favor of the proposed amendment. There were no comments opposing the proposed amendment.

The Railroad Commission adopts the amendment pursuant to the Texas Natural Resources Code, §81.052, and the Tax Code, §202.054. The rule, as amended, implements the Tax Code, §202.054, which provides for Railroad Commission certification of enhanced recovery projects.

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 25, 1993.

TRD-9331033 Mary Ross McDonald
Assistant Director, Legal
Division, Gas
Utilities/L.P.-Gas
Railroad Commission of
Texas

Effective date: November 17, 1993

Proposal publication date: August 20, 1993
For further information, please call: (512)
463-6802

◆ ◆ ◆
Chapter 11. Surface Mining
and Reclamation Division

Subchapter E. Quarry and Pit
Safety

- 16 TAC §§11.1004, 11.1005,
11.1021, 11.1033, 11.1034, 11.
1038, 11.1040, 11.1043, 11.1081

The Railroad Commission of Texas adopts amendments to §§11.1004, 11.1005, 11.1021, 11.1033, 11.1034, 11.1038, 11.1040, 11.1043, and 11.1081, concerning quarry and pit safety, without changes to the proposed text as published in the September 21, 1993, issue of the *Texas Register* (18 TexReg 6393).

These rules are being amended to update Quarry and Pit Safety certificate application procedures. Effective September 1, 1993, the Aggregate Quarry and Pit Safety Act (Texas Natural Resources Code, Chapter 133) was amended to provide new definitions, barrier requirement waivers, and reduced fees for governmental entities. The Railroad Commission has made those changes within these rules. The amended rules will eliminate compliance costs for those entities which qualify for a waiver and will reduce application costs for governmental entities.

No comments were received regarding adoption of the proposals.

The amendments are adopted under the Natural Resources Code, §133.014, which provides the commission with the authority to adopt regulations as necessary to implement and enforce the Act.

The following are the sections that are affected by these sections: §11.1004—the Natural Resources Code (Code), §133.003; §11.1005—Code, §§133.041, 133.046 and §133.051; §11.1021—Code, §133.047; §11.1033—Code, §133.041; §11.1034—Code, §133.042; §11.1038—Code, §133.045; §11.1040—Code, §133.046; §11.1043—Code, §133.051; and §11.1081—Code, §133.041.

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 25, 1993.

TRD-9330928 Mary Ross McDonald
Assistant Director
Legal Division-Gas
Utilities/LP Gas

Effective date: November 16, 1993

Proposal publication date: September 21,
1993

For further information, please call: (512)
463-6989

Part IV. Texas Department of Licensing and Regulation

Chapter 60. Texas Commission of Licensing and Regulation

Subchapter B. Organization of the Commission of Licens- ing and Regulation

- 16 TAC §60.22, §60.25

The Texas Department of Licensing and Regulation adopts amendments to §60.22 and §60.25, concerning organization of the Commission of Licensing and Regulation. Section 60.22 is adopted with changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5546). Section 60.25 is adopted without changes and will not be republished. The change to §60.22 corrects a typographical error in the Houston office address.

Section 60.22 updates field office addresses and §60.25 aligns the language for persons with disabilities.

The amendments will improve program accessibility and eliminate confusion between state and federal statutes

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

§60.22. Offices.

- (a) (No change.)
- (b) Regional and field offices for the department are established at the following locations:
 - (1) 400 South Collins, Suite 100, Arlington, Texas 76010;
 - (2) 3800 Paluxy Square, Suite 420, Tyler, Texas 75703;
 - (3) 321 Center Street, W-101, San Antonio, Texas 78202;
 - (4) 4410 Dillon Lane, Suite 3, Corpus Christi, Texas 78415;
 - (5) 2002 West University Drive, Suite 4, Edinburg, Texas 78539;
 - (6) 1220 Broadway, Suite 1105, Lubbock, Texas 79401;
 - (7) 661 Mesa Hills, Suite 104, El Paso, Texas 79912;
 - (8) 1414 South Loop West, Suite 140, Houston, Texas 77054; and
 - (9) 6600 Sanger, Suite 6, Waco, Texas 76710.

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 19, 1993.

TRD-9330939 Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512)
463-3127

◆ ◆ ◆
Subchapter C. Fees

- 16 TAC §§60.68, 60.70, 60.75

The Texas Department of Licensing and Regulation adopts amendments to §§60.68, 60.70, and 60.75, concerning fees, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5547). The amendments clarify existing rules and align fees with assigned statute rules.

The rules will function to clarify existing rules and align fees with the source document.

No comments were received regarding adoption of the amendments.

The amendments are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of 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 18, 1993.

TRD-9330938 Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512)
463-3127

◆ ◆ ◆
Subchapter D. Practice and
Procedure

- 16 TAC §§60.104, 60.107, 60.154,
60.156, 60.170, 60.173, 60.176,
60.177, 60.191, 60.194

The Texas Department of Licensing and Regulation adopts new §60.156 and amendments to §§60.104, 60.107, 60.173, 60.176, 60.177, 60.191, and 60.194, concerning practice and procedure. Sections 60.107, 60.156, and 60.173 are adopted with changes to the pro-

posed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5548). Sections 60.104, 60.154, 60.170, 60.176, 60.177, 60.191, and 60.194 are adopted without changes and will not be republished. Changes to the sections clarify the intention of the proposal and cite the Government Code instead of the Administrative Procedure and Texas Register Act.

The new section and amendments provide parties in a contested case hearing with a more complete and clear set of procedural rules.

The rules will function by improving the efficiency of hearings resulting in timely enforcement actions.

No comments were received regarding adoption of the sections.

The new section and amendments are adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

§60.107. Parties.

(a) All parties must have a justiciable interest in the proceedings in order to be designated as parties.

(b) (No change.)

(c) Any person/agency who has a justiciable interest and who is not an Applicant or Respondent and who desires to be designated as a party in a contested case before the Commission/Commissioner may file a petition for leave to intervene.

(d) The Hearings Examiner shall rule on all petitions for leave to intervene. Petitions may be denied if the Hearings Examiner determines that there is insufficient time for existing parties to prepare in light of the intervention and/or the Hearings Examiner may entertain a motion for a continuance. All petitions for intervention shall be subject to a motion to strike.

§60.156. Discovery.

(a) A request for issuance of a commission to take deposition shall be filed with the Hearings Examiner with a proposed commission to take deposition only if parties disagree on the scheduling of the deposition. Depositions shall be returned as provided in the Government Code, Title 10, Subtitle A, Chapter 2001.

(b) The Hearings Examiner may issue protective orders, orders compelling discovery responses, and orders imposing sanctions for failure to comply with discovery orders. Requests for such orders shall be considered after reasonable notice and opportunity for hearing. Requests for discovery orders shall contain a statement under oath or affirmation that, after due diligence,

the desired information can not be obtained through informal means.

(c) An Order imposing sanctions may:

(1) disallow any further discovery of any kind or of a particular kind by the disobedient party;

(2) require the party, the party's representative, or both to obey the discovery order;

(3) require the party, the party's representative, or both to pay reasonable expenses, including attorney fees, incurred by reason of the party's noncompliance;

(4) direct that the matters regarding which the discovery order was made shall be deemed established in accordance with the claim of the party obtaining the order;

(5) refuse to allow the disobedient party to support or oppose designated claims or defenses or prohibit the party from introducing designated matters in evidence;

(6) strike pleadings or parts thereof or abate further proceedings until the order is obeyed; or

(7) if entered by the Commission or Commissioner, dismiss the action or proceeding or any part thereof or render a decision by default against the disobedient party.

(d) Any discovery order or subpoena and any order imposing sanctions issued by the examiner are subject to review by filing an appeal to the Commissioner within seven days after the order is issued. Such appeal may be carried with the underlying case by agreement of the parties or if the Commissioner fails to act within 14 days after the appeal is filed.

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 18, 1993.

TRD-9330941

Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

Subchapter D. Practice and Procedure

• 16 TAC §60.156

The Texas Department of Licensing and Regulation adopts the repeal of §60.156 concerning discovery in a contested case hearing,

without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5549).

The section is being repealed to allow for the adoption of a new section which will provide parties in a contested case hearing with a more complete and clear set of procedural rules.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 9100, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of 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 18, 1993.

TRD-9330940

Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

Chapter 69. Manufactured Housing

Standards and Requirements

• 16 TAC §69.54, §69.62

The Texas Department of Licensing and Regulation adopts amendments to §69.54, and §69.62 concerning the installation of manufactured homes. Section 69.62 is adopted with changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5550). Section 69.54 is adopted without changes and will not be republished. Section 69.62 is adopted with changes because the proposal contained a typographical error subparagraph (C).

The amendments provide options in placement of piers under exterior doors and adds a new perimeter pier construction standard.

The amendments will function to clarify existing rules which allow for more timely inspection reports.

One comment in favor of the amendments was received during the comment period.

The amendments are adopted under Texas Civil Statutes, Article 5221f, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

§69.62. *Blocking Standards.* Installation of mobile homes and HUD-Code manufactured homes must meet or exceed the following support and blocking requirements.

(1)-(7) (No change.)

(8) Perimeter pier construction.

(A) Piers shall be installed to provide support at designated locations.

(B) The long dimension of concrete blocks may be placed in any direction at the support locations.

(C) The piers must support the intersection of the interior joist and perimeter joist or a four by four inch wood brace must be provided across two or more transverse (interior) joist intervals supported by two piers. The brace shall be within one foot of the perimeter joist.

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 18, 1993.

TRD-9330935

Jack W. Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

♦ ♦ ♦ Titling

• 16 TAC §69.204

The Texas Department of Licensing and Regulation adopts amendments to §69.204 concerning titling of manufactured homes with changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5550).

The amendment requires manufacturers to use a form prescribed by the department for the manufacturer's certificate of origin.

The amendment will function by providing proof that the sales/use tax has been paid on a manufactured home prior to the initial issuance of a document of title as required by Texas Civil Statutes, Article 5221f, Texas Manufactured Housing Standards Act.

During the comment period, the Department of Licensing and Regulation received one written comment on the proposal. The Texas Manufactured Housing Association requested the word provided be changed to prescribed in paragraphs (1) and (3) for clarification. The department agrees with the comment and incorporates the suggestion.

The amendment is adopted under Texas Civil Statutes, Article 5221f, which provide the Texas Department of Licensing and Regulation with the authority to promulgate and enforce a code of rules and take all action necessary to assure compliance with the intent and purposes of the Act.

§69.204. *Titling Forms.*

(a) Manufacturer's certificate of origin.

(1) The manufacturer shall issue a manufacturer's certificate of origin for each new home, which is consigned, transferred, or sold to a retailer in this state. The certificate of origin information shall be on a form prescribed by the department.

(2) (No change.)

(3) If the manufacturer's certificate of origin (MCO) surrendered with the initial title application is not on the form prescribed by the department, title issuance shall be delayed pending proof of state sales/use tax payment.

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 19, 1993.

TRD-9330936

Jack W. Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

♦ ♦ ♦ Chapter 70. Industrialized Housing and Buildings

• 16 TAC §§70.1, 70.10, 70.20, 70.21, 70.60-70.65, 70.70, 70.73, 70.77, 70.80, 70.90-70.92

The Texas Department of Licensing and Regulation adopts new §§70.60-70.65 and 70.90-70.92, and amendments to §§70.1, 70.10, 70.20, 70.21, 70.70, 70.73, 70.77, and 70.80, concerning industrialized housing and buildings. Section 70.10 is adopted with changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5551). Sections 70.1, 70.20, 70.21, 70.60-70.65, 70.70, 70.73, 70.77, 70.80, and 70.90-70.92 are adopted without changes and will not be republished.

The sections clarify, edit, renumber, and reorganize existing rules and add reimbursement of travel expenses to §70.80(f), (g), (j), and (k). The change to §70.10 is to correct a typographical error in the definition of installation.

The new and amended rules will function to clarify requirements for the regulated and enhance enforcement through self compliance.

No comments were received regarding adoption of the sections.

The new and amended sections are adopted under Texas Civil Statutes, Article 5221f-1, and Title 132A, Texas Department of Licensing and Regulation, Texas Civil Statutes, Article 9100, which provide authorization for the commissioner to promulgate rules and enforce compliance with adopted building codes for industrialized housing and buildings.

§70.10. *Definitions.*

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

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

(7) Commissioner's designee—A person appointed by the commissioner to act in a capacity of authority.

(8) Compliance Control Program—The manufacturer's system, documentation, and methods of assuring that industrialized housing, buildings, and modular components, including their manufacture, storage, handling, and transportation conform with the Act and this chapter.

(9) Component—A sub-assembly, subsystem, or combination of elements for use as a part of a building system or part of a modular component that is not structurally independent, but may be part of structural, plumbing, mechanical, electrical, fire protection, or other systems affecting life safety.

(10) Decal—The approved form of certification issued by the department to the manufacturer to be permanently affixed to the module indicating that it has been constructed to meet or exceed to the code requirements and in compliance with these sections.

(11) Design package—The aggregate of all plans, designs, specifications, and documentation required by these sections to be submitted to the design review agency, or required by the design review agency for compliance review, including the compliance control manual and the on-site construction documentation. Unique or site specific foundation drawings and special on-site construction details prepared for specific projects are not a part of the design package except as expressly set forth in §70.74 of this title (relating to Alterations and Deviations).

(12) Design review agency—An approved organization, private or public, determined by the council to be qualified by reason of facilities, personnel, experience, demonstrated reliability to review designs, plans, specifications, and building systems

documentation, and to certify compliance to these sections evidenced by affixing the council's stamp. The Act designates the department as a design review agency.

(13) ICBO—International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, California 90601.

(14) Industrialized builder—A person who is engaged in the assembly, connection, and on-site construction and erection of modules or modular components at the building site or who is engaged in the purchase of industrialized housing or buildings or of modules or modular components from a manufacturer for sale or lease to the public; a subcontractor of an industrialized builder is not a builder for purposes of these sections.

(15) Insignia—The approved form of certification issued by the department to the manufacturer to be permanently affixed to the modular component indicating that it has been constructed to meet or exceed the code requirements and in compliance with the sections in this chapter.

(16) Installation—On-site construction (see paragraph (25) of this subsection).

(17) Lease, or offer to lease—A contract or other instrument by which a person grants to another the right to possess and use for a specified period of time in exchange for payment of a stipulated price.

(18) Local building official—The agency or department of a municipality or other local political subdivision with authority to make inspections and to enforce the laws, ordinances, and regulations applicable to the construction, alteration, or repair of residential and commercial structures.

(19) Manufacturer—A person who constructs or assembles modules or modular components at a manufacturing facility which are offered for sale or lease, sold or leased, or otherwise used.

(20) Manufacturing facility—The place other than the building site, at which machinery, equipment, and other capital goods are assembled and operated for the purpose of making, fabricating, constructing, forming, or assembly of industrialized housing, buildings, modules, or modular components.

(21) Model—A specific design of an industrialized house, building, or modular component which is based on size, room arrangement, method of construction, location, arrangement, or size of plumbing, mechanical, or electrical equipment and systems therein in accordance with an approved design package.

(22) Module—A three dimensional section of industrialized housing or

buildings, designed and approved to be transported as a single section independent of other sections, to a site for on-site construction with or without other modules or modular components.

(23) NFPA—National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269.

(24) Nonsite specific building—An industrialized house or building for which the permanent site location is unknown at the time of construction.

(25) On-site construction—Preparation of the site, foundation construction, assembly and connection of the modules or modular components, affixing the structure to the permanent foundation, connecting the structures together, completing all site-related construction in accordance with designs, plans, specifications, and on-site construction documentation.

(26) Open construction—That condition where any house, building, or portion thereof is constructed in such a manner that all parts or processes of manufacture can be readily inspected at the building site without disassembly, damage to, or destruction thereof.

(27) Permanent foundation system—A foundation system for industrialized housing or buildings designed to meet the applicable building code as set forth in §70.100 of this title (relating to Mandatory State Codes) and §70.102 of this title (relating to Use and Construction of Codes).

(28) Person—An individual, partnership, company, corporation, association, or any other legal entity, however organized.

(29) Price—The quantity of an item that is exchanged or demanded in the sale or lease for another.

(30) Public—The people of the state as a whole to include individuals, companies, corporations, associations or other groups, however organized, and governmental agencies.

(31) Registrant—A person who, or which, is registered with the department pursuant to the rules of this chapter as a manufacturer, builder, design review agency, third party inspection agency, or third party inspector.

(32) Residential structure—Industrialized housing designed for occupancy and use as a residence by one or more families.

(33) Sale, sell, offer to sell, or offer for sale—Includes any contract of sale or other instrument of transfer of ownership of property, or solicitation to offer to sell or otherwise transfer ownership of property for an established price.

(34) SBCCI—Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213.

(35) Site or building site—A lot, the entire tract, subdivision, or parcel of land on which industrialized housing or buildings are sited.

(36) Special conditions and/or limitations—On-site construction documentation which alerts the local building official of items, such as handicapped accessibility or placement of the building on the property, which may need to be verified by the local building official for conformance to the mandatory state codes.

(37) Structure—An industrialized house or building which results from the complete assemblage of the modules, modular components, or components designed to be used together to form a completed unit.

(38) Third party inspector—An approved person or agency, private or public, determined by the council to be qualified by reason of facilities, personnel, experience, demonstrated reliability, and independence of judgement to inspect industrialized housing, buildings, and portions thereof for compliance with the approved plans, documentation, compliance control program, and applicable code.

(b) Other definitions may be set forth in the text of the sections in this chapter. For purposes of these sections, the singular means the plural, and the plural means the singular.

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 18, 1993.

TRD-9330943 Jack W. Garrison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

◆ ◆ ◆
• 16 TAC §§70.60-70.67,
70.90-70.95

The Texas Department of Licensing and Regulation adopts the repeal of §§70.60-70.67 and 70.90-70.95, concerning industrialized housing and buildings, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5556). The department adopts the repeal to allow for the adoption of edited, renumbered, and reorganized new sections.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Texas Civil Statutes, Article 5221f-1 and Title 132A, Texas Department of Licensing and Regulation, Texas Civil Statutes, Article 9100, which provide authorization for the commissioner to promulgate rules and enforce compliance with adopted building codes for industrialized housing and buildings.

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 18, 1993.

TRD-9330942 Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

Chapter 75. Air Conditioning and Refrigeration Contractor License Law

• 16 TAC §§75.10, 75.20-75.22, 75.24, 75.70, 75.80

The Texas Department of Licensing and Regulation adopts amendments to §§75.10, 75.20-75.22, 75.24, and 75.80, and new §75.70, concerning air conditioning and refrigeration contractors, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5557). Section 75.10 deletes an unnecessary definition, §75.20 clarifies requirements for applications, §75.21 adds a requirement for a rescheduling fee and simplifies the language of the section, §75.22 deletes a provision now in the statute and a provision that is being moved to another section, §75.24 changes the lead time for renewal notices, §75.70 clarifies the language and adds a requirement to provide addresses of non-permanent offices, and §75.80 specifies the reschedule fee.

The justification for the new rule, which replaces one that is being repealed, is that it will make requirements of licensees clearer and easier for the licensee to follow. The justification for the amendments is that a reschedule fee will enable the department to recover extra costs accrued when applicants reschedule, and that other rules language will be clearer.

The new rule will function by making compliance easier, and the amendments will function by increasing program efficiency.

No comments were received regarding adoption of the amendments and new section.

The amendments and new section are adopted under Texas Civil Statutes, Article 8861, which authorize the Texas Department

of Licensing and Regulation to license and regulate air conditioning and refrigeration contractors.

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 18, 1993.

TRD-9330934 Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

• 16 TAC §75.70

The Texas Department of Licensing and Regulation adopts the repeal of §75.10, concerning air conditioning and refrigeration contractors, without changes to the proposed text as published in the August 20, 1993, issue of the *Texas Register* (18 TexReg 5557).

The section is being repealed to allow adoption of a new section which will clarify existing language.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8861, which authorize the Texas Department of Licensing and Regulation to license and regulate air conditioning and refrigeration contractors.

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 18, 1993.

TRD-9330937 Jack W. Garison
Executive Director
Texas Department of
Licensing and
Regulation

Effective date: November 16, 1993

Proposal publication date: August 20, 1993

For further information, please call: (512) 463-3127

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. The Texas Department of Human Services

Chapter 15. Medicaid Eligibility

Subchapter C. Basic Program Requirements

• 40 TAC §15.300

The Texas Department of Human Services (DHS) adopts amendments to §15.300, 15.435, and 15.460, concerning basic program requirements, resources, and income exemptions in its Medicaid Eligibility rule chapter.

The purpose for the amendment to §15.300 is to comply with federal regulations that mandate that states disallow Medicaid eligibility to aliens admitted to the United States under temporary protected status. The purpose for the amendment to §15.435 is to comply with federal law that mandates that states repeal the April 30, 1994, expiration date for the exclusion of state relocation assistance payments from income and resources. The purpose for the amendment to §15.460 is to comply with federal law that mandates that states include hazardous duty pay of a spouse or parent as an income exemption.

The amendments will function by making DHS's Medicaid Eligibility rules consistent with federal regulations.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment implements the Human Resources Code, §22.002(a) and §32.021(c). The amendment is adopted in compliance with federal requirements effective August 3, 1993.

§15.300. United States Citizenship and Residence Requirements.

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

(c) Continuous residence in the United States from January 1, 1972, is proof that an individual is a resident under the color of law unless available information proves otherwise. The color of law provision does not include:

(1) undocumented or illegal aliens whose departure INS would enforce;

(2) legal aliens who are neither immigrants nor permanent residents of the United States. Legal aliens include but are not limited to tourists, students, temporary employees, officials of foreign governments or international organizations, and the families or servants of these officials; and

(3) aliens admitted under temporary protected status. (This status is granted when an ongoing armed conflict, natural disaster, or other extraordinary and temporary condition prevents the individual from returning to his home country.)

(d)-(e) (No change.)

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 27, 1993.

TRD-9331040 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: August 3, 1993

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

◆ ◆ ◆
• 40 TAC §15.435

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment implements the Human Resources Code, §22.002(a) and §32.021(c). The amendment is adopted in compliance with federal requirements effective October 1, 1993.

◆ ◆ ◆
§15.435. *Liquid Resources.*

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

(j) Relocation assistance and crime victims compensation. Public Law 101-508 excludes payments from a state-administered fund to aid victims of crime. These payments are excluded as resources for nine months following the month of receipt. Public Law 101-508 also excludes as resources payments that a state or local government may make as relocation assistance for nine months following the month of receipt. This exclusion is effective May 1, 1991.

(k)-(n) (No change.)

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 27, 1993.

TRD-9331039 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: October 1, 1993

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

◆ ◆ ◆
• 40 TAC §15.460

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs. The amendment implements the Human Resources Code, §22.002(a) and §32.021(c). The amendment is adopted in compliance with federal requirements effective October 1, 1993.

◆ ◆ ◆
§15.460. *Income Exemptions.*

(a) (No change.)

(b) The department exempts income that a client receives from any of the following sources:

(1)-(34) (No change.)

(35) hazardous duty pay of a spouse or parent absent from the home because of active military 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 27, 1993.

TRD-9331038 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: October 1, 1993

For further information, please call: (512) 450-3765
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◆ ◆ ◆
Part II. Texas
Rehabilitation
Commission

Chapter 117. Special Rules
and Policies

◆ ◆ ◆
• 40 TAC §117.4

The Texas Rehabilitation Commission (TRC) adopts new §117.4, concerning Criminal Conviction Records. The new section is adopted without changes to the proposed text as published in the September 10, 1993, issue of the *Texas Register* (18 TexReg 6089).

The justification for the new section is to provide the Texas Rehabilitation Commission with the criminal conviction records on personnel to be employed which will protect persons with disabilities.

The section will function by providing the Texas Rehabilitation Commission with the criminal conviction records on personnel about to be employed which will protect persons with disabilities.

No comments were received regarding adoption of the new section.

The new section is adopted under the Human Resources Code, Title 7, 111.058, which provides the Texas Rehabilitation Commission with the authority to make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibil-

ity, investigation, and determination for rehabilitation and other services, procedures for hearings, and other regulations subject to this section as necessary to carry out the purposes of this chapter.

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

Issued in Austin, Texas, on October 25, 1993.

TRD-9330997 Charles W. Schieesser
Associate Commissioner
for Legal Services
Texas Rehabilitation
Commission

Effective date: December 12, 1993

Proposal publication date: September 10, 1993

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

◆ ◆ ◆
Part III. Texas
Commission on Alcohol
and Drug Abuse
Chapter 152. Approved
Alcohol Awareness Programs

General Provisions

◆ ◆ ◆
• 40 TAC §§152.1, 152.2, 152.4,
152.5

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §152.1, 152.2, 152.4, and 152.5, concerning Alcohol Awareness Program standards and procedures. Section 152.4 is adopted with changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4489). Sections 152.1, 152.2, and 152.5 are adopted without changes and will not be republished.

Section 152.1 clarifies the definition of an approved program and corrects the legal citation granting the Texas Commission on Alcohol and Drug Abuse authority to approved programs. Section 152.2 corrects the citation directing the Texas Commission on Alcohol and Drug Abuse to set minimum operating standards for approved alcohol awareness programs. Section 152.4 references the inclusion of a fee for program approval and defines minimum administrator/instructor training certification requirements. Section 152.5 references the inclusion of a fee for program approval/renewal and requires documentation of revisions to an approved training certification. In §154.4, a change was made to further clarify minimum requirements for administrator/instructor training programs by requiring programs to provide a detailed description of the training program including the number of actual training clock hours that will be utilized.

The sections will establish quality programming in alcohol awareness programs approved by the commission, as well as establish guidelines for curriculum content and training programs.

One comment was received regarding the adoption of the amendment mandating a minimum of eight hours for the training of instructors and administrators.

The Safety Education Program of the Texas A&M University made a comment against the amendment made to § 152.4(a)(4)(B). The comment received included a recommendation that the actual number of hours required for training instructors be clarified to include actual clock hours. This recommendation has been incorporated into the section.

The amendments are adopted under the Alcoholic Beverage Code, Chapter 106, §106.115, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for Approved Alcohol Awareness Programs.

The code affected by these rules is the Alcoholic Beverage Code, Chapter 106, §106.115.

§152.4. Program Approval.

(a) A program seeking approval by the commission shall be required to:

(1) make application to the commission on a prescribed application form accompanied by the initial application fee;

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

(4) provide a detailed description of the administrator/instructor certification training which will be utilized to prepare program personnel to competently instruct and administrate the approved program. The detailed description shall include:

(A) learning objectives to be accomplished in the training;

(B) number of actual clock hours (no less than eight hours, excluding breaks, and other non-instructional time spent on details) the trainer will spend instructing individuals on the learning objectives during the training;

(C) testing methods and actual training clock hours that will be utilized to demonstrate an individual's competency level and ability to complete the administrative aspects of the approved program, including the standards and procedures set forth in this chapter, and present the required classroom instruction material, including, a performance measure on the trained individual's knowledge and understanding of the curriculum content, curriculum teaching/presentation skills and techniques, and ability to operate/manipulate any required audiovisual equipment;

(D) a standardized scoring system for the testing methods which reflects a trained individual's successful completion and certification as a trained

administrator/instructor of the approved program;

(E) number of actual training clock hours testing methods will encompass;

(F) a written evaluation form to be distributed to and completed by trained individuals; and

(G) names and credentialed qualifications of persons who will be utilized as trainers for the administrator/instructor training.

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 26, 1993.

TRD-9330955

David P. Tatum
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

• 40 TAC §152.8

The Texas Commission on Alcohol and Drug Abuse adopts new §152.8, concerning Approved Alcohol Awareness Program standards and procedures. Section 152.8 is adopted with changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4490).

The new section establishes the fee schedule for new programs, payment of fees, recertification of programs, instructor recertification, and fee for duplication of certificates. In §152.8(d), an agency voucher was added to allow agencies to submit payment of the fee in this form

The section will allow greater flexibility when paying program fees.

No comments were received regarding adoption of the new sections.

The new section is adopted under the Alcoholic Beverage Code, Chapter 106, §106.115, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for Approved Alcohol Awareness Programs.

The code affected by this rule is the Alcoholic Beverage Code, Chapter 106, §106.115.

§152.8. Fees.

(a) In order to partially defray the costs of administering this chapter, fees will be assessed by the commission in accord-

ance with the fee schedule set forth in subsection (b) of this section.

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

(1) initial application fee-\$250;

(2) application renewal fee-\$125;

(3) program approval certificate duplication or replacement fee-\$5.

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check, money order, or agency voucher.

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 26, 1993.

TRD-9330954

David P. Tatum
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

Alcohol Awareness Program Standards

• 40 TAC §§152.24, 152.25, 152.29

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §152.24, 152.25, and 152.29, concerning Approved Alcohol Awareness Programs standards and procedures. Section 152.25 is adopted with changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 Tex Reg 4491) Section 152.24 and §152.29 are adopted without changes and will not be republished.

Section 152.24 revises text wording and clarification of reference to the Code of Federal Regulations citation by including the correct citation for the confidentiality regulation. Section 152.25 requires classroom facilities to comply with the Americans with Disabilities Act-1990, by adding the word "with" in the American with Disabilities Act-1990, clarifies the purpose of a screening instrument, and requires parameters for class sessions and utilization of approved program administrators and instructors. Section 152.29 includes additional instructor requirements. A change was made in Section 152.25 (19) to include no more than three hours instead of four hours for the maximum class length.

The sections will establish quality programming in alcohol awareness programs approved by the commission, as well as establishing guidelines for curriculum content and training programs.

One comment was received recommending that class sessions be limited to three hours each.

The Safety Education Program of the Texas A&M University made a comment against the amendment to §152.25(19). The comment included a recommendation that actual sessions be limited to three hours instead of four. This recommendation has been incorporated into the section.

The amendments are adopted under the Alcoholic Beverage Code, Chapter 106, §106.115, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to publish rules and regulations for approved Alcohol Awareness Programs.

The code affected by the amendments is the Alcoholic Beverage Code, Chapter 106, §106.115.

§152.25. Program Operation Requirements. All approved programs shall be required to:

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

(7) utilize appropriate classroom facilities for instruction which are in compliance with the Americans with Disabilities Act-1990;

(8) administer and evaluate a screening instrument to each participant which has been approved by the commission for the purpose of identifying indicators of a potential substance abuse problem, which screening shall be performed by program personnel including program administrators and instructor, or if performed by support staff, under the direct supervision of program personnel;

(9)-(10) (No change.)

(11) make available a listing or roster of available chemical dependency counseling and treatment resources in the area to each participant whose screening instrument results identify indicators of a potential substance abuse problem indicating need for further evaluation;

(12)-(16) (No change.)

(17) maintain attendance records and class rosters which shall contain the following information for each participant: individual pre-course and post-course test scores; class averages of pre-course and post-test scores; screening instrument indicator code(s); screening instrument utilized; attendance records; and referral recommendations;

(18) (No change.)

(19) conduct class sessions which are not longer than three hours in length;

(20) conduct no more than one class session per day;

(21) provide a minimum of six hours of class instruction per course;

(22) insure that all program instructors and administrators have attended and successfully completed the administrator/instructor certification training which was submitted to the commission for approval set forth under §152.4(a)(4) of this title (relating to Program Approval); and

(23) provide the commission with a listing of all participants successfully completing the administrator/instructor certification training.

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 26, 1993.

TRD-9330953

David P. Tatum
Executive Director
Texas Commission on
Alcohol and Drug
Abuse

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

Chapter 153. DWI Education Program Standards and Procedures

General Provisions

• 40 TAC §§153.1, 153.4, 153.5

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §153.1, 153.4, and 153.5, concerning DWI Education Program Standards and Procedures. Section 153.4 and §153.5 are adopted with changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4293). Section 153.1 is adopted without changes and will not be republished.

The amendments correct definitions, name change of department at the commission and adding application fee. Section 153.1 adds wording for clarification on definitions and changes the membership of the DWI Education Program Certification Committee. Section 153.4 adds initial application fee, reflects name change of department at the commission where applications are available and are to be submitted, and corrects zip code. Section 153.5 clarifies application process and renewal fee, and corrects zip code. Changes to the proposed text were made in §153.4 and §153.5 to reflect the agency's new address.

The amendments are to clarify definitions and the application process, implement name change of department at the commission, and establish initial application fee to insure quality education programs.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedures, Article 42.12, §13h, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Education Programs which are designed to provide information on the effects of alcohol and other drugs and driving skills; to help participants identify their own individual drinking or drugged driving patterns; and to assist participants in developing a plan to reduce the probability that will be involved in the future DWI behavior.

The following is the code affected by these rules: Rule Number Code §§153. 1, 153.4, and 153.5 Texas Code of Criminal Procedures, Article 42.12 §13h. General Provisions

§153.4. Program Certification. A program seeking certification must comply with the provisions of this Act and with the rules, regulations, and standards of the commission adopted under this Act. A certificate may be issued when the commission receives a prescribed application form accompanied by the initial application fee and the DWI Certification Committee grants approval of the application. The certificate will become effective on the first day of the following month after approval and will expire on August 31 of every even numbered year. A program shall be monitored by the commission or its designated representative during the initial certification and/or recertification period. Certified programs may be monitored without prior notice. Certified programs will be listed as potential referral schools in the Statewide DWI Education Program Directory. Non-certified programs are not eligible to receive referrals. Applications for certification are available from the commission's Offender Education Services Department, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701-2576.

§153.5. Certification Renewal. The commission shall issue a recertification notice 30 days prior to the expiration date of the certificate. Upon receiving a completed application form prescribed by the commission and the application renewal fee, the application will be reviewed for approval by the certification committee. When it is approved, a renewal certificate will be issued prior to the expiration date of the certificate. Any application received after the renewal date shall be treated as a new application for certification and shall be submitted as a new application to the commission's Offender Education Services Department, Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701-2576.

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 25, 1993.

TRD-9330952

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

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

◆ ◆ ◆
• 40 TAC §153.19

The Texas Commission on Alcohol and Drug Abuse adopts new §153.19, concerning DWI Education Program Standards and Procedures, with changes to the proposed text as published in the July 2, 1993, issue of the *Texas Register* (18 TexReg 4293).

The new section establishes the fee schedule for new programs, payment of fees, recertification of programs, instructor recertification and fee for duplication of certificates. In §153.19(d), agency voucher was added to allow agencies to submit payment of the fee in this form. Section 153.19(b)(4), the word certificate was misprinted as certification in the proposal.

The new section establishes the fee schedule and processing in order to defray operating costs for the DWI Education Program.

No comments were received regarding adoption of the rule.

The new section is adopted under the Texas Code of Criminal Procedures, Article 42.12, §13h, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Education Programs which are designed to provide information on the effects of alcohol and other drugs and driving skills; to help participants identify their own individual drinking or drugged driving patterns; and to assist participants in developing a plan to reduce the probability that will be involved in the future DWI behavior.

The following is the code affected by these rules: Rule Number Code §153.19-Texas Code of Criminal Procedures, Article 42.12, §13h.

§153.19. Fees.

(a) In order to partially defray the costs of administering this chapter, fees will be assessed by the commission in accordance with the fee schedule set forth in subsection (b) of this section.

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

- (1) initial application fee—\$250;
- (2) application renewal fee—\$125;
- (3) instructor recertification fee—\$15;
- (4) program approval certificate duplication or replacement fee—\$5.00;

(5) instructor recertification certificate duplication or replacement fee—\$5.00;

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check, money order, or agency voucher.

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 25, 1993.

TRD-9330951

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

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

◆ ◆ ◆
• 40 TAC §§153.35, 153.36, 153.38

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §153.35, 153.36 and 153.38, concerning DWI Education Program Standards and Procedures, without changes to the proposed text as published in the July 2, 1993 issue of the *Texas Register* (18 TexReg 4294).

Section 153.35 revised text wording and clarification of reference to the Code of Federal Regulations citation; in §153.36 program requirements are added regarding increasing number of courses conducted, adherence to the American with Disabilities Act, and requires programs to display certificate, and corrects punctuation; and §153.38 proposed requirements for the instructor's recertification process and fee is added.

The amendments are to clarify the correct citation for the confidentially regulations and adds additional program operation requirements regarding facilities, displaying program certificates, and recertification criteria for instructors.

No comments were received regarding adoption of the rules.

The amendments are adopted under the Texas Code of Criminal Procedures, Article 42.12, §13h, which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Education Programs which are designed to provide information on the effects of alcohol and other drugs and driving skills; to help participants identify their own individual drinking or drugged driving patterns; and to assist participants in developing a plan to reduce the probability that will be involved in the future DWI behavior.

The following is the code affected by these rules: Rule Number Code §153.35, 153.36, 153.38-Texas Code of Criminal Procedures, Article 42.12, §13h.

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 25, 1993.

TRD-9330950

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

Effective date: November 16, 1993

Proposal publication date: July 2, 1993

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

◆ ◆ ◆
Chapter 154. DWI Repeat
Offender Program Standards
and Procedures

General Provisions

• 40 TAC §§154.1, 154.4, 154.5

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §§154.1, 154.4, and 154.5, concerning DWI Repeat Offender Program Standards and Procedures, without changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4492).

Section 154.1 defines commonly used terms in DWI Repeat Offender Programs. Section 154.4 addresses the inclusion of an application for approval. Section 154.5 addresses the inclusion of a fee for initial application and renewal application of program approval.

The sections established quality programming in DWI Repeat Offender Education Programs approved by the commission.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedures, Article 42.12, §13(j), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Repeat Offender Education Program rules.

The following is the code affected by these rules: Rule Number Code §§154.1, 154.4, and 154.5, Texas Code of Criminal Procedures, Article 42.12, §13(j).

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 25, 1993.

TRD-9330949

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

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

◆ ◆ ◆
• 40 TAC §154.8

The Texas Commission on Alcohol and Drug Abuse adopts new §154.8, concerning DWI Repeat Offender Program Standards and Procedures, with changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4492).

The new section establishes the fee schedule for new programs, payment of fees, recertification of programs, instructor recertification and fee for duplication of certificates. In §154.8(d) the agency voucher was added to allow agencies to submit payment of the fee in this form.

The section established quality programming in DWI Repeat Offender Education Programs approved by the commission.

No comments were received regarding adoption of the new section.

The new section is adopted under the Texas Code of Criminal Procedures, Article 42.12, §13(j), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Repeat Offender Education Program rules.

The following is the code affected by these rules: Rule Number Code §154. 8, Texas Code of Criminal Procedures, Article 42.12, §13(j).

§154.8. Fees.

(a) In order to partially defray the costs of administering this chapter, fees will be assessed by the commission in accordance with the fee schedule set forth in subsection (b) of this section.

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

- (1) initial application fee—\$250;
- (2) application renewal fee—\$125;

(3) program approval certificate duplication or replacement fee—\$5.00.

(c) Fees paid to the commission by applicants are not refundable.

(d) Remittances submitted to the commission in payment of fees may be in the form of cashier's check, money order, or agency voucher.

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 25, 1993.

TRD-9330948

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

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

◆ ◆ ◆
DWI Repeat Offender Program
Standards

• 40 TAC §§154.21, 154.23, 154.24,
154.28

The Texas Commission on Alcohol and Drug Abuse adopts amendments to §§154.21, 154.23, 154.24, and 154.28, concerning DWI Repeat Offender Program Standards and Procedures. Section 154.21 is adopted with changes to the proposed text as published in the July 9, 1993, issue of the *Texas Register* (18 TexReg 4493). Sections 154.23, 154.24, and 154.28 are adopted without changes and will not be republished.

Section 154.21 revises the Texas Commission on Alcohol and Drug Abuse's mailing address. Section 154.23 revises text wording and clarification of reference to Code of Federal Regulations citation. Section 154.24 clarifies the purpose of a screening instrument. Section 154.28 adds requirement for instructors. A change made in §154.21 reflects the commission's new address.

The section established quality programming in DWI Repeat Offender Education Programs approved by the commission.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Code of Criminal Procedures, Article 42.12, §13(j), which provides the Texas Commission on Alcohol and Drug Abuse with the authority to promulgate written rules and regulations setting forth minimum standards and procedures for the operation of the Texas DWI Repeat Offender Education Program rules.

The following is the code affected by these rules: Rule Number Code §§154. 21, 154.23, 154.24, and 154.28, Texas Code of Criminal Procedures, Article 42. 12, §13(j).

§154.21. Program Content. The content of an Approved DWI Repeat Offender Program shall be uniform, and shall consist of the curriculum contained in the Texas DWI Intervention Program. The Texas DWI Intervention Program is a state-approved curriculum which is hereby adopted by the commission and incorporated by reference herein. The Texas DWI Intervention Program has been approved by the commission, and is available for review free of charge, at the Texas Commission on Alcohol and Drug Abuse, 710 Brazos Street, Austin, Texas 78701-2576, (512) 867-8700.

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 25, 1993.

TRD-9330947

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

Effective date: November 16, 1993

Proposal publication date: July 9, 1993

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

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Department of Agriculture

Wednesday, November 3, 1993, 8:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 924A

Austin

According to the agenda summary, the Texas Agricultural Finance Authority will call the meeting to order; discussion and action on: minutes of previous meeting and appeal of loan application by Higley Farm; presentations by Bond Counsel candidates for Farm and Ranch Program; discussion and action on: co-bond counsel for Farm and Ranch Program and board resolution relating to eligible projects for Texas Agricultural Finance Authority Loan Guaranty Program; presentations by financial advisor candidates for Farm and Ranch Program; discussion and action on: financial advisor candidates for Farm and Ranch Program; discussion and action on: financial advisor for Farm and Ranch Program, loan applications, demand survey participant, revenue bond program, Young Farmer Loan Guarantee rules, Young Farmer Loan Guarantee application form; and discussion of other business.

Contact: Robert Kennedy, P.O. Box 12847, Austin, Texas 78711, (512) 463-7639.

Filed: October 26, 1993, 5:17 p.m.

TRD-9331007

Thursday, November 4, 1993, 10:00 a.m.

TexasSweet Building, 3301 North Ware Road

McAllen

According to the complete agenda, the Texas Citrus Producers Board will call the

meeting to order and make opening remarks; approval of minutes of the September 29, 1993 meeting, discussion and action on: selection of banks, administrative rules and procedures for collecting the assessment and correspondence to processors; and proposed partial research budget to include approval for immediate research project on Tristeza; and discussion of other business

Contact: Ray Prewett, 900 East Jackson Avenue, McAllen, Texas 78502, (210) 587-7158.

Filed: October 26, 1993, 1:47 p.m.

TRD-9330966

Tuesday, November 9, 1993, 7:30 p.m.

Community Center

Staples

According to the agenda summary, the Department will give overview of cotton program; presentation of Pink Bollworm and Boll Weevil Law and Regulations; general discussion of program requirements; and questions and answers about program

Contact: Darrell Williams, P.O. Box 12847, Austin, Texas 78711, (512) 463-7619

Filed: October 27, 1993, 4:46 p.m.

TRD-9331159

Wednesday, November 10, 1993, 7:30 p.m.

National Guard Armory, 1411 North Main Street

Taylor

According to the complete agenda, the Department will give overview of cotton program; presentation of Pink Bollworm and Boll Weevil Law and Regulations; general

discussion of program requirements, and questions and answers about program.

Contact: Darrell Williams, P.O. Box 12847, Austin, Texas 78711, (512) 463-7619

Filed: October 27, 1993, 4:46 p.m.

TRD-9331158

Texas Commission on Alcohol and Drug Abuse

Wednesday, November 3, 1993, 1:00 p.m.

8100 Cameron Road, Building B, Suite 600
Austin

According to the complete agenda, the Criminal Justice Issues Committee will call the meeting to order, approval of minutes, client selection/tracking, Ellus II Therapeutic Community-Special Population; in-prison therapeutic community update, substance abuse felony punishment facilities, continuum of care, prior pending business, new business; and adjourn

Contact: Ted Sellers, 710 Brazos Street, Austin, Texas 78701, (512) 867-8132

Filed: October 26, 1993, 5:17 p.m.

TRD-9331008

Tuesday, November 9, 1993, 10:00 a.m.

710 Brazos, Perry Brooks Building, Eighth Floor Conference Room

Austin

According to the complete agenda, the Audit Review Committee will call the meeting to order; consideration of internal audit activities; review of report by Price Waterhouse; discussion of external audit activities, and adjourn

Contact: Otis E. Williams, 710 Brazos, Austin, Texas 78701-2576, (512) 867-8720.

Filed: October 27, 1993, 2:42 p.m.

TRD-9331115

Texas Bond Review Board

Friday, November 5, 1993, 10:00 a.m.

Room 710, Sam Houston Building, 201 East 14th Street

Austin

According to the complete agenda, the board will call the meeting to order, announcement of executive session; consideration of applicants for position of executive director; and adjourn.

Contact: Beverly Bunch, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: October 26, 1993, 10:58 a.m.

TRD-9330944

Texas Certified Self-Insurer Guaranty Association

Thursday, November 4, 1993, 9:00 a.m.

Rooms 910-911, Southfield Building, 4000 South IH-35

Austin

According to the agenda summary, the Texas Certified Self-Insurer Guaranty Association call to order; approval of minutes, discussion on rules for action including approval and/or adoption: Bylaws of the Association; discussion, consideration and possible action on the following applicants: Campbell Soup Company and Subsidiaries, Dean Foods Company and Subsidiaries, Rohm and Haas Company and Subsidiaries, Overnite Transportation Company and The Limited, Inc., and Subsidiaries, discussion, consideration and possible action for modification of TWCC Order regarding Certificate to Self-Insure for Lockheed Corporation and Subsidiary; discussion of future public meetings, and adjournment

Contact: Todd K. Brown, 4000 South IH-35, Austin, Texas 78704, (512) 440-3700.

Filed: October 27, 1993, 11:30 a.m.

TRD-9331088

Texas Board of Chiropractic Examiners

Thursday, November 11, 1993, 10:00 a.m.

333 Guadalupe, Tower III, Room 100

Austin

According to the agenda summary, the Board will consider, discuss, take appropriate action and/or approve: swearing in new members; report of nominations committee; election of officers; minutes of August 10, 1993; report of president; report of executive director; board member training; presentation by Dr. Michael Thompson; Rule §76, Investigations; and board committee reports: enforcement committee, exam committee; executive session; and new business.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6700.

Filed: October 27, 1993, 4:46 p.m.

TRD-9331156

Texas Department of Commerce

Monday, November 8, 1993, 8:30 a.m.

Guest Quarters Suite Hotel, 303 West 15th Street

Austin

According to the agenda summary, the Committee on Design of Apprenticeship and Career Pathways Programs for Youth will welcome guests; election of chair; schedule of work; briefing item: apprenticeship and school-to-apprenticeship linkages-Mr. David Barrett; action item: meeting dates and committee structure; lunch; reconvene: school-to-work opportunities grant; group reports; action item: endorsement of grant; discussion item: possible grant projects; other business, and adjourn. Persons with disabilities who plan to attend this meeting who may need auxiliary aids or services, or who need assistance in having English translated into Spanish, should contact Val Blaschke, (512) 305-7008, at least two days before this meeting so that appropriate arrangements can be made.

Contact: Lynda Rife, 816 Congress Avenue, Suite 1293, Austin, Texas 78701, (512) 305-7000

Filed: October 27, 1993, 3:27 p.m.

TRD-9331127

Texas State Board of Examiners of Professional Counselors

Thursday, November 4, 1993, 12:30 p.m.

The Yacht Club, 601 Holiday Drive North Galveston Island

According to the complete agenda, the Applications Committee will discuss and possibly act on pending applications of Olen V.

Harvey, Ronald A. Rich, Lisa E. Whittle, Anne, M. Hardy-Holley, Marilyn K. Wright, Martha Garrett and others.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331154

Thursday, November 4, 1993, 2:00 p.m.

The Yacht Club, 601 Holiday Drive North Galveston Island

According to the complete agenda, the Testing and Continuing Education Committee will discuss and possibly act on American Association for State Counseling Boards (AASCB) request for proposal concerning examination.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331153

Thursday, November 4, 1993, 12:30 p.m.

The Yacht Club, 601 Holiday Drive North Galveston Island

According to the complete agenda, the Rules Committee will discuss and possibly act on board policies required by House Bill 2741 amending Texas Civil Statutes, Article 4512g; whether certain practices are the practice of counseling (hypnotherapy, art therapy, etc.); comments on proposed rules (22 TAC, Chapter 681); final rules; and emergency and proposed rules (22 TAC, Chapter 681).

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331152

Friday, November 5, 1993, 8:00 a.m.

The Yacht Club, 601 Holiday Drive North Galveston Island

According to the complete agenda, the Complaints Committee will discuss and possibly act on board order concerning license of R.H.O.; and pending complaints.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard

Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331151

Friday, November 5, 1993, 8:30 a.m.

The Yacht Club, 601 Holiday Drive North Galveston Island

According to the complete agenda, the Board will discuss and approve the minutes of September 3, 1993, and discuss and possibly act on: executive session pursuant to the Open Meetings Act, §551.071 regarding pending litigation (G. Calwell, Texas Psychological Association and D. Rettberg); pending lawsuits; directors' and officers' liability insurance; use of state office for administrative hearings; application committee report (Olen V. Harvey, Ronald A. Rich, Lisa E. Whittle, Anne M. Hardy-Holley, Marilyn K. Wright, Martha Garrett, and others); complaints committee report (board order accepting surrender of license of G.D.W.); and action regarding board order concerning license of R.H.O. and others); testing and continuing education committee report (American Association of State Counseling Boards (AASCB) request for proposal regarding an examination); rules committee report (board policies required by House Bill 2741) amending Texas Civil Statutes, Article 4512g; whether certain practices are the practice of counseling (hypnotherapy, art therapy, etc.); comments on proposed rules (22 TAC, Chapter 681); action on final rules; emergency and proposed rules (22 TAC, Chapter 681); presentation by Julia Bunton; and persons who wish to appear before the board.

Contact: Kathy Craft, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331155

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Texas Department of Criminal Justice

Wednesday, November 3, 1993, 8:00 a.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Windham and Programs will meet in executive session for interviews and discussion concerning the Superintendent of the Windham School System (closed in accordance with §551.074, Government Code);

regular session to discuss employee leave policy (Revision); status report on WSS performance review; education program in transfer facility; Senate Bill 532, §13.0323, restricted certification of individual convicted of a criminal offense; proposed SBOE rule; TEA accreditation of Windham; Project RIO report; and education subcommittee planning meeting.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 26, 1993, 2:00 p.m.

TRD-9330971

Wednesday, November 3, 1993, 11:00 a.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Legal Affairs will discuss reorganization of agency's legal services.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 26, 1993, 2:00 p.m.

TRD-9330979

Wednesday, November 3, 1993, 1:00 p.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the agenda summary, the Board of Criminal Justice, Subcommittee on Substance Abuse will call the meeting to order; approval of minutes; client selection/tracking; Ellis II Therapeutic Community-special population; in-prison therapeutic community update; substance abuse felony punishment facilities; continuum of care; prior pending business; new business; and adjourn.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 26, 1993, 2:00 p.m.

TRD-9330969

Wednesday, November 3, 1993, 3:00 p.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Minority Relations will discuss promotion and hiring procedures; institutional division; parole division; agency purchasing procedures; construction and architect/engineer selection procedures; and other items.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 26, 1993, 1:59 p.m.

TRD-9330968

Thursday, November 4, 1993, 8:00 a.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Audit and Management and Subcommittee on Finance and Budget will hold a joint meeting. Subcommittee on Audit and Management: new audit approach, updated annual audit plan-Fiscal Year 1994; Senate Bill 3 report; report on Texas Performance Review-Strategic Planning Program and Quality management Training Program; Subcommittee on Finance and Budget: resolution relating to the financing of the Diboll and Overton Secure Correction Facilities; request for financing-public finance authority; proposed bond fund transfer; construction fund carry forward; House Bill 2178-prioritization of parole fees, proposed procedures; lease of land-Walker County; easement requests-state jail sites; Article V reduction riders; projected operating costs to 2001; and cost per day 1989 to 1994.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:34 p.m.

TRD-9331111

Thursday, November 4, 1993, 10:00 a.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Community Justice Assistance Division will discuss suspension of state aid-Midland County CSCD; state jail update-mode two facilities; and probation training.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:34 p.m.

TRD-9331110

Thursday, November 4, 1993, 11:30 a.m.

8100 Cameron Road, Building B, Suite 600 Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Parole Division will have a presentation by Jack Kyle, Chairman, Texas Board of Pardons and Paroles; work program facility issues-Carl Reynolds, Board General Counsel; and overview of parole activities-Melinda Bozarth, Interim Division Director.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:34 p.m.

TRD-9331109

Thursday, November 4, 1993, 1:30 p.m.

8100 Cameron Road, Building B, Suite 600
Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Prison Names will discuss proposed board policy amendments-naming of TDC Units and Facilities (BP-02.01); and formulate name recommendations for board approval.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:34 p.m.

TRD-9331108

Thursday, November 4, 1993, 2:00 p.m.

8100 Cameron Road, Building B, Suite 600
Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on Construction will discuss: current project status-2,250 an units, 1,000 man units, psychiatric unit; Alberti Units; substance abuse treatment facilities; state jail facilities; Pampa Intermediate Sanction Facility; presentation by TEEEX; board policy-delegation of authority; review of construction projects for board approval; current request for proposals; program update; and other items.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:34 p.m.

TRD-9331107

Thursday, November 4, 1993, 3:00 p.m.

8100 Cameron Road, Building B, Suite 600
Austin

According to the complete agenda, the Board of Criminal Justice, Subcommittee on County Relations will discuss Travis County Pilot Project-presentation by District Attorney Ronnie Earle; and state jail division.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:33 p.m.

TRD-9331106

Thursday, November 4, 1993, 4:00 p.m.

8100 Cameron Road, Building B, Suite 600
Austin

According to the agenda summary, the Board of Criminal Justice will meet in executive session: discussion with attorneys concerning litigation; discussion of other mat-

ters made confidential under State Bar Code of Professional Responsibility; and discussion concerning the following positions: executive director, superintendent of schools.

Contact: Susan Power-McHenry, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: October 27, 1993, 2:33 p.m.

TRD-9331105

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The Daughters of the Republic of Texas, Inc.

Thursday, November 4, 1993, 9:15 a.m.

Howard Johnson Motel, I-35 North and Highway 183 at Anderson Lane

Austin

According to the complete agenda, the Board of Management will meet for regular BOM Meeting at Howard Johnson Motel; adjourn for lunch and then reconvene at 1:00 p.m. at the D.R.T. Headquarters, 510 Anderson Lane, due to meeting room scheduling. This is all open meeting except where otherwise noted.

Contact: Gail Loving Barnes, 2922 Chisum, Odessa, Texas 79762, (915) 366-7085, or (915) 366-1612.

Filed: October 26, 1993, 5:14 p.m.

TRD-9331003

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Texas Education Agency

Wednesday-Thursday, December 1-2, 1993, 10:00 a.m. and 8:00 a.m. respectively.

Room 1-104, William B. Travis Building, 1701 North Congress Avenue

Austin

According to the complete agenda, the Chapter Two State Advisory Committee will review the formula to be used to flow the 80% portion of Chapter Two funds to local school districts; review the status of 1993-1994 discretionary projects; review the recommendations of Texas Education staff regarding state level special discretionary projects for the 1994-1995 school year; and review evaluation findings for the 1992-1993 school year.

Contact: Earin Martin, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9269.

Filed: October 26, 1993, 3:13 p.m.

TRD-9330995

Employees Retirement System of Texas

Thursday, November 4, 1993, 9:00 a.m.

Public Hearing Room, Brown-Heatly Building, 4900 North Lamar Boulevard

Austin

According to the agenda summary, the Board of Trustees will discuss approval of minutes; investment of System's assets; revision to portfolio structure/amendments to related investment contracts; appeals of contested cases; supplemental on-time annuitant payment; internal/state audit status reports; final adoption of repealed trustee Rules 34 TAC §83 relating to Texas Public School district insurance plan; final adoption of amended trustee Rules 34 TAC §§87.1, 87.5, 87.7, 87.13, 87.19 relating to deferred compensation plan; appointment to ERS Medical Board; Group Benefits Advisory Committee report; executive director's report; next trustee meeting date; and adjournment.

Contact: William S. Nail, 18th and Brazos Streets, Austin, Texas 78701, (512) 867-3336.

Filed: October 26, 1993, 3:44 p.m.

TRD-9330999

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Finance Commission of Texas

Friday, November 5, 1993, 8:45 a.m.

Finance Commission Building, 2601 North Lamar Boulevard

Austin

According to the complete agenda, the Audit Committee will review and discuss approval of the minutes of the previous meeting held on July 9, 1993; discussion and approval of department of banking internal audit report on travel policies and expenditures and management response; status report on current audit activities; and review of audit plan.

Contact: Everette D. Jobe, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: October 26, 1993, 1:30 p.m.

TRD-9330962

Friday, November 5, 1993, 9:30 a.m.

Finance Commission Building, 2601 North Lamar Boulevard

Austin

According to the agenda summary, the commission will review and discuss approval of the minutes of the previous meeting; receive reports from the Consumer

Credit Commissioner, the Savings and Loan Commissioner, and the Banking Commissioner; discuss and vote on repeal of existing rules, publishing proposed rules, adopting final rules, and withdrawing emergency rules affecting banking and trust industries, prepaid funeral benefits industry, and perpetual care cemeteries industry; and meet in executive session to discuss status of settlement offer in pending savings and loan litigation, and status updates in pending Department of Banking litigation.

Contact: Everette D. Jobe, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1300.

Filed: October 26, 1993, 1:30 p.m.

TRD-9330961

Texas Department of Health

Friday, November 5, 1993, 1:30 p.m.

Room T-607, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the HIV/AIDS Coordinating Council will introduce members; discuss and possibly act on: overview of HIV/AIDS in the United States and Texas; overview of council responsibilities as outlined in Senate Bill 286; agency surveys; establish plan of action for council (identify issues relating to HIV/AIDS in Texas); appointment of sub-committees (specify process in place to address issues; and propose new or revised process to address issues); and set dates for future meetings.

Contact: Linda Moore, M.S., R.N., 1100 West 49th Street, Austin, Texas 78756, (512) 458-6403. For ADA Assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331150

Texas Health and Human Services Commission

Thursday, November 4, 1993, 9:00 a.m.

Laredo Independent School District, Board Room, 1620 Houston

Laredo

According to the complete agenda, the Texas Health and Human Services Commission, the Texas Department on Aging, the Texas Department of Health, the Texas Department of Human Services, the Texas Department of Mental Health and Mental Retardation, and the Texas Department of

Protective and Regulatory Services will hold a joint public hearing in Odessa. The purpose of the hearing is to hear testimony that will be used to help set budget priorities in the six-year strategic plan for health and human services. Also, state leaders want input on the use of funds for Title 20 block grant programs under the Social Security Act. Title 20 services include services for the elderly and persons with disabilities, child protective services, family planning, long-term care, child care for low-income families, and many others. Testimony is also requested on mental health and mental retardation services. Persons with disabilities who have special needs may contact the Texas Health and Human Services Commission at (512) 502-3200. Written testimony may be submitted to Saralee Tiede at the Commission at P.O. Box 13247, Austin, Texas 78711.

Contact: Mary Velasquez, P.O. Box 13247, Austin, Texas 78711, (512) 502-3256.

Filed: October 27, 1993, 11:58 a.m.

TRD-9331090

Texas Department of Human Services

Friday, November 5, 1993, 10:00 a.m.

701 West 51st Street, First Floor, East Tower, Public Hearing Room

Austin

According to the complete agenda, the Aged and Disabled Advisory Committee will consider: opening comments; deputy commissioner's comments, approval of the minutes; reports on federal legislative update and proceedings of the subcommittee on services to persons with disabilities; long term care assessment pilot project; LTC/NFR for licensure and medicaid certification rules for medical necessity and specialized services; reports related to resident deaths; compliance procedures for NF and ICF-MR cost reporting requirements; emergency response services program reimbursement methodology; technical and federally mandated amendments to LTC/NFR for licensure and medicaid certification, Bienvivir senior health services waiver program; trusts and transfers of assets; exclusion from income and resources of state relocation assistance; exempt interest from Indian land held in trust; eligibility policy concerning military households; aliens admitted under temporary protected status; rehabilitative services rules for LTC/NFR licensure and medicaid certification; receiving NF waiver and IH/FSP services; refusal to comply with service plan; deduction for home maintenance; open discussion by members; next meeting; and adjournment.

Contact: Anthony Venza, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4943.

Filed: October 27, 1993, 11:09 a.m.

TRD-9331086

Friday, November 5, 1993, 10:00 a.m.

701 West 51st Street, First Floor, East Tower, Public Hearing Room

Austin

Revised agenda

According to the complete revised agenda, the Aged and Disabled Advisory Committee will add to agenda: technical corrections to administrative penalties.

Contact: Anthony Venza, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-4943.

Filed: October 27, 1993, 4:07 p.m.

TRD-9331140

Texas Department of Insurance

Wednesday, November 3, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the Commissioner of Insurance will hold a public meeting to consider a request by staff of authorization for publication from comment of a proposed new 28 TAC §5.4002 concerning the purpose, task, reporting requirements, membership composition, and duration of the Building Code Advisory Committee, pursuant to the Insurance Code, Article 21.49, §6A(f) and Texas Civil Statutes, Article 6252-33.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 26, 1993, 3:12 p.m.

TRD-9330993

Wednesday, November 3, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the agenda summary, the State Board of Insurance will consider personnel; litigation; solvency; commissioner's orders; staff reports; by board and commissioner the following requests of authorization for publication for comment of: new 28 TAC, Subchapter G, §3.601, et seq. Plain Language Requirements/Health Benefit Policy, new 28 TAC, Subchapter V, §3.3501, et seq. Group Coordination of Benefits, repeal of 28 TAC, Subchapter V, §3.3501 and §3.3502, Order of Benefit Determina-

tion/Insured Dependent Children, Coordination of Benefits Provision, amendment to 28 TAC, §3.3602, Minimum Standards/Notice of Conversion or Group Continuation Privilege/Group A&H Policies; approval of the following filings by: staff for approval of mandatory electronic data tape to submit Workers Comp data regarding WC Unit Statistical Plan; new 28 TAC, §5.11000 defining small and medium-sized insurers, Flex Rating Program for Certain Insurance Lines for trade association's presentation and recommendations of rate data at benchmark's hearings; American Physicians Insurance Exchange of new endorsements and revised forms for the Professional Liability Insurance Program; Texas Farm Bureau Underwriters of a Farm and Ranch Theft Coverage Endorsement; Liberty Mutual Insurance Company and the First Liberty Insurance Corporation of a personal catastrophe policy rate and rule revision; Sentry Insurance, a mutual company, of a rate and rule revision to the personal umbrella program; American Bankers Insurance Company of Florida of revision to eligibility rule, Personal Insurance Coverage Manual/motor homes; Foremost County Mutual Insurance Company of Personal Auto Policy endorsements, personal auto policy; Employers Insurance of Wausau and Wausau Underwriters Insurance Company for approval of Texas Deductible Liability Insurance Endorsement for commercial general liability; Government Employees Insurance Company for personal umbrella liability rate revision; The Cincinnati Insurance Company of individual and independent Fidelity, Forgery and Surety Bond rate; Boston Old Colony Insurance Company, et al, for approval of Texas Farm and Ranch Owners Coverage Enhancement Endorsement.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 26, 1993, 3:12 p.m.

TRD-9330994

Wednesday, November 10, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing to consider the adoption by reference of the following items pursuant to amendments to Article 21.49, Texas Insurance Code, (House Bill 1461), affecting Texas Catastrophe Property Insurance and indirect losses caused by windstorm and hail: Docket Number 2063-Nine proposed new endorsements for windstorm and hail insurance written by the Texas Catastrophe Property Insurance Association, and a revised replacement cost endorsement for house-

hold goods, amending 28 TAC §5.4201; Docket Number 2064-New proposed manual rules governing the writing of windstorm and hail insurance through the Texas Catastrophe Property Insurance Association, amending 28 TAC §5.4501; Docket Number 2065-Proposed amendments to the Texas Catastrophe Property Insurance Policy for windstorm and hail, amending 28 TAC §5.4101; Docket Number 2066-Staff petition of new and revised Windstorm, Hurricane, and Hail Exclusion Agreement endorsements to various residential property policies providing for exclusion of coverage, and new and revised Texas Personal Lines Manual rules for using these endorsements and determine rate credits; Docket Number 2069-Amending the Texas Automobile Insurance Plan of Operation (formerly referred to as TAIP, now TAIPA) authorizing adoption of standards and uniform manual rules and rating plans for motor vehicle insurance in accordance with Article 5.96.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331138

Wednesday, November 10, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public meeting to consider a petition by Texas Department of Insurance staff proposing: the adoption of mandatory endorsements to amend the refusal to renew provisions (Insurance Code, Article 21.49-2B, §7(d) of the homeowners, dwelling, farm and ranch, and farm and ranch owners policies; amendments to Texas Personal Lines Manual rules regulating the insurer's nonrenewal notification; and the withdrawal of the current Board prescribed nonrenewal notification form.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331137

Wednesday, November 10, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the Commissioner of Insurance will convene a public hearing under Docket Number 2071 to consider oral and written comments concerning new §1.90 which addressed the joint memorandum of understanding to be

entered into by the Texas Department of Insurance and the State Office of Administrative Hearings pursuant to Article 1.33B, added by Chapter 685, §2.01, 73rd Legislature, 1993. Final action will not be taken at this time but will be scheduled for a later date.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331136

Wednesday, November 17, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public meeting to consider the approval of a filing by the Texas Department of Banking (Department) of a new surety bond form entitled "Bond for Withdrawal of Excess Funds, Form Number 092293.WEB", pursuant to revisions to Article 548b, §5, Texas Civil Statutes, which allows a permit holder who sells prepaid funeral benefits or contracts to withdraw from trust accounts excess earnings that exceed 110% of all sums paid by purchasers of contracts. The Bond will be written in favor of the Commissioner of the Department and shall be reduced on an annual basis by an amount equal to 10% per year.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331135

Monday, November 29, 1993, 10:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2059 to establish a benchmark rate and flexibility band for residential property, homeowners, dwelling, farm and ranch, and farm and ranch owners insurance and to consider such other matters as may properly be brought before the Board, including the spreading of the benchmark rates among relevant classifications and territories pursuant to Articles 1.04, 5.96, and 5.101, Texas Insurance Code, and §1.23 of House Bill 1461.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331134

Wednesday, December 1, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public meeting to consider for approval proposals filed by staff as follows: under Docket Number 2004, a September 15, 1993, petition (Reference Number A-0993-25-I), for adoption of the Spanish translation of the Personal Auto Policy and all its endorsements, as documentation to be provided in all applicable parts to insureds who indicate their primary language as Spanish or to any other insureds making requests, pursuant to Article 5.96, Texas Insurance Code; and petition (Reference Number A-0993-24I) 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, consisting of new Amendatory Endorsement TE 00 40, Rule 13 (Cancellation) amending the Common Policy Conditions used with the Business Auto, Garage, and Truckers Coverage Forms to comply with the requirements of Article 21.49A(b), Insurance code (as amended by §20.11 of House Bill 1461); and Rule 50 (Antitheft Discount) compelling the prescribed antitheft discount to comprehensive coverage for a vehicle with a qualifying antitheft device, pursuant to Article 5.013-2, Insurance Code (as amended by Senate Bill 26).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:05 p.m.

TRD-9331133

Thursday, December 2, 1993, 10:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2060 for consideration of the revision of manual rates for commercial classes of risks and rates applicable to residential risks written by the Texas Catastrophe Property Insurance Association, as well as such other matters and subjects relative to the regulation of the business of resident and commercial property insurance as the Board shall determine necessary or proper, pursuant to Article 21.49, §8D, Subsection (c), Texas Insurance Code, and §1.23 of House Bill 1461.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:04 p.m.

TRD-9331132

Monday, November 3, 1993, 10:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2057 to establish benchmark rates and flexibility bands for private passenger and commercial automobile insurance and such other matters as may properly be brought before the Board, including the spreading of the benchmark rates among relevant classifications and territories, pursuant to Articles 5.101, 5.06, 5.10, and 5.96, Texas Insurance Code, and §1.23 of House Bill 1461.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:04 p.m.

TRD-9331131

Thursday, December 16, 1993, 10:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance will hold a public hearing under Docket Number 2058 to consider revision of the manual rates for private passenger and commercial classes of risks written by the Texas Automobile Insurance Plan ("Plan") and such other matters and subjects relative to the regulation and operation of the "Plan" as the Board shall determine necessary or proper, pursuant to Articles 1.04, 5.01, 5.03, 5.06, 5.06-1, 5.06-3, 5.10, and 5.96, Texas Insurance code, and §1.23 of House Bill 1461.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: October 27, 1993, 4:04 p.m.

TRD-9331130

Texas State Board of Medical Examiners

Wednesday, October 27, 1993, 2:00 p.m.

1812 Centre Creek Drive, Suite 300

Austin

Emergency Meeting

According to the complete agenda, the Disciplinary Panel call to order; roll call; consideration of the temporary suspension of the license of Larry Jack Breitenstein, D.O., license #D-5923; consideration of the temporary suspension of the license of Patrick Kelly Miles, D.O., license #D-8037; and adjourn. Executive session under the authority of the Open Meetings Act, §551.071 of the Government Code and Article 4495b,

§2.07(b) and §2.09(o), Texas Revised Civil Statutes.

Reason for Emergency: Information has come to the attention of the agency and requires prompt consideration.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: October 27, 1993, 10:08 a.m.

TRD-9331075

Texas Natural Resource Conservation Commission

Wednesday, November 17, 1993, 9:00 a.m.

Erath County Courthouse, Second Floor Courtroom, On the Square

Stephenville

According to the agenda summary, the Office of Hearings Examiner will hold a public hearing on application made by Associated Milk Producers, Incorporated for an amendment to Permit Number 03074 to authorize increase of storage capacity of the pretreated process wastewater; increase the cropland being irrigated; and increase in the daily average volume of treated wastewater to be applied to the land. The plant is north of the City of Stephenville in Erath County.

Contact: Cynthia Hurd, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 26, 1993, 2:04 p.m.

TRD-9330975

Wednesday, November 17, 1993, 1:00 p.m.

Erath County Courthouse, Second Floor Courtroom, On the Square

Stephenville

According to the agenda summary, the Office of Hearings Examiner will hold a public hearing on application made by Arthur Kalsbeek for an amendment to Permit Number 03142 to authorize an increase in the capacity of the dairy operation and incorporate improvements constructed after permit was originally issued. The dairy operation is in the City of Daffau in Erath County.

Contact: Cynthia Hurd, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 26, 1993, 2:31 p.m.

TRD-9330980

Wednesday, December 1, 1993, 9:00 a.m.

City Hall-City Council Chamber, 301 East Market

Sinton

According to the agenda summary, the Office of Hearings Examiner will hold a pub-

lic hearing on application made by City of Sinton for renewal of Permit Number 10055-001 which authorizes a discharge of treated domestic wastewater effluent at a final volume not to exceed 800,000 gallons per day from the Sinton Wastewater Treatment Plant in San Patricio County.

Contact: Michael Rogan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 26, 1993, 2:30 p.m.

TRD-9330979

Tuesday, December 7, 1993, 10:00 a.m.
Building C, Room 308E, 12118 North Interstate Highway 35 (Park 35 at Yager Lane)

Austin

According to the agenda summary, the Commission will hold a public hearing on assessment of administrative penalties and requiring certain actions of Bell Thunderbird Oil Company.

Contact: Pat Robards, P.O. Box 13087, Austin, Texas 78711, (512) 908-1770.

Filed: October 28, 1993, 9:27 a.m.

TRD-9331172

Thursday, December 9, 1993, 9:00 a.m.
Amarillo City Hall, 509 East Seventh Avenue

Amarillo

According to the agenda summary, the Office of Hearings Examiner will hold a public hearing on application made by United States Department of Energy for amendment to Permit Number 02296 in order to change the permit to authorize the discharge of domestic and industrial wastewater at a volume not to exceed an average flow of 650,000 gallons per day via Outfall 001; intermittent flow variable discharges of industrial wastewater and stormwater via Outfalls 002, 003, 004, and 006 and intermittent flow variable discharge of stormwater only via Outfall 005 and also to authorize discharge into four playa lakes. The plant site is in Carson County.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 26, 1993, 2:30 p.m.

TRD-9330978

Thursday, December 9, 1993, 1:30 p.m.
Amarillo City Hall, 509 East Seventh Avenue

Amarillo

According to the agenda summary, the Office of Hearings Examiner will hold a public hearing on application made by Quixx Corporation doing business as Amarillo Railcar Services for proposed Permit Num-

ber 03581 to authorize disposal of clarified railcar washwater and boiler blowdown by irrigation on two acres of land located in the southeastern quadrant of the facility in Potter County.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: October 26, 1993, 2:30 p.m.

TRD-9330977

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**Texas Parks and Wildlife
Department**

Wednesday, November 3, 1993, 10:00 a.m.

Parks and Wildlife Headquarters, Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Regulations Committee of the Texas Parks and Wildlife Commission will discuss approval of committee minutes from the August 25, 1993, meeting; discussion of special meeting and field hearing; sand, shell, gravel, and marl permit application fees, scientific collecting permit application fees; commercially protected finfish; wildlife management association lease licenses and regulations; changes to fresh water mussel sanctuaries; proposed muzzleloader season; LAMPS Program; 1994-1995 public hunting regulations and directions; and inland fisheries regulations-how and why.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:47 p.m.

TRD-9330982

Wednesday, November 3, 1993, 1:00 p.m.

Parks and Wildlife Headquarters, Executive Office Conference Room, 4200 Smith School Road

Austin

According to the agenda summary, the Policy and Hearing Committee of the Texas Parks and Wildlife Commission will discuss approval of committee minutes from the August 24, 1993; final review of commission policy on travel and expenses reimbursement; report on Phase I of policy inventory contract and consider action on Phase II; review status of policy manual review; discuss committee charge to classify lands in accordance with Senate Bill 179.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:47 p.m.

TRD-9330983

Wednesday, November 3, 1993, 2:00 p.m.

Parks and Wildlife Headquarters, Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Operation Game Thief Committee will discuss approval of minutes for the May 18, 1993 public hearing; financial report; consideration of payment of rewards; date of next meeting; discussion to consider proclamations for Senate Bill 1132; and OGT-respect wildlife campaign.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:47 p.m.

TRD-9330984

Wednesday, November 3, 1993, 3:00 p.m.

Parks and Wildlife Headquarters, Executive Office Conference Room, 4200 Smith School Road

Austin

According to the agenda summary, the Litigation Committee of the Texas Parks and Wildlife Commission will discuss approval of committee minutes from the January 13, 1991 meeting; and Katy Prairie litigation by Sierra Club.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:48 p.m.

TRD-9330985

Wednesday, November 3, 1993, 4:00 p.m.

Parks and Wildlife Headquarters, Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Finance Committee and Capital Projects Committee of the Texas Parks and Wildlife Commission will discuss approval of committee minutes from the August 24, 1993 meeting; approval of committee minutes for the August 25, 1993 meeting; state audit; other business; capital program briefing; land donation-Cameron County (Barnes); land donation-Orange County (Stark); land donation-Orange County (Blue Elbow); and land donation-Aransas County (Rockport HQ). Note: Finance Committee and capital projects committee-joint meeting.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:48 p.m.

TRD-9330986

Wednesday, November 3, 1993, 4:00 p.m.

Parks and Wildlife Headquarters, Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Capital Projects Committee of the Texas Parks and Wildlife Commission will meet in closed meeting; discuss approval of committee minutes from the August 25, 1993, meeting; land acquisition-Brewster and Presidio Counties (BBR); land acquisition-Victoria County (Fagan); land acquisition-Hidalgo County (Whitewing); land acquisition-Smith County (Anderson); and land acquisition program update.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:48 p.m.

TRD-9330987

Wednesday, November 3, 1993, 6:30 p.m.

Ruth's Chris Steakhouse, 3010 Guadalupe
Austin

According to the agenda summary, the Texas Parks and Wildlife Commission members plan to have dinner at 6:30 p.m., November 3, 1993. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the public hearing scheduled for 9:00 a.m., November 4, 1993.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:49 p.m.

TRD-9330988

Thursday, November 4, 1993, 9:00 a.m.

Parks and Wildlife Headquarters, Commission Hearing Room, 4200 Smith School Road

Austin

According to the agenda summary, the Texas Parks and Wildlife Commission will discuss approval of commission minutes from the August 26, 1993 meeting, presentation of retirement certificates and service awards; presentation of Shikar-Safari Club International's Wildlife Officer of the Year; presentation of award to Rusty Dunn of Rollins Environmental Services; applications for sand and gravel permits, proposed permit application fee regulations; petition for rulemaking regarding restriction of San Bernard River to Crab Traps; artwork approval; commission travel expense reimbursement policy; land donation; Aransas

County; land donation-Cameron County; land donation-Orange County; land acquisition-Hidalgo County; land acquisition-Smith County; land acquisition-Victoria County; land acquisition-Brewster and Presidio Counties; executive compensation; and Balcones Canyonland Conversation Plan briefing.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:49 p.m.

TRD-9330989

Thursday, November 4, 1993, 9:00 a.m.

Parks and Wildlife Headquarters, Executive Office Conference Room, 4200 Smith School Road

Austin

According to the agenda summary, the Texas Parks and Wildlife Commission will meet in closed meeting; discuss approval of minutes from the August 26, 1993 executive session; land acquisition-Hidalgo County; land acquisition-Smith County; land acquisition-Victoria County; land acquisition-Brewster and Presidio Counties; and CEO compensation.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: October 26, 1993, 2:49 p.m.

TRD-9330990

Executive Council of Physical Therapy and Occupational Therapy Examiners

Saturday, November 6, 1993, 8:00 a.m.

4900 North Lamar Boulevard, Room 1530
Austin

According to the agenda summary, the Council will call the meeting to order; approval of minutes from the September 7, 1993 and October 1, 1993 meetings; recess to executive session: interview of candidates for the selection of a new executive director for the recently established Executive Council of Physical Therapy and Occupational Therapy Examiners. This will be discussed in executive session pursuant to §§2(e), 2(g), and 2(r) Open Meetings Act (Article 6252-17, Texas Civil Statutes); reconvene to executive council meeting; action on selection of new executive director, and adjournment.

Contact: Joy L. Vaughn, 4900 North Lamar Boulevard, Austin, Texas 78751, (512) 483-4072 or 1 (800) 547-8217.

Filed: October 27, 1993, 4:46 p.m.

TRD-9331157

Public Utility Commission of Texas

Wednesday, November 3, 1993, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the commission will hold an open meeting to consider the following dockets: P-12136, P-12141, P-12190, P-11881, P-12202, P-11434, 12083, 12097, 11972, 12014, 11822, and 10921.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1993, 1:32 p.m.

TRD-9330964

Wednesday, November 3, 1993, 9:05 a.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Administrative Division will discuss reports, discussion and action on creation of an advisory committee for integrated resource planning rule preparation; comments to the Federal Energy Regulatory Commission (FERC) concerning Docket Number RM93-19-000 relating to transmission pricing issues; intervention in Central and South West Services, Inc.'s filing with the FERC for amendments to the current operating agreements; renewable energy resources training by the Regulatory Assistance Project, report on Capitol for a Day in Paris, Texas; El Paso Electric Company bankruptcy case in United States Bankruptcy Court, Gulf States Utilities merger with Entergy Services case at the FERC; fiscal year 1994 operating budget; budget and fiscal matters, adjournment for executive session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in executive session; set time and place for next meeting; and final adjournment.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1993, 1:48 p.m.

TRD-9330967

Wednesday, November 3, 1993, 9:06 a.m.

7800 Shoal Creek Boulevard

Austin

Revised agenda

According to the revised agenda summary, the Administrative Division (Commission-

ers) will discuss consideration and decision regarding exempt position request to be filed with the Legislative Budget Office.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1993, 2:51 p.m.

TRD-9330991

Wednesday, November 3, 1993, 9:05 a.m.

7800 Shoal Creek Boulevard

Austin

Revised agenda

According to the revised agenda summary, the Administrative Division (Commissioners) will discuss consideration and approval of Texas Apartment Association proposed lease addendum dealing with submetered utilities.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 26, 1993, 3:53 p.m.

TRD-9331000

Monday, November 29, 1993, 1:30 p.m. (Rescheduled from Friday, October 29, 1993, 10:30 a.m.)

7800 Shoal Creek Boulevard

Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 11271-application of GTE Southwest Inc. for change in depreciation rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 27, 1993, 4:04 p.m.

TRD-9331129

Monday, November 29, 1993, 1:30 p.m.

7800 Shoal Creek Boulevard

Austin

According to the agenda summary, the Hearings Division will hold a prehearing conference in Docket Number 12271-application of GTE Southwest Incorporated for change in depreciation rates.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: October 28, 1993, 9:59 a.m.

TRD-9331176

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Texas Low-Level Radioactive Waste Disposal Authority

Wednesday, November 10, 1993, 6:00 p.m.

District Courtroom, Hudspeth County Courthouse

Sierra Blanca

According to the complete agenda, the Board of Directors will call the meeting to order; annual host county meeting, pursuant to §402.021(b), Texas Health and Safety Code, with officials and representatives of political subdivisions to discuss the disposal site; and adjourn.

Contact: L. R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: October 28, 1993, 9:17 a.m.

TRD-9331167

Thursday, November 11, 1993, 8:00 a.m.

Reading Room, Geological Sciences Building, University of Texas at El Paso

El Paso

According to the agenda summary, the Board of Directors will meet in executive session to discuss pending litigation; approve minutes; hear the general manager's report on the year-to-date financial status, be updated on national compacts, and United States DOE waste surcharge rebates; be given status reports on site characterization, disposal facility design, status of license application, site access and status of agency contracts; hear a report on the community development and county working groups, public information program, and the quality assurance program. The board will consider approval of contract amendments, adopt rules for planning and implementation fees and the expenditures of the fees; consider the assessment of a surcharge on fees collected in Fiscal Year 1992-1993; approval of an easement for site access; and approve road access to the facility; hear public comments; and adjourn.

Contact: L. R. Jacobi, Jr., P.E., 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, (512) 451-5292.

Filed: October 28, 1993, 9:17 a.m.

TRD-9331168

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Boards for Lease of State-Owned Lands

Thursday, November 4, 1993, 2:30 p.m.

General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833

Austin

Revised Agenda

According to the complete agenda, the Board for Lease of Texas Parks and Wildlife Lands will consider easement renewal application, Kerrville State Recreation Area, Kerr County.

Contact: Linda K. Fisher, Stephen F. Austin Building, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: October 27, 1993, 11:11 a.m.

TRD-9331087

Stephen F. Austin Bicentennial Celebration Commission

Wednesday, November 3, 1993, 7:00 a.m.

1700 North Congress Avenue, Room 117, Cafeteria

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:04 a.m.

TRD-9331009

Wednesday, November 3, 1993, 8:00 a.m.

1700 North Congress Avenue, Room 800, GLO Archives

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:05 a.m.

TRD-9331010

Wednesday, November 3, 1993, 9:00 a.m.

1715 West First Street, East Side, Outdoors
Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:06 a.m.

TRD-9331011

Wednesday, November 3, 1993, 9:00 a.m.

1600 North Congress Avenue, Archive Room

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:10 a.m.

TRD-9331012

Wednesday, November 3, 1993, 11:00 a.m.

Capitol Extension E1.1004, Auditorium
Austin

According to the complete agenda, the Full Commission will conduct the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:11 a.m.

TRD-9331013

Wednesday, November 3, 1993, 12:30 p.m.

Capitol Extension E1.002, Capitol Dining Room

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:12 a.m.

TRD-9331014

Wednesday, November 3, 1993, 12:45 p.m.

1715 West First Street, Room 208

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:12 a.m.

TRD-9331015

Wednesday, November 3, 1993, 2:00 p.m.

Capitol Extension E1.804, Secretary of State Office

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:14 a.m.

TRD-9331016

Wednesday, November 3, 1993, 3:00 p.m.

Capitol Extension E1.026, House Hearing Room Three

Austin

According to the complete agenda, the Full Commission will call to order; establish quorum; review of past and upcoming events; public comments; and adjourn.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:15 a.m.

TRD-9331017

Wednesday, November 3, 1993, 4:00 p.m.

Capitol Building, West Doors, 1300 Block of North Congress Avenue

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:15 a.m.

TRD-9331018

Wednesday, November 3, 1993, 4:15 p.m.

1201 Brazos Street, State Archives

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:16 a.m.

TRD-9331019

Wednesday, November 3, 1993, 5:00 p.m.

901 Navasota, Texas State Cemetery, Hill of Heros

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:17 a.m.

TRD-9331020

Wednesday, November 3, 1993, 5:30 p.m.

810 Guadalupe, Austin History Center, O. Henry Room

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:18 a.m.

TRD-9331021

Wednesday, November 3, 1993, 6:00 p.m.

709 East Martin Luther King, Jr. Boulevard, Second Floor Exhibit, University of Texas Visitor Center

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 9:24 a.m.

TRD-9331022

Thursday, November 4, 1993, 8:00 a.m.

1304 Newning Avenue, Fairview

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:32 p.m.

TRD-9331148

Thursday, November 4, 1993, 9:00 a.m.

124 West Eighth Street, Room 101

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331147

Thursday, November 4, 1993, 9:30 a.m.

300 West 15th Street, Texas Senate Chamber

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331146

Thursday, November 4, 1993, 10:00 a.m.

2300 Block of Red River, SRH2.106, University of Texas

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331145

Thursday, November 4, 1993, 10:30 a.m.

510 East Anderson Lane

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331144

Thursday, November 4, 1993, Noon

304 East 44th Street, Texas Room, Ney Museum

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331143

Thursday, November 4, 1993, 2:00 p.m.

307 West Second Street, City Council Chambers

Austin

According to the complete agenda, the Full Commission will attend the 200th Birthday Ceremony for Stephen F. Austin.

Contact: Mike Workman, P.O. Box 172, Austin, Texas 78767-0172, (512) 929-3334 or (512) 463-0600.

Filed: October 27, 1993, 4:31 p.m.

TRD-9331142

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Structural Pest Control Board

Tuesday, November 9, 1993, 9:30 a.m.

Howard Johnson Plaza North, 7800 North IH-35, Brazos Room

Austin

According to the complete agenda, the Termite Task Force will hear public comments; maximum label rate for termiticides; discuss definition of "Full Treatment, Spot Treatment and Retreatment"; and discuss wood destroying insect (WDI) report form.

Contact: Benny M. Mathis, Jr., 9101 Burnett Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: October 26, 1993, 5:17 p.m.

TRD-9331006

Wednesday, November 10, 1993, 10:30 a.m.

Joe C. Thompson Conference Center, Room 3.122, 2405 East Campus Drive

Austin

According to the complete agenda, the Continuing Education Committee will hear public comment; discussion of Course Number's 1993-081, 1993-082, and 1993-083; consideration of continuing education programs submitted for approval; and review of current course submittal and evaluation process.

Contact: Benny M. Mathis, Jr., 9101 Burnett Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: October 26, 1993, 5:17 p.m.

TRD-9331004

Thursday, November 18, 1993, 9:30 a.m.

Joe C. Thompson Conference Center, Room 1.126, 2405 East Campus Drive

Austin

According to the complete agenda, the Integrated Pest Management will hear public comment period; discuss draft regulations; discuss draft of on-site manual; and set agenda items and date for next integrated pest management committee meeting.

Contact: Benny M. Mathis, Jr., 9101 Burnett Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: October 26, 1993, 5:17 p.m.

TRD-9331005

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The Texas A&M University System

Saturday, October 30, 1993, 8:00 a.m.

Texas A&M University MSC Annex, Board

Meeting Room, Clark Street

College Station

According to the complete agenda, the Board of Regents held a telephonic meeting to consider and take action on bids for the Campus Facilities, Phase I, at Texas A&M International University; appointment of vice-chancellor for academic affairs for the Texas A&M University System; appointment of vice-chancellor for finance and operations for the Texas A&M University System; discuss pending and threatened litigation; consult with system attorneys; discuss personnel matters; discuss acquisition, lease, exchange, disposition of value of real estate.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: October 26, 1993, 10:03 a.m.

TRD-9330930

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Toxic Substances Coordinating Committee

Wednesday, November 10, 1993, 9:00 a.m.

Room M-652, Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Committee will discuss approval of the minutes of the January, 1993 meeting; and discuss and possibly act on update on fish sampling subcommittee; results of the Koppers Site-Specific Surveillance Project; and set next meeting.

Contact: Dennis Perrotta, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7268. For ADA Assistance, call Richard Butler (512) 458-7695 or T.D.D. (512) 458-7708 at least two days prior to the meeting.

Filed: October 27, 1993, 4:45 p.m.

TRD-9331149

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Texas Workers' Compensation Insurance Facility

Monday, November 8, 1993, 9:45 a.m.

Guest Quarters Suite Hotel, 303 West 15th Street

Austin

According to the agenda summary, the Governing Committee will discuss approval of the October 4, 1993 minutes; consideration and possibly act on servicing company requests for reimbursement of legal fees and expenses and on recommendations from the

appeals committee; executive director's report; and executive session(s) regarding personnel matters and pending legal matters. Following the closed executive session(s), the governing committee will reconvene in open and public session and take any action as may be desirable or necessary as a result of the closed deliberations, including possible approval of settlements of potential or existing litigation and possible approval of facility transition plans and personnel policies.

Contact: Russell R. Oliver, 8303 Mopac Expressway North, Suite 310, Austin, Texas 78759-8396, (512) 345-1222.

Filed: October 27, 1993, 1:24 p.m.

TRD-9331091

Regional Meetings

Meetings Filed October 26, 1993

The Bandera Appraisal District Appraisal Review Board will meet at 1116 Main Street (former Bandera Bulletin Building), Bandera, November 15, 1993, at 10:00 a.m. Information may be obtained from P. H. Coates, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039, FAX: (210) 796-3672. TRD-9330965.

The Central Counties Center for MHMR Services Board of Trustees-Work Day met at the Stagecoach Inn, 1 Main, Salado, October 30, 1993, at 8:30 a.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9330992.

The Gulf Bend MHMR Center Board of Trustees met at 1404 Village Drive, Victoria, October 29, 1993, at noon. Information may be obtained from Sharon Pratka, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9330946.

The Lavaca County Central Appraisal District Board of Directors will meet at 113 North Street, Hallettsville, November 8, 1993, at 4:00 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9330972.

The Middle Rio Grande Development Council Board of Directors held an emergency revised agenda at the Green House Cafe, 101 North Main Street, Cotulla, October 27, 1993, at 1:00 p.m. The emergency status was necessary due to board needing to include additional agenda item in order to meet deadline requirements. Information may be obtained from Paul A. Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9330963.

The Middle Rio Grande Development Council (Revised agenda.) Texas Review and Comment System met 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. Flores, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9330931.

Meetings Filed October 27, 1993

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. (Emergency revised agenda). The emergency status was necessary as had just been notified of items added to agenda that needed immediate board action. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764-3548, (512) 447-4141. TRD-9331126.

The Brazos Valley Development Council Brazos Valley Regional Advisory Committee on Aging will meet at the Council Offices, 1706 East 29th Street, Bryan, November 2, 1993, at 2:30 p.m. Information may be obtained from Roberta Lindquist, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9331118.

The El Oso Water Supply Corporation Board of Directors met in their Office on FM 99, Karnes City, October 30, 1993, at 8:30 a.m. Information may be obtained from Judith Zimmermann, P.O. Box 309, Karnes City, Texas 78118, (210) 780-3539. TRD-9331102.

The Gulf Coast Quality Workforce Planning TechForce 2000, Inc. will meet at Harris County Private Industry Council, IH-

10 East at Federal Road, Nations Bank Building, Houston, November 2, 1993, at 10:00 a.m. Information may be obtained from Karen E. Baird, 250 North Sam Houston, Parkway E, Houston, Texas 77060, (713) 591-9306. TRD-9331085.

The Greater Austin-San Antonio Corridor Council, Inc. Executive Council met in the Corridor Council Offices, 304 C.M. Allen Parkway, San Marcos, October 29, 1993, at 9:00 a.m. Information may be obtained from Emma Vasquez, P.O. Box 1618, San Marcos, Texas 78667-1618, (512) 245-2535. TRD-9331103.

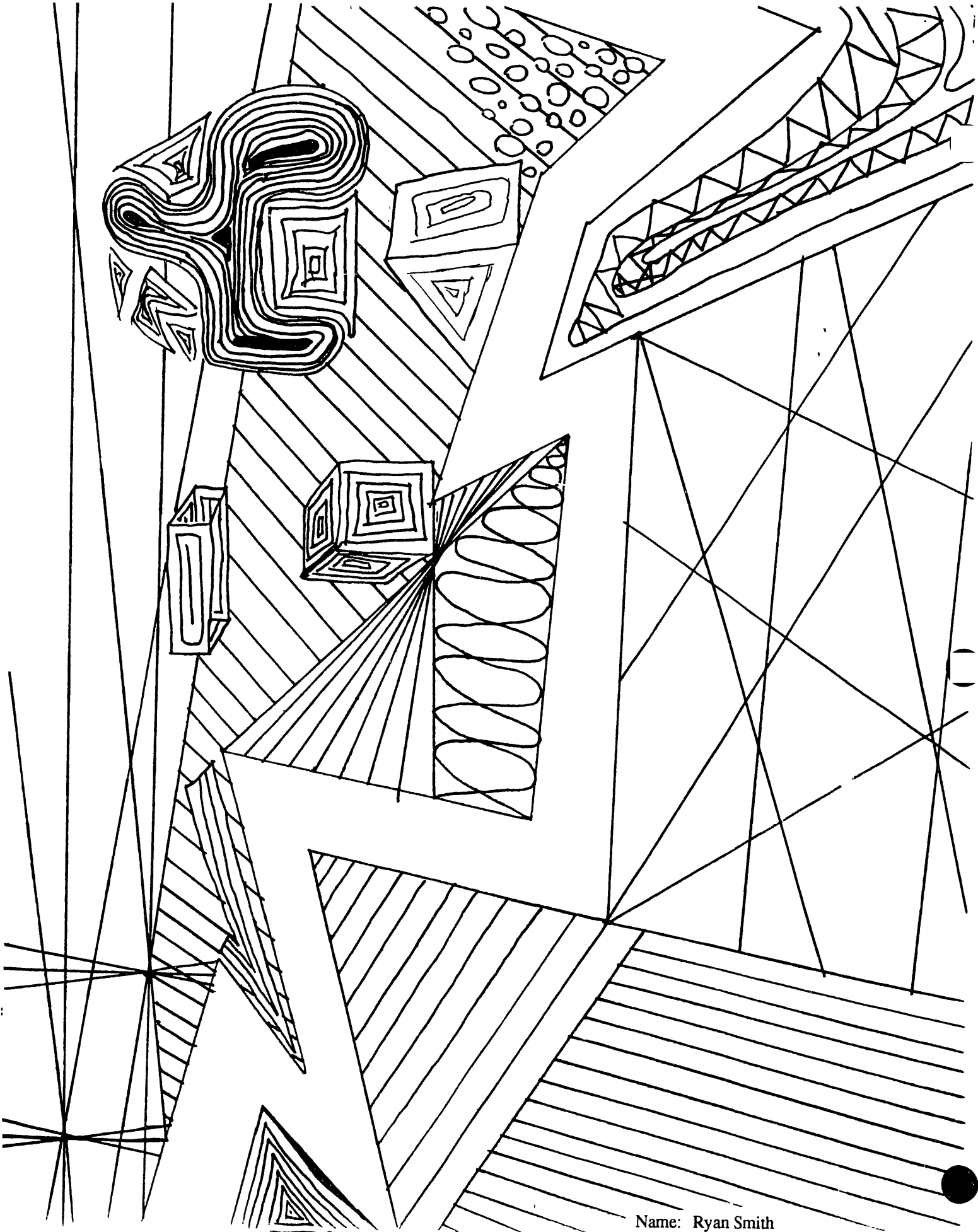
The Greater Austin-San Antonio Corridor Council, Inc. Board of Directors met in the Corridor Council Offices, 304 C.M. Allen Parkway, San Marcos, October 29, 1993, at 10:00 a.m. Information may be obtained from Emma Vasquez, P.O. Box 1618, San Marcos, Texas 78667-1618, (512) 245-2535. TRD-9331104.

Meetings Filed October 28, 1993

The Dallas Central Appraisal District Audit Committee will meet at 2949 North Stemmons Freeway, First Floor, Conference Room, Dallas, November 3, 1993, at 7:00 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9331165.

The Dallas Central Appraisal District Board of Directors will meet at 2949 North Stemmons Freeway, Dallas, November 3, 1993, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9331166.

The Upper Rio Grande, Quality Work Force Planning-Region VIII will meet in the Ysleta ISD Cultural Arts Center, 9600 Sims, El Paso, November 5, 1993, at 11:30 a.m. Information may be obtained from Laureen McHugh, 1155 Westmoreland, #235, El Paso, Texas 79925, (915) 779-6623. TRD-9331171.



Name: Ryan Smith
Grade: 9
School: Bailey Junior High, Arlington ISD

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.

State Banking Board Notice of Hearing Cancellation

In the Matter of the Conversion Application for First National Bank of Red Oak, Red Oak, Ellis County, before the State Banking Board Austin, Travis County.

As no opposition has been noted in the application for the First National Bank of Red Oak, Red Oak, to convert to a state charter under the name of Heritage Bank, the hearing previously scheduled for Thursday, November 4, 1993, has been canceled.

Issued in Austin, Texas, on October 25, 1993.

TRD-9330973 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: October 26, 1993

Texas School for the Blind and Visually Impaired Notice of Award

The Texas School for the Blind and Visually Impaired (TSBVI) provides this notice of consulting services contract awards for the Quality Programs for Students with Visual Impairments. The notice for request for proposals was published in the September 17, 1993, issue of the *Texas Register*.

Description of Services. The contractor will provide training and consultation on the Quality Programs process to selected Educational Service Center and TSBVI Outreach consultants, monitor participating sites and revise the Program Guide as needed. The following major products will be produced: Revised Program Guide will be ready by August 31, 1994, for publication and statewide dissemination.

Effective Date and Value of Contract. The contract will be effective from October 18, 1993 to August 31, 1994. The total cost of the contract is \$15,437.

Name of the Contractor. The contract has been awarded to Nancy Toelle, 1706 Wessex Circle, Richardson, Texas 75082.

Persons who have questions concerning this award may contact Dr. Phil Hatlen, Texas School for the Blind and Visually Impaired, 1100 West 45th Street, Austin, Texas 78756, (412) 454-8631.

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

TRD-9330976 Dr Phil Hatlen
Superintendent
Texas School for the Blind and Visually
Impaired

Filed: October 26, 1993

Texas Bond Review Board Bi-Weekly Report on the 1993 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period of October 9-22, 1993. Pursuant to Article 5190.9a, §2(d), on September 1, any amounts of volume cap remaining in the separate subceilings are combined under one ceiling. All applications that have not received volume cap are placed on one list in an order determined by a lottery number received in January, or by date of application, regardless of project type. On September 1 reservations for the remaining volume cap are given.

Total amount of the \$882,800,000 state ceiling remaining unreserved as of October 22, 1993: \$525,000.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from October 9-22, 1993: Southeast Texas HFC, Bermuda Dunes L.C. Forest View Apartments, Residential Rental, \$1,000,000.

Following is a comprehensive listing of applications which have issued and delivered the bonds and received a Certificate of Allocation pursuant to the Act from October 9-22, 1993: San Antonio HFC, Point East Apartments, Residential Rental, \$1,975,000.

Following is a comprehensive listing of applications which were either withdrawn or canceled pursuant to the Act from October 9-22, 1993. none

Following is a comprehensive listing of applications which released a portion of their reservation pursuant to the Act from October 9-22, 1993: none.

Issued in Austin, Texas, on October 25, 1993.

TRD-9331001 Beverly S Bunch
Interim Executive Director
Texas Bond Review Board

Filed: October 26, 1993

**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formu-

las and methods described in Texas Civil Statutes, Title 79, Articles 1.04, as amended (Texas Civil Statutes, Articles 5069-1.04).

| <u>Types of Rate Ceilings</u> | <u>Effective Period (Dates are Inclusive)</u> | <u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u> | <u>Commercial(2) over \$250,000</u> |
|-------------------------------------------|---------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------|
| Indicated (Weekly) Rate - Art. 1.04(a)(1) | 11/01/93-11/07/93 | 18.00% | 18.00% |
| Monthly Rate - Art. 1.04 (c)(3) | 11/01/93-11/30/93 | 18.00% | 18.00% |

Issued in Austin, Texas, on October 25, 1993.

TRD-9331023 Al Endsley
Consumer Credit Commissioner

Filed: October 27, 1993

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Texas Department of Insurance
Notices of Hearing

The State Board of Insurance, at a Board hearing scheduled for 9:00 a.m., December 2, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, will consider adoption of revisions to the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Texas Experience Rating Plan Manual as proposed by the staff of the Workers' Compensation Division of the Texas Department of Insurance.

The revisions as proposed by staff combine the Texas Basic Manual of Rules, Classifications and Rates for Workers' Compensation and Employers Liability Insurance and the Texas Experience Rating Plan Manual into one manual entitled Texas Workers' Compensation Manual of Rules, Classifications, Endorsements and Experience Rating (Manual). The proposed re-writing and revising of the manual includes but is not limited to the following:

- (1) editorial changes necessary because the State Board of Insurance no longer sets Workers' Compensation rates;
- (2) the elimination of Texas from interstate rating for employers with operations in states other than Texas;
- (3) amendments to various classification footnotes due to the changes adopted to the classification system;
- (4) proposal of a rule concerning applying initial and renewal experience modifier if modifier is calculated during the applicable policy period;
- (5) proposal of a rule for calculation of a contingent modifier based on experience available at the time of calculating the experience modifier; and
- (6) proposed change in rule pertaining to employer who leaves an employee leasing arrangement.

A copy of the petition containing the full text of the proposed amendments is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request copies of the petition, please contact Angie Arizpe (512) 322-4147, (refer to Reference Number W-1093-26-1).

The staff and the State Board of Insurance request that written comments to these proposed amendments be submitted to the office of the Chief Clerk prior to the public hearing on December 2, 1993. Public testimony at the public hearing on December 2, 1993, is also invited.

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

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

Issued in Austin, Texas, on October 27, 1993.

TRD-9331059 Linda K. von Quintus-Dom
Chief Clerk
Texas Department of Insurance

Filed: October 27, 1993

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The Texas Department of Insurance will convene a public hearing under Docket Number 2072, at 9:00 a.m., November 18, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin. The State Board of Insurance and the Commissioner of Insurance will consider comments concerning new 28 TAC, Chapter 26, §§26.1-26.27, concerning small employer health insurance regulations and the policy forms and provisions to be used in writing such insurance; and new 28 TAC, Chapter 3, Subchapter F, §§3.501-3.512, concerning group health mandatory conversion privileges. The purpose of the hearing is to afford all interested persons reasonable opportunity to submit data, views or arguments orally or in writing as provided in the Government Code, §2001.029 (formerly Administrative Procedure Act, §5C). Final action will not be taken at this time but will be scheduled for a later date.

The new regulations and policy forms and provisions concerning small employer health insurance regulations are proposed under the Insurance Code, Chapter 26 (which

was enacted as House Bill 2055 in the 73rd Legislature), and the Insurance Code, Articles 1.03A, 1.10, 1.33, 21.20, 21.21, 21.21-3, and 21.21-5, and §1.23 of House Bill 1461, 73rd Legislature, Regular Session. Insurance Code, Chapter 26 sets out the requirements for small employer health benefit plans, including but not limited to fair marketing, disclosure, rating, mandated policy provisions, mandates for offering coverage for small employer health carriers, coverage and renewability of the policies, various filing and reporting requirements, cancellation, contribution and participation requirements, exclusions, limitations, pre-existing conditions, previous coverage and status of health carriers as small employer carriers. These rules are intended to implement the provisions of that chapter. The Insurance Code, Article 21.20, prohibits misrepresentation of policies and Article 21.21 contains prohibitions against unfair competition and unfair trade practices and discrimination. Article 21.21-3 prohibits discrimination in coverage or rates due to disability and Article 21.21-5 prohibits discrimination in rates or renewals on the grounds of geographical location, disability, sex or age. These rules are intended to address such discrimination in connection with the coverage which is subject to these sections. The Insurance Code, Article 1.03A, sets forth the requirements for rules of general application to be adopted by the commissioner of insurance. Article 1.10 authorizes sanctions for violations by licensees. 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.

The new regulations concerning group health insurance mandatory conversion privilege are proposed under the 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. The 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. The 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. The 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. The 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.

In addition to accepting comments and receiving testimony at the November 18, 1993, public hearing, the Commissioner and Board invite the general public and any interested persons to provide written comments by filing them with the Chief Clerk's Office, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104, no later than November 29, 1993, with a copy 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.

Issued in Austin, Texas, on October 27, 1993.

TRD-9331083 Linda K. von Quintus Dorn
Chief Clerk
Texas Department Of Insurance

Filed: October 27, 1993.

Texas Department of Licensing and Regulation

Requests for Proposals

Request for Proposals for developing and providing licensing examinations of two classes of commercial refrigeration/processing cooling and heating contractors. The contract that will be awarded will be for a period ending August 31, 1995, with the first examinations to be given in April, 1994. Examinations are scheduled quarterly in the months of January, April, July, and October. The contract will include exam development, providing of exam booklets, grading, and providing of grades and individual analysis information on each applicant. A different examination must be provided for each quarterly examination.

A copy of the Request for Proposals may be requested from Pauline Denson, (512) 463-7369. Proposals must be received by the Texas Department of Licensing and Regulation by November 15, 1993.

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

TRD-9330932 Jack W. Garison
Executive Director
Texas Department of Licensing and Regulation

Filed: October 26, 1993

The Texas Department of Licensing and Regulation is accepting Requests for Proposals for proposals for educational programs, seminars, or training projects for auctioneers licensed in Texas. A copy of the request for proposals may be requested from Pauline Denson, (512) 463-7369. Proposals must be received by the Texas Department of Licensing and Regulation by December 8, 1993

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

TRD-9330933 Jack W. Garison
Executive Director
Texas Department of Licensing and Regulation

Filed: October 26, 1993

Texas Natural Resource Conservation Commission

Correction of Error

The Texas Natural Resource Conservation Commission submitted a Public Hearing Notice which was published in the "In Addition Section". The Notice was published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7201). Due to a submission error the room number was

published as Room 103. The commission has scheduled the public hearing to be held on October 28, 1993, at 10:00 a.m. in Room 106, not in Room 103.

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**Notice of Application for Municipal
Solid Waste Applications**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for municipal solid waste permits issued during the period of October 13-October 20, 1993.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on such evaluation.

The notices are issued pursuant to the Texas Health and Safety Code, §361. 0665. Any person who may be affected by the facility is entitled to request a hearing from the Commission. The Commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

City of Irving; Type I (Landfill); 220 West Hunter Ferrell Road and 700 East Hunter Road, Dallas County, Irving, amendment; MSW1394-A.

Brazoria County Recycling Center, Inc.; Clute; Type V Municipal Solid Waste Management Facility; On the east side of FM Road 523, approximately 2.3 miles south of FM Road 2004 and approximately 2.5 miles north of County Road 226 in Brazoria County; new; MSW1539-B.

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

TRD-9330900 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: October 25, 1993

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**Notice of Receipt of Application and
Declaration of Administrative
Completeness for Municipal Solid
Waste Applications**

Attached are Notices of Receipt of Applications and Declaration of Administrative Completeness for municipal solid waste permits issued during the period of October 13-October 20, 1993.

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on such evaluation.

The notices are issued pursuant to the Texas Health and Safety Code, §361. 0665. Any person who may be affected by the facility is entitled to request a hearing from

the Commission. The Commission will issue further notice of the application and the terms of any proposed draft permit once the technical evaluation is completed.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

U.S.A. Waste Services, Inc; Palmer; Type I (Municipal Solid Waste Facility); 3.2 miles south of the intersection of FM Road 878 and IH-45, Ellis County; amendment; MSW1745-A.

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

TRD-9330899 Gloria A. Vasquez
 Chief Clerk
 Texas Natural Resource Conservation
 Commission

Filed: October 25, 1993

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**Texas Department of Protective and
Regulatory Services
Correction of Error**

The Texas Department of Protective and Regulatory Services proposed an amendment and new section to 40 TAC §§700.328 and 700.1801-700.1803. The rules appeared in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7137 and 7138).

Due to a publishing error the following information in §700.328(c) should be in bold: "Costs included in the rates are specified in §§700. 1801-700.1806 of this title (relating to Cost Reporting, Cost-finding Analysis, Definition of Allowable and Unallowable Costs, Allowable Costs, Unallowable Costs, and Cost Not included in Recommended Payment Rates)."

The following information in subsection (f) should not be bold: "[Exemptions may be granted if the facility is newly opened and licensed, financial records are lost or destroyed, or the number of children placed by PRS is so small that the information in a cost report is insignificant to the facility's overall budget.]"

Due to submission errors on pages 7137 and 7138, the statutory authority for §§700.328 and 700.1801-700.1803 is incorrect. It should read: "The amendments and new section are proposed under the Human Resources Code, Title 2, Chapter 22, which provides the department with the authority to administer public assistance programs; Chapter 31, which provides the department with the authority to provide financial assistance and services to families with dependent children; and Texas Civil Statutes, Article 4413(503), historical note (Vernon Supplement 1993), 72nd Legislature, which transferred all functions, programs, and activities related to the child protective services program from the Texas Department of Human Services to TDPRS. The proposed amendments and new section implement the Human Resources Code §31.003, which provides the department with the authority to adopt rules governing the determination of the amount of financial assistance to be granted for the support of a dependent child. The amount granted, when combined with the in-

come and other resources available for the child's support, must be sufficient to provide the child with a subsistence compatible with decency and health.

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Texas Racing Commission
Correction of Error

The Texas Racing Commission filed proposed and adopted rules that were published in the October 15, 1993, issue of the *Texas Register* (18 TexReg 7085, 7086, and 7158). Due to submission the rules were published with errors. Below is a list of corrections.

Page 7085, 16 TAC §305.82, title of section: "Application" is misspelled

Page 7086, 16 TAC §313.409, third paragraph of preamble, third sentence: "by which jockey" should read "by which a jockey"

Page 7086, 16 TAC §313.501, title of section: "Training" is misspelled

Page 7158, 16 TAC §309.199, second paragraph of preamble: "is adopted secure" should read "is adopted to secure"

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Texas Department of Transportation
Public Notice

In the October 15, 1993, issue of the *Texas Register* (18 TexReg 7142), the Texas Department of Transportation published the proposed repeal of §1.83, amendments to §§1.80-1.82, and §1.84, and new §1.83 and §1.85, under Title 43, Texas Administrative Code concerning Advisory Committees, and specified that the deadline for receipt of comments was 5:00 p.m. on November 4, 1993. In order to assure adequate time for public input on these proposed actions that deadline is hereby extended to 5:00 p.m. November 15, 1993.

Comments on the proposals may be submitted to Robert W. Jackson, Associate General Counsel, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

Issued in Austin, Texas, on October 25, 1993.

TRD-9330892

Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: October 25, 1993

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1993 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1993 issues of the *Texas Register*. Because of printing schedules, material after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week preceding publication. No issues will be published on July 30, November 5, November 30, and December 28. An asterisk beside a publication date indicates that the deadline has 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 26 | Thursday, September 30 |
| 77 Friday, October 8 | Monday, October 4 | Tuesday, October 5 |
| Tuesday, October 12 | THIRD QUARTERLY INDEX | |
| 78 Friday, October 15 | Monday, October 11 | Tuesday, October 12 |
| 79 Tuesday, October 19 | Wednesday, October 13 | Thursday, October 14 |
| 80 Friday, October 22 | Monday, October 18 | Tuesday, October 19 |
| 81 Tuesday, October 26 | Wednesday, October 20 | Thursday, October 21 |
| 82 Friday, October 29 | Monday, October 25 | Tuesday, October 26 |
| 83 Tuesday, November 2 | Wednesday, October 27 | Thursday, October 28 |
| Friday, November 5 | NO ISSUE PUBLISHED | |
| 84 Tuesday, November 9 | Wednesday, November 3 | Thursday, November 4 |
| 85 Friday, November 12 | Monday, November 8 | Tuesday, November 9 |
| 86 Tuesday, November 16 | Wednesday, November 10 | Thursday, November 11 |
| 87 Friday, November 19 | Monday, November 15 | Tuesday, November 16 |
| 88 Tuesday, November 23 | Wednesday, November 17 | Thursday, November 18 |
| 89 Friday, November 26 | Monday, November 22 | Tuesday, November 23 |
| Tuesday, November 30 | NO ISSUE PUBLISHED | |
| 90 Friday, December 3 | Monday, November 29 | Tuesday, November 30 |
| 91 Tuesday, December 7 | Wednesday, December 1 | Thursday, December 2 |
| 92 Friday, December 10 | Monday, December 6 | Tuesday, December 7 |
| 93 Tuesday, December 14 | Wednesday, December 8 | Thursday, December 9 |
| 94 Friday, December 17 | Monday, December 13 | Tuesday, December 14 |
| 95 Tuesday, December 21 | Wednesday, December 15 | Thursday, December 16 |
| 96 Friday, December 24 | Monday, December 20 | Tuesday, December 21 |
| Tuesday, December 28 | NO ISSUE PUBLISHED | |
| | | |

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