

Texas Register

Volume 18, Number 93, December 14, 1993

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Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.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

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

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

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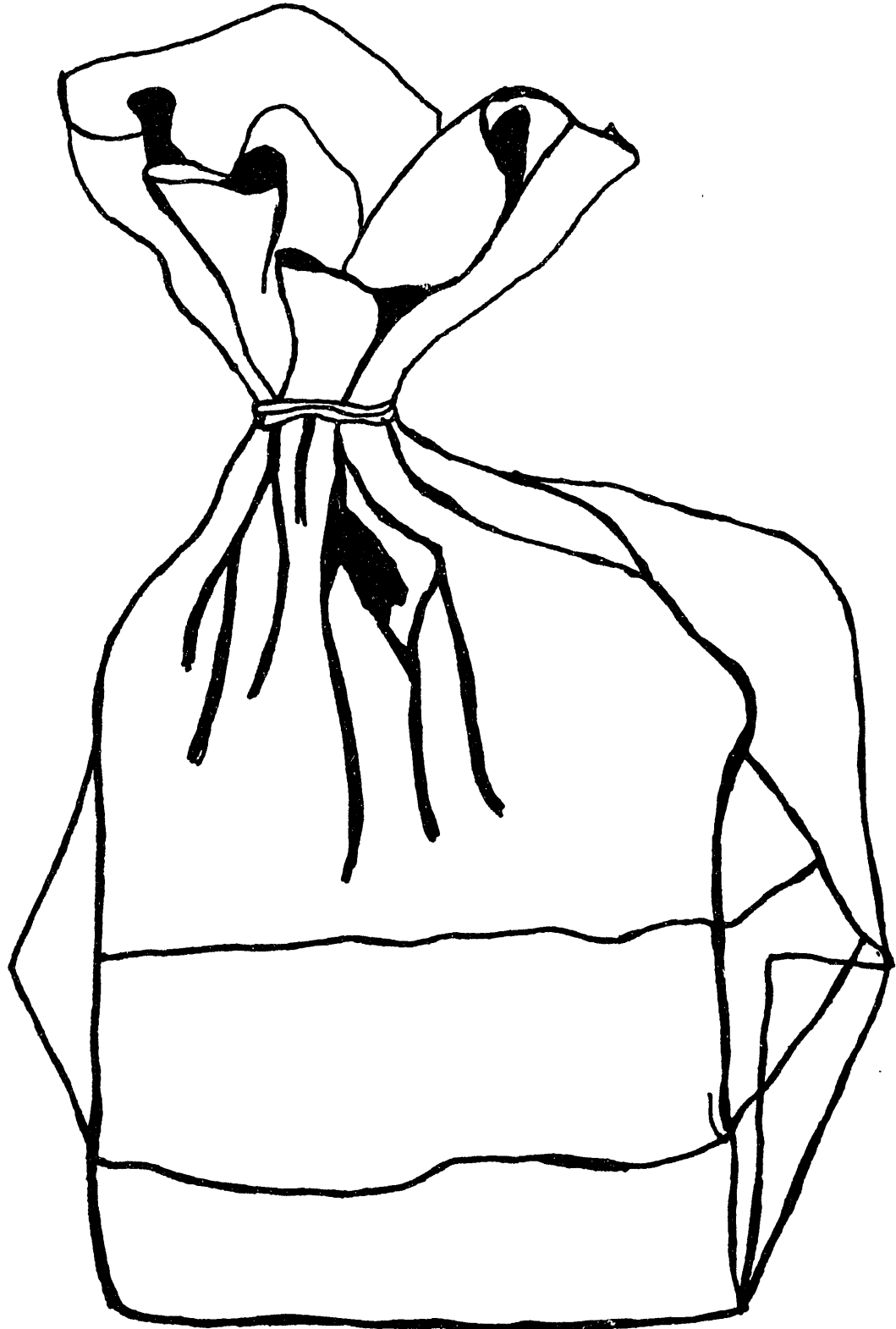
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Grade: 10
School: Skyline High School, Dallas ISD

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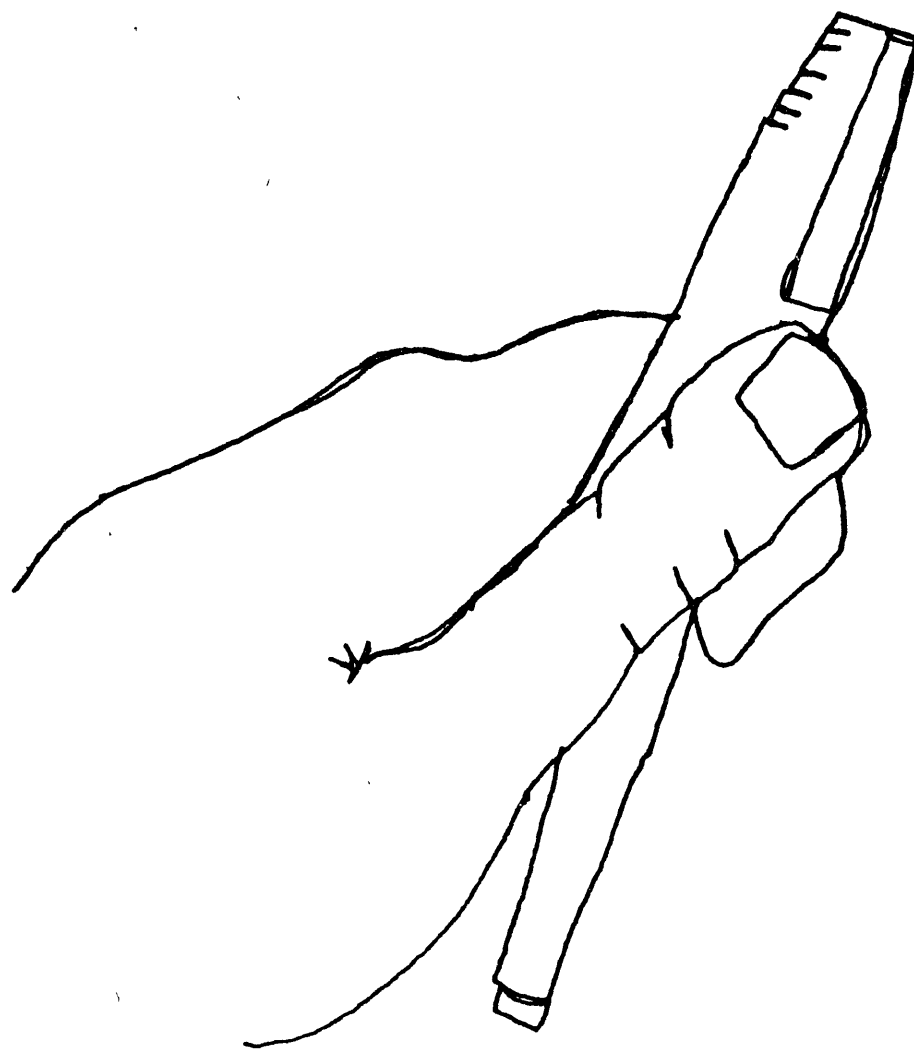
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Grade: 10

School: Skyline High School, Dallas ISD



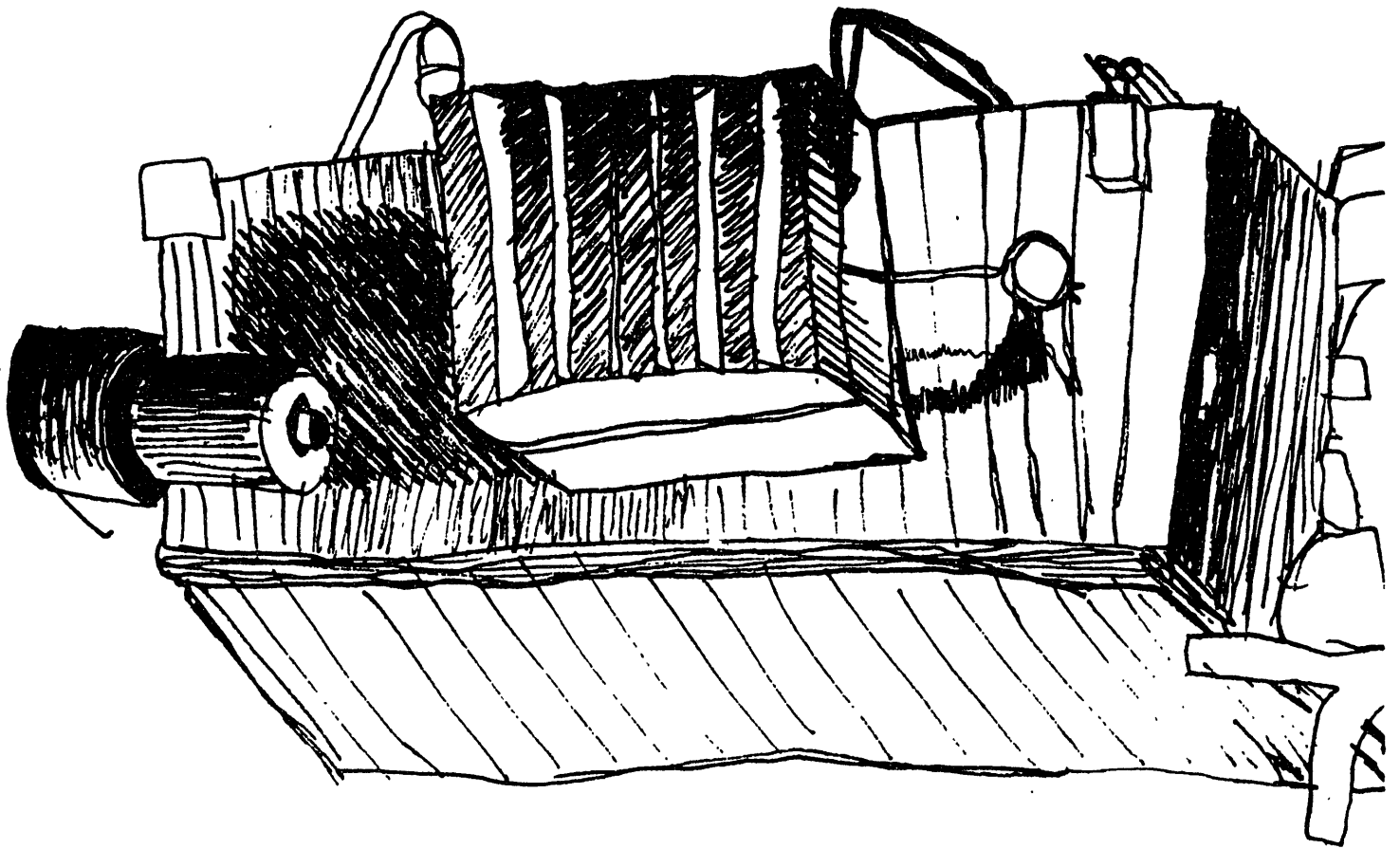
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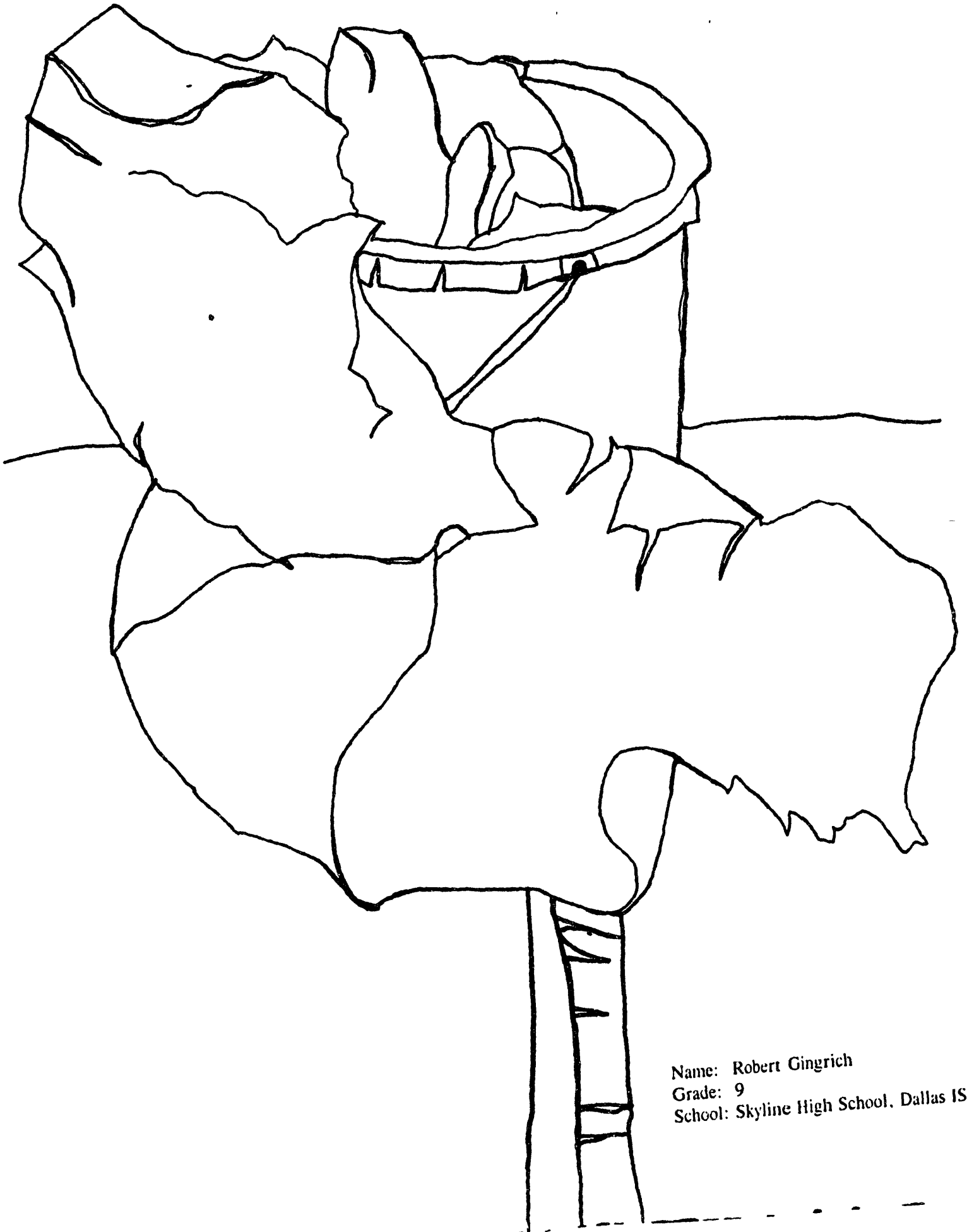
Name: Pamela Haught
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School: Skyline High School, Dallas ISD

Contour

Contour: Heat + Air Unit



Name: Robert Gingrich
Grade: 9
School: Skyline High School, Dallas ISD



Name: Robert Gingrich
Grade: 9
School: Skyline High School, Dallas 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 December 1, 1993

To be a member of the South East Texas Regional Review Committee for a term to expire January 1, 1994: Commissioner Waymon D. Hallmark, Jefferson County Commissioner, 525 Lakeshore Drive, Port Arthur, Texas 77640. Commissioner Hallmark will be replacing Ed Moore of Beaumont, who resigned.

To be a member of the Central Texas Regional Review Committee for a term to expire January 1, 1995: Mayor Alan Johnson, P.O. Box 397, Holland, Texas 76534. Mayor Johnson will be replacing Cliff Jones of Belton, who is no longer eligible.

To be a member of the Permian Basin Regional Review Committee for a term to expire January 1, 1995: Judge Ben Lockhart, Howard County Judge, 300 Main, Room 207, Big Spring, Texas 79720. Judge Lockhart will be replacing Pat De Anda of Big Spring, who is no longer eligible.

To be a member of the Heart of Texas Regional Review Committee for a term to expire January 1, 1994: Mayor Henry Moore, City of Hillsboro, 211 East Franklin Street, Hillsboro, Texas 76645. Mayor Moore will be replacing Bobbie Loud of Hubbard, who is no longer eligible.

To be a member of the Concho Valley Regional Review Committee for a term to expire January 1, 1994: Mayor H. F. Ritchie, City of Big Lake, 1009 Sixth Street, Big Lake, Texas 76932. Mayor

Ritchie will be replacing Gordon Robbins, who is no longer eligible.

To be a member of the Middle Rio Grande Regional Review Committee for a term to expire January 1, 1994: Judge Tim Ward, Kinney County Judge, P.O. Box 348, Brackettville, Texas 78832. Judge Ward will be replacing Diana Bravo of Brackettville, who is no longer eligible.

To be a member of the Middle Rio Grande Regional Review Committee for a term to expire January 1, 1994: Mayor Arturo Garcia, City of Eagle Pass, 554 Brazos Street, Eagle Pass, Texas 78852. Mayor Garcia will be replacing Hector Garcia of Eagle Pass, who is no longer eligible.

To be a member of the Rio Grande Regional Review Committee for a term to expire January 1, 1994: Mayor Jake Brisbin, Jr., City of Marfa, P.O. Box 745, Marfa, Texas 79843. Mayor Brisbin will be replacing Genevieve Basham, who is no longer eligible.

To be a member of the Rio Grande Regional Review Committee for a term to expire January 1, 1994: Mayor Paul R. Weyerts, City of Alpine, 514 East June, Alpine, Texas 79830. Mayor Weyerts will be replacing Joe Prieto, who is no longer eligible.

To be a member of the Rio Grande Regional Review Committee for a term to expire January 1, 1995: Councilmember Irene Montoya, City of Socorro, City Hall, 124 South Horizon Boulevard, Socorro, Texas 79927. Councilmember Montoya will

be replacing Jerry Montgomery of Anthony, who is no longer eligible.

To be a member of the Alamo Area Regional Review Committee for a term to expire January 1, 1995: Mayor Patrick Heath, City of Boerne, P.O. Box 1677, Boerne, Texas 78006. Mayor Heath will be replacing Adolfo Alvarez of Pearsall, who is no longer eligible.

To be a member of the Alamo Area Regional Review Committee for a term to expire January 1, 1995: Councilmember Juanita G. Trevino, City of Pearsall, 421 West Neches Street, Pearsall, Texas 78061. Councilmember Trevino will be replacing James Goodbread of New Braunfels, who is no longer eligible.

Appointments Made December 3, 1993

To be a member of the Governing Board of the Texas School for the Deaf for a term to expire January 31, 1999: Nanci Pagoda-Ciccione, Ph.D., 3700 Ross Avenue, Dallas, Texas 75204. Dr. Pagoda-Ciccione will be replacing Trena Baxley of Livingston, whose term expired.

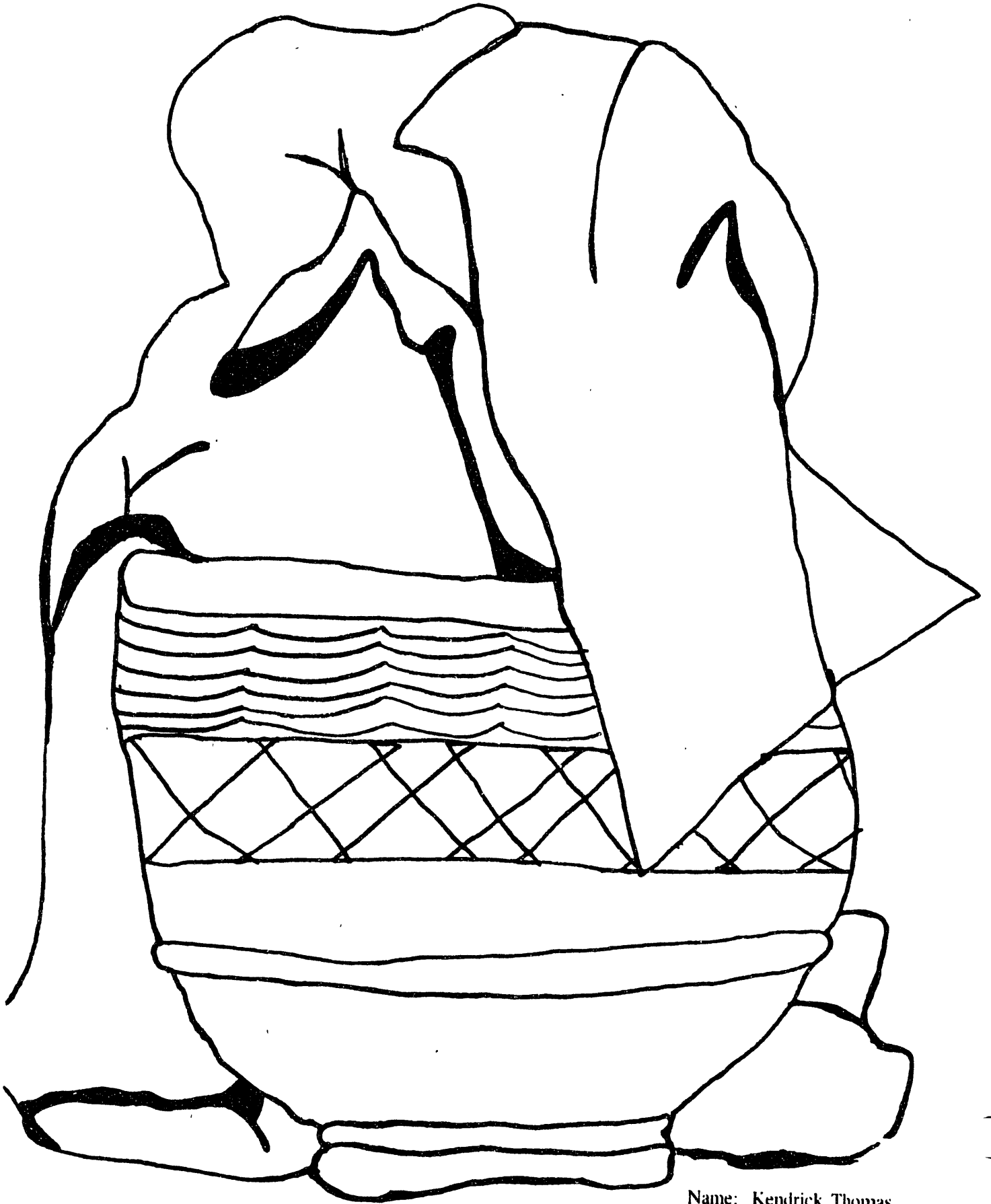
To be a member of the Midwestern State University Board of Regents for a term to expire February 25, 1998: Ervin Garnett, 4350 Wind Chime Court, Fort Worth, Texas 76133. Mr. Garnett will be filling the unexpired term of Otis Polk of Wichita Falls, who is deceased.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333157

Ann W. Richards
Governor of Texas





Name: Kendrick Thomas
Grade: 10
School: Skyline High School, Dallas IS

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 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 26. Perpetual Care Cemeteries

• 7 TAC §26.1

The Banking Department of Texas is renewing the effectiveness of the emergency adoption of new §26.1, for a 60-day period effective December 30, 1993. The text of new §26.1 was originally published in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5932).

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

TRD-9333246

Everette D. Jobe
General Counsel
Banking Department of
Texas

Effective date: December 30, 1993

Expiration date: February 28, 1994

For further information, please call: (512) 475-1300

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part II. Texas Rehabilitation Commission

Chapter 116. Advisory Committees/Councils

• 40 TAC §§116.1-116.9

The Texas Rehabilitation Commission is renewing the effectiveness of the emergency adoption of new §§116.1-116.9, for a 60-day period effective December 14, 1993. The text of new §§116.1-116.9 was originally published in the October 22, 1993, issue of the *Texas Register* (18 TexReg 7331).

Issued in Austin, Texas, on December 7, 1993.

TRD-9333196

Charles W. Schiesser
Associate Commissioner
for Legal Services
Texas Rehabilitation
Commission

Effective date: December 14, 1993

Expiration date: February 12, 1994

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

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 9. [Division of Construction and] Contract Management

• 43 TAC §9.21

The Texas Department of Transportation adopts on an emergency basis amendments to §9.21, concerning Definitions of the department's Emergency Contract Procedures.

Section 9.21 is amended to revise the definition of deputy executive director. The Department presently has rules for emergency contracting procedures, codified at 43 TAC §§9.20-9.22, which provide that the executive director or his designee not below the level of deputy executive director must certify the fact and nature of the emergency giving rise to the award of a contract under these sections, and that the executive director or his designee not below the level of deputy executive director may authorize the waiving of bonds or insurance requirements.

At the time the current rules were adopted the position of deputy executive director was the only second-tier management position in the Department. Due to the reorganization of the department which established six second-tier management positions, with all six on an equivalent level of authority, it is necessary to amend §9.21 on an emergency basis to include all six second-tier management positions. The emergency amendment will assure that the emergency contracting procedures continue without interruption, thereby protecting the vital interests, safety, and welfare of the taxpayers and the travelling public.

The emergency amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Department of Transportation with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6674h-2, which authorize the department to establish rules

for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws.

§9.21. *Definitions.* The following words and terms, when used in the sections under this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise.

Commission—The Texas Transportation Commission.

Department—The Texas Department of Transportation.

Deputy executive director—Any one of six second-tier managers appointed by the executive director to the position of deputy executive director or assistant executive director [The deputy executive director of the Texas Department of Transportation.]

District engineer—The chief executive officer in each of the designated district offices of the department.

Emergency—Any situation or condition of a designated state highway, resulting from a natural or man-made cause, which poses an imminent threat to life or property of the travelling public or which substantially disrupts the orderly flow of traffic and commerce.

Executive director—The executive director of the Texas Department of Transportation.

Highway improvement contract—Any contract, let by the Texas Department of Transportation for the construction, reconstruction, repair, or maintenance of a designated state highway or any part of such highway facility.

Issued in Austin, Texas, on December 7, 1993.

TRD-9333221

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Effective date: December 7, 1993

Expiration date: April 4, 1994

For further information, please call: (512) 463-8630

8-20-93

①



②



Name: Kendrick Thomas
Grade: 10
School: Skyline High School, Dallas ISD

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 80. Unincorporated Business Entities

• 1 TAC §§80.1-80.4

The Office of the Secretary of State proposes amendments to §§80.1-80.4, concerning the registration of unincorporated business entities as Registered Limited Liability Partnerships. House Bill Number 273, 73rd Legislature, Regular Session, adopted the Texas Revised Partnership Act, Texas Civil Statutes, Article 6132a. Section 3.08 of the Act sets out the requirements and procedures under which a limited liability partnership may register with the secretary of state. The amendments implement the provisions of that section.

Carmen I. Flores, director, Corporations Section, Statutory Filings Division, has determined that for the first five-year period the rules are in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Flores also has determined that for each year of the first five years the rules as proposed are in effect, the public and the Office of the Secretary of State will benefit from uniformity of procedures concerning the application of partnerships for registration as registered limited liability partnerships. There will be no effect on small businesses. There are no persons required to comply with the proposed rules and therefore no economic cost to persons required to comply. Economic costs to persons electing to comply will be a filing fee as prescribed by statute for each year that the partnership elects to file as a registered limited liability partnership.

Comments on the proposal may be submitted to Carmen I. Flores, Director, Corporations Section, Statutory Filings Division, P.O. Box 13697, Austin, Texas 78711-3697.

The amendments are proposed under Texas Civil Statutes, Article 6132a, §3.08(b)(15), which provide authority to the secretary of state to adopt rules on the filing of documents under the section. The statutory provision affected by these amendments is the Texas Revised Partnership Act, Texas Civil Statutes, Article 6132a, §3.08.

§80.1. Application for Registration as a Registered Limited Liability Partnership.

(a) Initial application. To become a registered limited liability partnership, a partnership must comply with the Texas Revised [Uniform] Partnership Act, Texas Civil Statutes, Article 6132b, §3.08 [§§45-A to 45-C]. The secretary of state has promulgated a form for this purpose; however, use of such form is not mandatory. Applications submitted for filing with the secretary of state must be executed by a majority in interest of the partners or by one or more partners authorized by a majority in interest of the partners and must contain the following information:

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

(b) (No change.)

(c) Copies. Two copies of the application shall be filed with the secretary of state along with the appropriate filing fee. The secretary of state will endorse the word "filed," and the month, day, and year of the filing on each copy of the application[,] and [The secretary of state] will [then] return one copy of the filed application and a letter of acknowledgment to the registered limited liability partnership.

(d) Registration. A partnership is registered on filing a completed initial or renewal application or on a later date specified in the application [executed as specified in the Texas Uniform Partnership Act, Article 6132b, sections 45-A to 45-C in duplicate with the required fee]. A registration is not affected by later changes in the partners of the partnership.

(e) (No change.)

(f) Expiration. An initial or renewal application filed under this section and registered by the secretary of state is [shall be] effective for a period of one year from the date on which the application for registration is filed or the later effective date specified in the application.

(g) Renewal. A registration may be renewed [registered limited liability company may renew its registration] from year to year by filing [annually] an application for renewal in the manner prescribed for the filing of an original application. Such renewal application shall be filed during the 90 days preceding the expiration

date of the then current registration. The renewal application must be accompanied by the appropriate filing [a] fee [of \$100 for each person who is a partner on the date of renewal]. An application for renewal received after the expiration date of the registration cannot be filed to renew the registration. Under this circumstance, the partnership must file a completed initial application for registration under the Act, §3.08(b).

(h) Revocation of Registration. The secretary of state may revoke the filing of a document if the fee for the document was paid [registration of a partnership that pays a fee] by an instrument that was [is] dishonored when presented by the [secretary of] state for payment and the partnership fails to pay the fee within 30 days after the secretary of state mails notice of dishonor of the instrument to the partnership at its principal office in this state or outside this state as applicable. A revocation is effective as of the date of filing of the document [application] but does not affect any prior registration. Failure to give or receive notice does not invalidate the revocation.

§80.2. Withdrawal of Registration.

(a) Withdrawal. A registration may be withdrawn by filing in duplicate with the secretary of state a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized by a majority in interest of the partners. A withdrawal notice must include the following information:

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

(b) Removal from Active Records. A withdrawal notice terminates the status of the partnership as a registered limited liability partnership as of the date of filing the notice. The secretary of state may remove from its active records the registration of a partnership whose registration has been withdrawn or revoked, or has expired and not been renewed.

§80.3. Administrative Review. The secretary of state will file for record a completed, properly executed initial application for registration, [or] renewal of registration, or articles of amendment [as a registered limited liability partnership] when the appropriate filing fee has been remitted and all

required information is set forth in the document. The secretary of state will not determine substantial compliance with the provisions of the Texas Revised [Uniform] Partnership Act nor will the secretary of state determine whether or not the partnership meets the insurance requirements of the Act, §3.08(d) [section 45-C].

§80.4. Amendment or Correction [Typographical Corrections]. A filed document may be amended or corrected by filing articles of amendment in duplicate, executed in the manner of an initial application, and accompanied by the appropriate filing fee.

The articles of amendment must contain the following information:

- (1) the name of the partnership;
- (2) the tax identification number of the partnership;
- (3) the identity of the document being amended;
- (4) the date of which the document being amended was filed;
- (5) the part of the document being amended; and
- (6) the amendment or correction.

[If a document filed under the Texas Uniform Partnership Act, Article 6132b, §§45-A to 45-C contains a typographical error, the error may be corrected by filing a notice of correction executed by a majority in interest of the partners or by one or more partners authorized by a majority in interest of the partners. The notice of correction must contain the following information: the name of the partnership; the federal tax identification number of the partnership; the identity of the document being corrected; the date on which the document being corrected was filed, the typographical error being corrected; and the correction of the error. Two copies of the notice of correction must be filed.]

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 December 2, 1993.

TRD-9333174

Audrey Selden
Assistant Secretary of
State
Office of the Secretary of
State

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-5701

TITLE 7. BANKING AND SECURITIES

Part II. Texas Department of Banking

Chapter 26. Perpetual Care Cemeteries

• 7 TAC §26.1

The Texas Department of Banking (the Department) proposes new §26.1, based in large part on former proposed §26.1 as published in the July 20, 1993, issue of the *Texas Register* (18 TexReg 4724). The new proposed section will establish fees applicable to regulated perpetual care cemetery corporations pursuant to Chapter 712 of the Health and Safety Code, as amended effective September 1, 1993 (the Act). The former proposed §26.1 is being withdrawn in this issue of the *Texas Register*.

During the comment period, an amended version of the proposed section was published as an emergency rule in the September 7, 1993, issue of the *Texas Register* (18 TexReg 5932) in order to put a funding mechanism in place at the beginning of the fiscal year. The emergency rule deleted reference to a separate examination fee that was "included in and offset against the assessment" because the Department concluded that the examination fee as so structured would have no impact on the revenues of the Department or the aggregate cost of regulation to members of industry, other than to create a separate and meaningless calculation. It is at least possible that the separately required calculation could have itself caused an increase in the cost of regulation. The assessment fee element was renamed as the examination fee. The new proposed section does not differ substantially from the emergency rule.

Revisions to the section as repropoed serve to clarify and simplify application of the assessment based examination fee. While the Department is of the opinion that the repropoed section does not differ substantially in effect from the section as originally proposed, the language of the section has been substantially revised and may be construed as differing in effect. Consequently, the section is being repropoed rather than adopted in final form.

A public hearing to receive comments regarding adoption of the original proposed section was scheduled for, and convened, on Thursday, September 2, 1993, at 9:00 a.m. in the Third floor hearing room of the Texas Department of Banking at 2601 North Lamar Boulevard in Austin. The hearing was concluded on the same day. The Department received several comments during the comment period, after publication of the emergency rule, and at the hearing. After consideration of the comments the Department is proposing new §26.01 in substantially the form of the section as adopted on an emergency basis.

Prior to and during the hearing on the proposed section, a total of seven commenters submitted comments in connection with the publication of proposed and emergency

§26.1. All commenters were generally against subsection (c) of the proposed and emergency section as published, dealing with examination fees. Comments regarding the subsection (b) filing fees were generally favorable. Most of the commenters had specific recommendations for the Department to consider to correct perceived problems with the rule.

Those who submitted comments against the proposed section as published included the Texas Cemetery Association; Service Corporation International; Restwood Cemetery; Lawnhaven Memorial Gardens of San Angelo; Restland Funeral Home, Inc.; Mount Olivet Cemetery Association; and Memory Gardens of Cuero, Inc.

Comments relevant to the repropoed section and the Department's responses regarding the section follow.

The Texas Cemetery Association objected to the definition of "examination" in the rule as being overly broad and stated that the Department had no authority to conduct examinations at any location other than the corporation's place of business. It was also argued that the Department does not have the authority to review the financial condition of a perpetual care cemetery corporation "by review of financial statements and records."

The Department disagrees and believes these arguments are without merit. Section 712.027 and §712.028 of the Act require a regulated corporation to deposit a certain amount of funds from sales in a trust. Section 712.029 of the Act provides that the amount to be deposited in a fund must be deposited "not later than the 20th day after the end of the month in which the original purchase agreement has been paid in full." Section 712.044 of the Act further provides that the books and records of a corporation relating to the funds shall be examined annually or as often as necessary by the Commissioner. Part of this process would necessarily involve the examination of all of the books and records of the corporation to determine if fees from contracts are being deposited as required. Such examination power would include a review of a corporation's total financial condition if it could affect the seller's ability to service existing contracts. Mere examination of fund records deposits and balances by the Department would be wholly inadequate to determine whether a corporation was in compliance with the Act. By way of example only, a corporation that is experiencing severe financial difficulties could be making timely deposits to its trust fund under the Act at the expense of payments due to creditors, including secured creditors or the Internal Revenue Service. Seizure of the corporation's assets or bank accounts could occur as a result of these defaults, thereby injuring purchasers whose funds have not yet been deposited. The Department is entitled to be aware of such circumstances, among others.

Further, in response to arguments that all examinations by the Department must be at a corporation's offices, §712.044(b), provides that a corporation "shall make its books and records relating to its fund available for examination by the banking department on reason-

able notice." The provision in no way restricts the Department's ability to examine a corporation's books and records at various locations.

Substantial opposition was expressed to the examination fee structure. Those who commented were generally opposed to the examination fee for the following reasons.

The Department exceeded its authority in passing the emergency rule and the examination fees imposed assessments and obligations not contemplated by the Act.

The examination fee of \$0.0012 per dollar of the book value of the total perpetual care trust assets of the regulated corporation is unreasonable and penalizes well-run operations that would pay the same as a comparable poorly-run operation.

Examination fees should be based on a per diem amount representing actual examination time and overhead costs associated with each examination.

The Department should consider such factors as the size of the fund to be examined; the condition of the permit holder's records; and the number of sales locations.

The Department has carefully reviewed and considered all of the comments received. However, the Department firmly believes that an assessment-based examination fee was contemplated by the Legislature. The Legislature was specific in amending the Act to require that the Department not maintain excessive fund balances. Assessment-based examination fees would allow the Department to control its income stream to better match its costs, in that assessments may be deferred if costs unexpectedly decrease or if revenues exceed expectations. The burden of regulatory cost would thus be fairly shared by all licensed entities. Examination fees based strictly on time and expenses cannot be so adjusted. The Department is committed to developing an examination fee structure which adequately funds the Department's compliance and enforcement efforts without maintaining excessive fund balances.

Stephanie Newberg, director, Special Audits Division, Texas Department of Banking, has determined that for the first five-year period the proposed section is in effect there will be fiscal implications for state government but not for local government, and there will be fiscal implications for small businesses as a result of enforcing or administering this section. The proposed rule will result in an increase in revenue from the perpetual care cemetery industry to fund increased appropriations to the Department as mandated by the Act.

Ms. Newberg estimates the amount of increased revenue from the fees imposed by the proposed rule to be \$34,158 in each year for the first five years the proposed section is in effect, an increase estimated to result in the full recovery by the Department of the cost of regulating the perpetual care cemetery industry.

The cost of compliance per \$100 of sales will be greater for small businesses than for the largest businesses as a result of the cap on

the assessment fee and the fixed annual fee. However, small businesses," as defined in the Texas Government Code, §2006.001(1), comprise over 98% of this industry, i.e., those businesses that have less than \$1,000,000 in gross revenues from perpetual care cemetery operations, and it is therefore not feasible to reduce the adverse economic effect on small business considering the purpose of the Act.

The adverse economic effect is extraordinarily difficult to categorize under the measures mandated by the Texas Government Code, §2006.002(c)(2), although a comparison based on "sales" would appear to be the most practical measure even if such a comparison is only remotely feasible. A perpetual care cemetery is limited by the acreage available for plots. Two cemeteries with equal size trust funds will pay the same fees, although one may be generating considerably more revenue than the other based on available acreage to sell. For the same reason, a cemetery with a very large trust fund could be generating much less in sales than a cemetery with a substantially smaller trust fund. A comparison, though mandatory pursuant to the Texas Government Code, §2006.002, is therefore of limited usefulness.

Although highly arbitrary, assuming that "sales" constitute an amount equal to 10% of the amount in trust, the cost of compliance per \$100 of sales for a small business with a trust fund of \$500,000 will be \$0.022 compared to \$0.006 for the largest business in the industry with over \$9,000,000 in trust and \$0.013 for the next largest business with over \$4,000,000 in trust. The primary cause of the disparity is the fixed \$500 annual fee.

Finally, at December 31, 1992, only one cemetery fund out of 222 regulated funds had a balance sufficient to exceed the cap on fees (a trust fund in excess of \$4,166,167), and is therefore, to the knowledge of the Department, the only corporation that would pay assessment fees at a rate less than \$0.0012 per dollar in trust. The second largest business may add enough funds during 1993 to be assessed fees at the capped level based on its fund balance at December 31, 1993.

Ms. Newberg 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 the full recovery of the Department's cost of regulating perpetual care cemetery corporations under its increased statutory responsibilities, and an increase in funding to enable the Department to conduct more examinations. In prior years, the Department was underfunded and able to examine only about 75 of regulated corporations at least once a year. With the increase in funding, as authorized by the Legislature, the Department anticipates being able to examine every seller at least once each year, although this target will not be immediately achievable to the hiring and training process for new examiners. Ms. Newberg estimates the increased economic costs to persons required to comply with the proposed section will be approximately \$34,158 for each year of the five-year period.

Comments on the proposal to be considered by the Texas Department of Banking must be submitted in writing within 30 days after publi-

cation of the proposed section in the *Texas Register* to Sammie Glasco, Assistant General Counsel, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705.

The new section is proposed pursuant to the Health and Safety Code, §712.042(a) and §712.044(b), which empowers the Department to set fees in sufficient amount to defray the cost of administering Chapter 712 of the Health and Safety Code, §712.0031, which sets a fee incorporated into this regulation for the convenience of the user.

The following statutes are affected by this rule: Chapter 712 of the Health and Safety Code.

§26.1. Fees and Assessments.

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

(1) Act—Chapter 712, Health and Safety Code, as amended.

(2) Commissioner—The Banking Commissioner of Texas.

(3) Corporation—A corporation subject to the Act that is organized under Chapter 712 of the Act, or any corresponding statute in effect before September 1, 1993, to operate one or more perpetual care cemeteries in Texas.

(4) Department—The Texas Department of Banking.

(5) Examination—The process of evaluating the financial condition of a perpetual care cemetery corporation, either by field examination or internal Department review of financial statements and reports in lieu of or in addition to field examination.

(6) Fiscal year—The 12-month period from September 1st to August 31st of the next succeeding calendar year.

(b) Filing Fees. The filing fees set forth in this subsection are either specifically set out in the Act or have been set in accordance with the Act to reasonably approximate the agency's cost of administering the Act with respect to each particular filing.

(1) Notice Fee. Pursuant to the Act, §712.0031, each Corporation required to file notice of intent to operate a perpetual care cemetery with the Department shall submit with such notice a fee of \$500.

(2) Annual Statement of Funds Fee. A Corporation shall pay an annual \$500 fee in connection with the filing of the annual statement of funds required under the Act.

(3) Time of payment. Except as otherwise provided in this section, all fees

are nonrefundable and due at the time the related documentary filing is made. Failure to timely pay fees or costs under this section shall be grounds for enforcement action by the Department under the Act.

(c) **Examination Fees.** The Department shall assess and collect nonrefundable examination fees in accordance with this subsection. Any assessed fee or an installment payment as part of a fee is due at the time of billing. The Department shall annually assess each Corporation an examination fee, not to exceed \$5,000 in a fiscal year, at a rate of not more than \$0.0012 per dollar of the book value of the total perpetual care cemetery trust assets of the Corporation. The Department may levy this fee in quarterly or fewer installments in such periodically adjusted amounts as reasonably appear necessary to defray the costs of examination and the administration of the Act. The examination fee or installment is due at the time of billing. If the examination fee as computed in this subsection is less than \$25, a minimum examination fee of \$25 shall be levied and collected.

(d) **Severability.** If any fee in this section or the manner of its calculation is determined to be unlawful or in excess of the authority of the Department to adopt and impose, the remainder of this section shall be unaffected, and other fees specified herein shall continue to be due and collected.

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 December 7, 1993.

TRD-9333245

Everette D. Jobe
General Counsel
Texas Department of
Banking

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 475-1300

TITLE 19. EDUCATION

Part I. Texas Higher Education Coordinating Board

Chapter 1. Agency Administration

Subchapter A. General Provisions

• 19 TAC §1.6

The Texas Higher Education Coordinating Board proposes new §1.6, concerning Advisory Committees. The new section is necessary to comply with provision of the General

Appropriate Act and Senate Bill 383 enacted by the 73rd Legislature, which establish criteria for the creation and operation of advisory committees by state agencies. The rules provide for the Coordinating Board's compliance with the provisions of Article 62562-33, Title 110A, Revised Statutes, and the General Appropriations Act regarding the composition and duration of committees, the reimbursement of committee member's expenses, the evaluation of committees, and the reporting to the Legislative Budget Board.

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

Mr. McWhorter also has determined that for each year of the first five years the section is in effect there will be no public benefit anticipated as a result of enforcing the section as proposed. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendment is proposed under Texas Civil Statutes, Article 6252-33, §5, which provide the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Advisory Committees.

§1.6. Advisory Committees.

(a) The Board may appoint advisory committees from outside the Board's membership to advise the Board as it may deem necessary, and the Commissioner may appoint advisory committees from outside the Board staff to advise the staff as the Commissioner may deem necessary.

(b) The use of advisory committees by the Board or by the Commissioner shall be in compliance with the provisions of Texas Civil Statutes, Article 6252-33, and the General Appropriations Act regarding the composition and duration of committees, the reimbursement of committee member's expenses, the evaluation of committees, and the reporting to the Legislative Budget Board.

(c) A written statement shall be prepared by the Commissioner or his designee for each advisory committee, setting forth the purpose of the committee, the task of the committee, the manner in which the committee will report to the Board or the Commissioner, the date on which the committee is created, and the date on which the committee will automatically be abolished. The written statements shall be maintained on file in the Coordinating Board offices. At each quarterly Board meeting the Commissioner shall provide to the Board the

written statements on any advisory committees created since the previous quarterly meeting.

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 December 6, 1993.

TRD-9333212

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160

Chapter 5. Program Development

Subchapter K. Private Degree-Granting Institutions Operating in Texas

• 19 TAC §5.213

The Texas Higher Education Coordinating Board proposes an amendment to §5.213, concerning Administrative Procedures Related to Certification of Nonexempt Institution. The proposed amendment is being made to conform to the dissolution on December 31, 1993, of the Council of Postsecondary Education and its replacement on January 1, 1994, by one or more successor organizations whose approval constitutes one of the criteria required for Coordinating Board recognition of accrediting agencies as provided by §61.302(8), Chapter 61, Texas Education Code. The change will enable the Coordinating Board to limit its recognition of accrediting agencies to those that have demonstrated their qualifications in a nationally recognized forum in United States higher education.

Dr. Bill Sanford, assistant commissioner, Universities and Health 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.

Dr. Sanford 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 that the change could improve the Coordinating Board's effectiveness in preventing deception of the public resulting from the conferring and use of fraudulent or substandard college or university degrees as provided in §61.301, Subchapter G, Chapter 61, Texas Education Code. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education

Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendment is proposed under the Texas Education Code, §61.302 and §61.311, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Private Degree-Granting Institutions Operating of Texas.

§5.213. Administrative Procedures Related to Certification of Nonexempt Institutions.

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

(i) Recognition of Accrediting Agencies. In seeking to assure standards that are sufficient to protect citizens from fraudulent and substandard operations and to treat all institutions of higher education with equity, both exempt and nonexempt, the board has recognized the Commission of Colleges, Southern Association of Colleges and Schools (SACS) as the accrediting agency for certification. However, the board will consider the recognition of other accrediting agencies provided they can demonstrate they meet all of the criteria listed below.

(1) The accrediting agency must be a member of or recognized by the Council on Postsecondary Accreditation or its successor and must be recognized by the United States Department of Education.

(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 December 6, 1993.

TRD-9333213

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160



Subchapter P. Testing and Remediation

• 19 TAC §§5.312-5.314, 5.318

The Texas Higher Education Coordinating Board proposes amendments to §§5.312-5.314 and 5.318, concerning Testing and Remediation. The proposed amendments are due to legislation passed during the last legislative session. We are making an effort to reflect the purpose and intent of these legislative changes in Coordinating Board rules. The exception is a rule giving the state auditors authority to withhold formula funding for hours gained outside of compliance with the TASP (Texas Academic Skills Program) law. This was necessary because the auditors must have some mechanism for fiscal redress by

the state while conducting audits or else such audits would not result in savings to the state and would not be worth doing. These rule changes will be reflected in both Subchapter P and in the TASP Policy Manual; hence, all public institutions of higher education are expected to comply. Blind and Deaf students (per Texas Education Code, §54.205(a)) will not be required to take the TASP test or remediate until September, 1995. Students scoring designated score levels on the American College Test (ACT), Scholastic Assessment Test (SAT), and Texas Assessment of Academic Skills (TAAS) will not be required to take the TASP Test. Public institutions of higher education must disseminate TASP information in their college catalogs. Students cannot claim TASP exemptions using hours which they have opted to ignore under the "fresh start" legislation. State auditors will now have a formal mechanism for retrieving state formula funds from institutions for hours gained outside of compliance with TASP.

Dr. Bill Sanford, assistant commissioner for Universities and Health Affairs, 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

Dr. Sanford 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 that deaf and blind students do not have to take the TASP test or participate in remediation until September, 1995. At that time, blind students will take the TASP test with appropriate accommodations and deaf students will be required to take the Stanford Achievement Test normed for the hearing-impaired population. This should result in more appropriate testing for blind and deaf students. The ACT, SAT, and TAAS exemptions will require fewer students to take the TASP test and should exempt students who would not have needed remediation. This should result in more efficient testing. All institutions are now required to put TASP information in their catalogs, thereby making TASP requirements clearer and more widely known. The "fresh start" provision clarifies the relationship between the fresh start legislation and the hours used to obtain TASP exemptions. The auditor's rule provides a mechanism to retrieve public formula funds that were obtained in violation of the TASP law. This makes enforcement of TASP provisions possible and could result in monies obtained illegally being returned to the state. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711

The amendments are proposed under the Texas Education Code, §61.027 and §61.306, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning Testing and Remediation

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

Blind Student and Deaf Student—For the purposes of this subchapter "blind student" and "deaf student" mean students who are blind or deaf persons as defined by the Texas Education Code, §54.205(a).

§5.313. Eligibility.

(a) Any student with at least three college-level credit hours accumulated prior to the fall of 1989 shall not be required to take the examination. Such credit hours must be certified as college-level by the granting institution and need not be applicable toward a degree or certificate. In addition, students who perform at or above a level set by the Coordinating Board on the American College Test (ACT), Scholastic Assessment Test (SAT), or Texas Assessment of Academic Skills (TAAS) shall be exempt from the Texas Academic Skills Program. This exemption will be in effect for five years from the date the ACT or SAT test was taken and for three years from the date the TAAS test was taken. While tests may be retaken, ACT, SAT, or TAAS scores meeting or exceeding the standard set by the board must be achieved on a single test administration.

(b)-(k) (No change.)

(l) Institutions may not require blind or deaf students to take the TASP test as a condition for enrollment in an upper-division course or require them to participate in remediation as a result of the test until September 1, 1995. From that point on, blind students will take the TASP Test with appropriate accommodations and deaf students will take the Stanford Achievement Test, nationally normed on the hearing-impaired population by Gallaudet University.

(m) Students cannot claim exemption from TASP on the basis of hours which they elect to ignore under Senate Bill 1321 (academic fresh start).

§5.314. Administration.

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

(g) Each institution of higher education shall provide to each student accepted for admission, information in the institution's catalog relating to the testing and remedial requirements of TASP and of the rules adopted by the board.

§5.318. Institutional Reporting.

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

(c) Each institution is responsible for full compliance with the Texas Education Code, §51.306, and the rules adopted by the Coordinating board. Failure to comply with the TASP statute and rules by admitting students to take credit hours or the equivalent who have not taken or passed the TASP test (when applicable), or any other act or omission that results in the accumulation of credit hours or the equivalent in violation of the TASP statute and rules, shall be a basis for disallowing those credits by audit, resulting in an adjustment of the dollar amounts of institutional funds. The funding adjustment will be based on credit hours used in the contact hours base-period that have been disallowed as a result of audit. The State Auditor has the right to audit the TASP programs at institutions of higher learning for compliance, utilizing the TASP statute, rules, and policy manual.

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 December 6, 1993.

TRD-9333214 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160

Chapter 21. Student Services

Subchapter C. Hinson-Hazlewood College Student Loan Program For all Loans Which are Subject to the Provisions of the Federal Family Education Loan Program, the College Access Loan Program, the Health Education Assistance Loan Program, and the Health Education Loan Program

• 19 TAC §21.56, §21.62

The Texas Higher Education Coordinating Board proposes amendments to §21.56 and §21.62, concerning the Hinson-Hazlewood Student Loan Program. Section 21.56 is being changed to comply with federal rules. The cosigners of promissory notes will not be required. Section 21.62 is being changed to improve the method for setting interest rates. The frequency of compounding interest will be subject to change more easily.

Mack Adams, assistant commissioner, Student Services, 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. Adams 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 that loans will be more easily available, and interest may be compounded on a more advantageous schedule. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The amendments are proposed under the Texas Education Code, §52.54, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Hinson-Hazlewood College Student Loan Program.

§21.56. Qualifications for Loans.

(a) Criteria. The commissioner may authorize, or cause to be authorized, Hinson-Hazlewood College Student Loans to students at any eligible institution which certifies that the applicant meets program qualifications if the applicant:

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

(3) is carrying at least one-half of the normal full-time workload as determined by the institution, except that the applicant must be a full time student as determined by the institution for loans through the [CALP,] HEALP[,] and the HELP.

(4)-(6) (No change.)

(7) in the case of FSL and FSLs, (if Permitted by federal regulations), has provided the Board with the signature of a cosigner who has a credit record and who has received a favorable credit evaluation by the Board if the postsecondary institution's default rate is 20% or greater; but, if the institution's default rate is 15% or greater and if, at the beginning of the loan period, the borrower will not have progressed satisfactorily beyond the first two semesters or an equivalent enrollment period in a postsecondary institution, the borrower must provide the Board with the signature of a cosigner who meets the same qualifications.

(8)-(14) (No change.)

(b) (No change.)

§21.62. Loan Interest.

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

(d) HEAL. The interest rate charged for loans, whether compounding of interest will occur or not, and the frequency of any compounding, shall be determined from time to time by the Commissioner; and interest shall accrue on the outstanding balance and any compounded interest from the date of disbursement. The interest rate and any compounding shall not exceed the rate and frequency of any compounding set by the Commissioner from the date of disbursement through the period of repayment. [The interest rate charged for loans shall be set from time to time by the Commissioner, shall be compounded semiannually, and shall accrue on the outstanding principal balance and any compounded interest from the date of disbursement. It shall not exceed the rate set by the Commissioner from the date of disbursement through the period of repayment. Principal and interest become due and payable nine months after the borrower ceases to be enrolled full time as determined by the institution. These loans are not eligible for interest subsidy.]

(e) HELP. The interest rate charged for loans, whether compounding of interest will occur or not, and the frequency of any compounding, shall be determined from time to time by the Commissioner; and interest shall accrue on the outstanding balance and any compounded interest from the date of disbursement. The interest rate and any compounding shall not exceed the rate and frequency of any compounding set by the Commissioner from the date of disbursement through the period of repayment. [The interest rate charged for loans shall be set from time to time by the Commissioner, shall be compounded semiannually, and shall accrue on the outstanding principal and any compounded interest from the date of disbursement. It shall not exceed the rate set by the Commissioner from the date of disbursement through the period of repayment. Principal and interest become due and payable nine months after the borrower ceases to be enrolled full time as determined by the institution. These loans are not eligible for interest subsidy.]

(f) (No change.)

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

Issued in Austin, Texas, on December 6, 1993.

TRD-9333215 James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160

◆ ◆ ◆
Subchapter DD. Minority Doctoral Incentive Program

• 19 TAC §§21.970-21.983

The Texas Higher Education Coordinating Board proposes new §§21.970-21.983, concerning Minority Doctoral Incentive Program. The new rules are required by passage of Senate Bill 233 by the 73rd Legislature. The rules establish the minority doctoral incentive program and provide for its operation.

Mack Adams, assistant commissioner, Student Services, 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. As funds become available through grants, gifts, or state appropriations, the funds will be used as provided in the rules.

Mr. Adams 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 that as funds become available, eligible students will be able to further their education and then teach in Texas institutions of higher education. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §56.162, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules concerning the Minority Doctoral Incentive Program.

§21.970. Purpose. The purpose of the Minority Doctoral Incentive Program is to increase the number of minority students pursuing doctoral degrees and to increase minority representation among the faculty and academic administrators in public and independent institutions of higher education in Texas.

§21.971. Administration. The Texas Higher Education Coordinating Board, or its successor or successors, shall administer the Minority Doctoral Incentive Program.

§21.972. Delegation of Powers and Duties. The Board delegates to the commissioner of higher education the powers, duties, and functions authorized by the Texas Education Code, Chapter 56, Subchapter J.

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

Academic Administrator—a person employed in an educational department of an institution of higher education in a supervisory position that is not classified under the state position classification plan.

Board—the Texas Higher Education Coordinating Board.

Commissioner—the commissioner of higher education, the chief executive officer of the Board.

Faculty Member—as defined in the Education Code, §51.101.

Full-time enrollment—as defined by the eligible institution of higher education.

Fund—the Minority Doctoral Incentive Program Fund.

Institution of Higher Education—any public or private institution of higher education, as defined in the Texas Education Code, §61.003 and §61.302(2) that is located in Texas and is accredited by a recognized accrediting agency, as defined in the Texas Education Code, §61.003(13).

Mentor—a designated faculty member in the program in which an eligible doctoral student is enrolled.

Minority—Blacks, Hispanics, and American Indians.

Program—the Minority Doctoral Incentive Program.

Resident of Texas—a bona fide Texas resident as defined in the Texas Education Code, Chapter 54, Subchapter B, §§54.052, 54.054, and 54.055.

§21.974. Eligible Doctoral Student. An eligible doctoral student is one whose intent is to earn the doctor of philosophy degree and who:

(1) is a minority as defined in §21.973 of this title (relating to Definitions);

(2) is a bona fide resident of Texas; or

(3) is a resident of a state having a program similar to this program. Eligible nonresidents shall qualify to pay the same tuition as do Texas residents.

§21.975. Eligible Lender or Holder. The board shall retain the right of determining eligibility of lenders and holders of education loans to which payments may be made under provisions of this program. An eligible lender or holder shall, in general, make or hold education loans made to individuals for purposes of attending postsecondary institutions and shall not be any private individual. An eligible lender or holder may be, but is not limited to, the board, a bank, savings and loan association, credit union, institution of higher education, secondary

student loan market, governmental agency, pension fund, private foundation, or insurance company, provided the education loan conforms to the definition of an eligible education loan described in this subchapter. A lender or holder must be willing to abide by the provisions of the law and rules of this program to be considered eligible.

§21.976. Eligible Education Loan. An eligible loan is any loan made to an eligible student for educational purposes at the graduate or professional level that:

(1) is not made to oneself from one's own insurance policy, pension plan, or from the private funds, insurance policy, or pension plan of a spouse or other relative;

(2) is obtained in pursuit of the doctor of philosophy degree or a master's degree with a demonstrated commitment to pursue a doctorate degree;

(3) is made to cover reasonable expenses related to attendance in the program;

(4) is made during one year of an academic course of study that does not exceed four consecutive years or is among other eligible education loans made for an academic course of study that does not exceed four consecutive years;

(5) does not exceed \$14,000 during a 12-month period;

(6) other than the service obligation of a forgiveness loan from the fund, does not entail a service obligation;

(7) will not be repaid through a similar program administered by the federal government, another state or territory of the United States, or by a foreign country;

(8) is made at simple interest;

(9) is evidenced by a promissory note providing for repayment of principal, interest, and any collections charges;

(10) is made for the fall semester 1994 or after;

(11) is made from the fund or by an eligible lender; and

(12) is an education loan for which payments are not more than 90 days past-due at the time the program begins making payments on behalf of a qualified borrower.

§21.977. Responsibilities of Institution of Higher Education Personnel.

(a) The president of the institution authorizes appropriate deans of the graduate or professional schools in which eligible doctoral students are enrolled to:

(1) nominate eligible doctoral students for participation in the program based upon academic achievement, career interest, and other relevant factors the institution considers important;

(2) name a mentor for each nominated student; and

(3) complete a portion of the doctoral student's application for the program.

(b) A mentor named by the appropriate dean agrees to:

(1) inform the eligible doctoral student in writing of his role as mentor;

(2) sponsor the eligible doctoral student; and

(3) assist the student in pursuing a master's or doctor's degree.

(c) The president of the institution designates the student financial aid director of the institution as the Minority Doctoral Incentive Program Officer who shall:

(1) complete the financial portion of the doctoral student's application for the program;

(2) be the board's on-campus agent to certify all institutional transactions and activities with respect to the program funds; and

(3) be responsible for all records and reports reflecting the transactions with respect to the program funds.

§21.978. Qualifications for Participation in the Program. An eligible doctoral student must:

(1) indicate intent to earn the doctor of philosophy;

(2) be nominated to participate in this program by the dean of the graduate or professional school offering the course of study leading to the doctorate;

(3) have a mentor in the doctoral program or in the masters program leading to the doctor of philosophy degree;

(4) be accepted for full-time enrollment or be enrolled full-time in a board-approved graduate or professional degree program leading to the doctor of philosophy degree or be accepted for full-time enrollment or enrolled full-time in a board-approved master's degree program leading to the doctor of philosophy degree;

(5) not have defaulted on any education loan; and

(6) have submitted to the board a properly completed application/promissory note:

(A) for participation in the program;

(B) for a loan or loans made from the fund; or

(C) if the loan is not made from the fund, for a conditional guarantee of loan repayment.

§21.979. Priority of Application Acceptance. Acceptance of applicants by the board will depend upon the availability of funds. Residents of Texas will receive priority in acceptance over residents from other states having programs similar to this program. The Commissioner will provide for the review, evaluation, and approval of applications for the program based on degree of under-representation in an academic field.

§21.980. Responsibilities and Liabilities of the Eligible Doctoral Student.

(a) A conditional guarantee of repayment from the fund does not release an eligible doctoral student at any time from the responsibilities and liabilities as a borrower under terms of the promissory notes of any eligible education loans received.

(b) If at any time and for any reason an otherwise eligible doctoral student ceases to be enrolled full-time in a master's degree program leading to the doctorate or a doctoral program at an eligible institution of higher education before earning the doctorate, a conditional guarantee of repayment from the fund becomes null and void.

(c) The borrower is responsible for any late fees assessed at any time on any eligible loans.

(d) The borrower is responsible for reporting to the Board any status change affecting eligibility for participation in this program.

(e) Any eligible doctoral student who receives a forgiveness loan from the fund is bound by the conditions of the promissory note and service obligation of that program as a borrower.

§21.981. Forgiveness of Education Loans. If a borrower earns the doctor of philosophy degree or its equivalent and serves as an academic administrator or a faculty member at a Texas institution of higher education, loans made by the board from program funds may be forgiven. The board will forgive eligible education loans made through the program at the rate of one-fifth of the outstanding principal balance and interest for each year of service, not to exceed five years.

§21.982. Guarantee of Payment of Education Loans.

(a) If a borrower earns the doctor of philosophy degree and serves as an academic administrator or a faculty member at an institution of higher education in Texas, the program will repay from the fund eligible education loans through eligible lenders or holders of those loans at the rate of one-fifth of the outstanding principal balance and interest for each year of service, not to exceed five years.

(b) If the borrower enters a post-doctoral fellowship no later than the first day of the seventh month after the borrower ceases to be enrolled full-time, the lender or holder, as agreed upon, shall provide an in-school deferment of payments or forbearance until the borrower completes the post-doctoral fellowship and begins serving as an academic administrator or faculty member at an institution of higher education in Texas. The period of deferment or forbearance may not exceed two years.

(c) A conditional guarantee of repayment of an eligible education loan shall be provided to an eligible doctoral student and to any eligible lender stating that:

(1) the board will repay from the fund any eligible education loan incurred by the eligible doctoral student at the rate of one-fifth of the outstanding principal and interest for each full year of service as an academic administrator or faculty member at an institution of higher education in Texas; and

(2) an eligible education loan becomes due and payable by the borrower to the eligible lender on the first day of the seventh month after the borrower ceases to be enrolled full-time at an institution of higher education and is not serving as an academic administrator or faculty member at an institution of higher education in Texas or on the day after the borrower ceases to serve as an academic administrator or faculty member at an institution of higher education in Texas and has outstanding principal and interest on eligible education loans.

§21.983. Repayment of Education Loans.

(a) If, no later than the first day of the seventh month after the borrower drops below full-time study, unless the loan note provides for a longer grace period, the borrower has not earned the doctor of philosophy degree and is not serving as an academic administrator or a faculty member at an institution of higher education in Texas, the borrower must begin repaying eligible education loans to the holders of the loan notes.

(b) With the exception that any outstanding principal and interest remaining on eligible loans becomes due and payable by the borrower to the eligible lender on the

day after the borrower ceases to serve as an academic administrator or faculty member at an institution of higher education in Texas, the beginning of repayment, the minimum repayment amount, and the period of the eligible education loans are determined by the notes signed by the borrower.

(c) Authorized deferments and periods of forbearance depend upon the provisions of the education loan notes and the discretion of the lenders or holders of the loan notes.

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 December 6, 1993.

TRD-9333216

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160

◆ ◆ ◆
**Subchapter EE. Texas National
Student Exchange Program**

• 19 TAC §§21.990-21.999

The Texas Higher Education Coordinating Board proposes new §§21.990-21.999, concerning Texas National Student Exchange Program. The new rules are required by passage of Senate Bill 846, 73rd Legislature. The rules will guide institutions of higher education in establishing student exchange agreements with other states.

Mack Adams, assistant commissioner for Student Services, 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. Adams 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 students at participating schools will be able to enroll for one year at an institution in another participating state yet retain resident status. 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 Dr. Kenneth H. Ashworth, Commissioner of Higher Education, Texas Higher Education Coordinating Board, P. O. Box 12788, Austin, Texas 78711.

The new sections are proposed under the Texas Education Code, §51.929, which provides the Texas Higher Education Coordinating Board with the authority to adopt rules

concerning Texas National Student Exchange Program.

§21.990. *Purpose.* The purpose of the Texas National Student Exchange Program is to enable and encourage Texas students, on a reciprocal basis, to enroll in institutions of higher education in other states of the United States through participation in the exchange program administered by National Student Exchange, a nonprofit corporation. The exchange of students promoted by the program should enrich the learning experiences of participants and their peers.

§21.991. *Administration.* Institutions of higher education are responsible for administering the program in keeping with rules adopted by the board.

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

Board—The Texas Higher Education Coordinating Board.

Home Campus—The student's home campus from which participation in the exchange program originates.

Host Campus—The campus receiving the student participating in the exchange program.

National Student Exchange—The student exchange program administered by National Student Exchange.

Undergraduate—A student who has not received a baccalaureate degree.

§21.993. *Eligible Students.*

(a) To participate in the exchange program a Texas student must be an undergraduate attending a Texas general academic teaching institution as defined in the Texas Education Code, §61.003(3) and be eligible to pay the resident tuition rate.

(b) To participate in the exchange program a student whose home institution is located outside of Texas must be an undergraduate eligible to pay the resident tuition rate in the state in which the home institution is located.

(c) A student may participate in the exchange program for no more than one 12-month academic year.

§21.994. *Tuition Charges.* Participants in the exchange program are eligible to pay resident tuition and fees at either their home campus or their host campus, depending upon procedures agreed upon by the two institutions.

§21.995. *Transcripts.* Coursework at the host campus will be recorded on official

transcripts of the host campuses. Students participating in the exchange will be responsible for arranging for copies of transcripts to be sent to their home campuses at the end of the exchange period.

§21.996. *Financial Aid.* Students participating in the exchange program may receive financial aid from either their home or host institution. If assistance is received from the host institution, such must be coordinated with any aid received from the home campus.

§21.997. *Reciprocity.* The number of units of instruction (usually, semester credit hours) exchanged would ideally be equal in any given year. If balance is not attained in any one year, parity is to be established within a three-year period.

§21.998. *Testing Waiver.* Out-of-state students participating in the exchange program and attending Texas institutions are exempted from the testing requirement outlined in the Texas Education Code, §51.306 (referring to the Texas Academic Skills Program Test). However, if such an exchange student becomes a degree-seeking undergraduate student at a Texas public institution of higher education, he or she must meet the testing requirement.

§21.999. *Reporting Requirements.* By October 31 of each year each participating Texas institution shall provide a program report to the board on a form provided by the board. The report shall include such things as the number of students who have participated in the exchange program, the names of the institutions with which the exchanges have taken place, the programs of study, and special conditions, such as participation in international or other unique programs.

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 December 6, 1993.

TRD-9333217

James McWhorter
Assistant Commissioner for
Administration
Texas Higher Education
Coordinating Board

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 483-6160

TITLE 25. HEALTH SERVICES

Part VIII. Interagency Council on Early Childhood Intervention

Chapter 621. Early Childhood Intervention Program

Early Childhood Intervention Advisory Committee

• 25 TAC §621.64

The Interagency Council on Early Childhood Intervention (ECI) proposes amendment to §621.64. The section covers policies and procedures for the ECI Advisory Committee. The amendment will clarify reimbursement procedures for ECI Advisory Committee members and Councilmembers for child care and attendant care when on official ECI business. There are also minor editorial changes made as a result of the recodification of references to articles previously made under Texas Civil Statutes.

Mary Elder, executive director, Interagency Council on Early Childhood Intervention, has determined that for the first five-year period the rules are in effect there will be minor fiscal implications as a result of reimbursement for child care and attendant care for advisory committee and ex officio members when on official ECI business. There will be no fiscal implications for local government as a result of enforcing or administering the rules.

Ms. Elder also has determined that for each year of the first five years the rules are in effect the public benefit anticipated as a result of enforcing the rules will be that public members of the Advisory Committee and the Council will have the necessary financial support to attend Council and/or Advisory Committee meetings. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who are required to comply with these rules as proposed. There will be no impact on local employment.

Comments on the proposed amendments may be submitted to Mary Elder, Executive Director, Interagency Council on Early Childhood Intervention, 1100 West 49th Street, Austin, Texas 78756, (512) 502-4900. Ms. Elder will receive comments for 30 days after the proposed amendments have been published in the *Texas Register*.

The amendment is proposed under the Human Resources Code, §73.003, which provides the Interagency Council on Early Childhood Intervention with the authority to establish rules regarding services provided for children with developmental delays. The amendment will affect the Health and Safety Code, Chapter 73.

§621.64. Advisory Committee Procedures.

(a) Notice, frequency, and location of meetings.

(1) All advisory committee meetings are subject to the Government Code, Chapter 551 (Code) [Texas Open Meetings Act (Act), Texas Civil Statutes, Article 6252-17a]. Written notice of the date, time, place, and subject of each meeting shall be posted with the Texas Register Division, secretary of state's office, as required by the Code [Act].

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

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

(e) Compensatory per [Per] diem. Official and ex officio members who attend meetings may be reimbursed for expenses for meals, lodging, and transportation as established in the current Texas State Appropriations Act, Article V. The official and ex officio members who are parents are entitled to reimbursement for child care. All official and ex officio members are entitled to reimbursement for attendant care.

(f)-(h) (No change.)

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

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

TRD-8333251

Tammy Tiner, Ph.D.
Chairperson
Interagency Council on
Early Childhood
Intervention

Earliest possible date of adoption: January 14, 1994

For further information, please call:(512) 502-4900

TITLE 28. INSURANCE

Part 1. Texas Department of Insurance

Chapter 7. Corporate and Financial

Subchapter A. Examination and Corporate Custodian and Tax

• 28 TAC §7.83

The Texas Department of Insurance proposes an amendment to §7.83, concerning the open records treatment of examination reports. The 73rd Legislature, 1993, amended the Insurance Code, Article 1.15, by adding §9, which provides that examination reports are confidential and are not subject to disclosure under the Government Code, §§552.001-552.353 (Open Records Act). This new law conflicts with the existing §7.83, which makes adopted examination reports open records; therefore, it is necessary to amend the section to remove the conflict.

Sandra Autry, associate commissioner for the financial program, has determined that for each year of the first five years the amended section is in effect, there will not be fiscal implications for state and local government as a result of enforcing or administering the amended section and there will be no effect on local employment or local economy.

Ms. Autry also has determined that for each year of the first five years that the rule is in effect the public benefit anticipated as result of the amendment will be the elimination of a conflict which currently exists between the Insurance Code, Article 1.15, which provides that examination reports are confidential, and §7.83, which provides that certain examination reports are open records. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

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

The amendment is proposed under the Insurance Code, Articles 1.15 and 1.03A. Article 1.15 requires the department to adopt rules governing the procedure for the adoption of examination reports. Article 1.03A authorizes the Commissioner to determine rules for general and uniform application for the conduct and execution of the duties and functions of the department.

The statutes affected by this rule are the Texas Insurance Code, Article 1.15, and the Government Code, §552.021.

§7.83. Examination Reports.

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

(c) Filing of examination reports.

(1) Examination reports prepared by the Texas Department of Insurance. Upon completion of an examination, the examiner-in-charge shall provide company management a copy of the examination report for review. Upon completion of company management's review of the report, the examiner-in-charge shall immediately conduct an exit interview with company management. A factual rebuttal by company management shall be noted in the completed examination report along with written comments to the factual rebuttal by the examiner-in-charge. The examiner-in-charge shall submit the completed examination report to the chief examiner within 15 days after the exit interview and simultaneously furnish the company a copy

for its retention. Within 30 days after the exit interview, the company examined may submit a written request for a management conference with the chief examiner on the examination report. The company's request shall include a detailed statement of the company's disagreement with the report. The chief examiner may request a management conference to address any regulatory concerns raised by the examination. The management conference must be scheduled for a date within 30 days after the request is made. If no conference is requested by either the company or the chief examiner within the time permitted, the chief examiner shall proceed as provided in subsection (d) (1) of this section, and the examination report shall be deemed adopted by the associate commissioner [and the report shall be subject to subsection (f) of this section].

(2) (No change.)

(d) (No change.)

(e) Adoption of reports.

(1) Appeal of final report. A company which is the subject of a final examination report prepared by the Texas Department of Insurance and which has had a management conference pursuant to subsection (c)(1) of this section may, within 15 days after its receipt of the final report transmitted by the chief examiner pursuant to subsection (d)(1)(C) of this section, submit for the associate commissioner's consideration, a written factual rebuttal to the report. Within 30 days following receipt of the rebuttal, the associate commissioner shall adopt the examination report, either with or without changes or shall reject the report. A report will not be considered an adopted report during the pendency of any appeal to the commissioner or other appeal under the Insurance Code, Article 1.04. Any appeal to the commissioner must be filed with the commissioner within 15 days from the company's receipt of the associate commissioner's decision. If no written rebuttal is submitted within the time permitted, no further action is required and the report shall be [:]

[(A)] deemed adopted by the associate commissioner [; and]

[(B)] subject to subsection (f) of this section.

[(f)] Open records treatment.

[(1)] Adopted examination report. Each adopted examination report prepared by the Texas Department of Insurance shall be considered an open record pursuant to the Open Records Act, Texas Civil Statutes, Article 6252-17a, §3(c). Each report received from another jurisdiction pursuant to subsection (c)(2) of this section shall be considered an open record.

[(2)] Completed examination reports. All examination reports with examination dates as of December 31, 1990, or later, but before June 30, 1992, which are determined by the chief examiner to be completed shall be considered open records pursuant to the Open Records Act.

[(3)] Confidential supervision. No examination report will be made an open record under this subsection, until the examined company is released from any confidential supervision order issued by this agency.]

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 December 8, 1993.

TRD-9333267

Linda von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: January 14, 1994

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 293. Water Districts

The Texas Natural Resource Conservation Commission (Commission) proposes amendments to §§293.34, 293.44, 293.45, 293.50, 293.51, 293.56, 293.59, 293.69, 293.82, 293.83, 293.85, and 293.171 concerning appointment of directors, issuance of bonds, purchases of facilities, other actions requiring commission consideration for approval, and definitions of terms.

The amendment to §293.34 changes the time frame for filing an Affidavit for Appointment as Director from requiring such filing prior to the creation hearing to requiring such filing prior to consideration for appointment.

The amendment to §293.44 clarifies the guidelines for financing bridge and culvert crossings and provides for allocating the cost between the district and the developer.

The amendment to §293.45 corrects a reference to §293.87 which establishes requirements that a district must satisfy in order to sell bonds later than one year after the effective date of the commission's order approving the bonds.

Section 293.50 is amended to better define those wastewater treatment facilities which the developer may be reimbursed by a district for interest accrued for a period of more than two years.

Section 293.51 is amended to clarify developers' obligations to dedicate all required easements to the district or the public without payment or reimbursement. It also provides for allocating the cost of a drainage channel to be used by more than one district.

Section 293.56 amends the requirements for obtaining letters of credit and revises the form of letter of credit to reflect the new requirements. Changes deadline for renewal from 30 to 45 days. Also, amended to reflect the monitoring of Letter of Credit by Corporate Bank Trust Department.

Section 293.59 is amended to clarify when a district is required to conduct a current market study to support the feasibility of a second or subsequent bond issue. A district can request the commission to waive such requirement if at least 50% of the value of the houses and/or buildings shown in the buildout schedule and used in the projected tax rate calculations supporting the subject bond issue already exist.

Section 293.69 is amended to clarify the commissions requirements for inspecting a facility to be purchased from a developer. It also creates requirements for inspecting a dormant facility prior to purchase.

Section 293.82 is amended to require a \$100 filing fee for applications for a change in the project scope. The requirement to file change orders with the commission for changes in plans of \$25,000 or less has been deleted.

Section 293.83 is amended to clarify when a district can use surplus funds without approval from the executive director and corrects a clerical error from a previous amendment.

Section 293.85 is amended to prescribe a \$100 filing fee to process bond amendments.

Section 293.171 is amended to clarify that a tap fee is not an impact fee

Stephen Minick, budget and planning division, has determined that for the first five years these sections are in effect there will be fiscal implications as a result of enforcement and administration of the sections. There are no additional costs to state government. Minimal increases in revenue may result from the expanded application of certain filing fees. Generally, these sections will formally adopt both statutory requirements and existing agency policies into regulations. Certain costs to local governments may increase but these increases are not considered to be significant. Application fees for certain filings, generally \$100, will be applied. There are no effects on small businesses anticipated.

Mr. Minick also has determined that for the first five years these sections will be in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the regulation of water districts, the management of the financial resources of water districts and delivery of cost effective services to water utility customers. There are no known costs anticipated to persons required to comply with these sections as proposed.

Written comments on the proposal may be submitted to Samuel W. Jones, P.E., District

Administration Section, Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. In order to be considered, written comments must be received by the Water Utilities Division no later than 5:00 p.m., 30 days after the date of publication of this proposal.

Appointment of Directors

• 30 TAC §293.34

The amendment is proposed under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

The Texas Water Code, Chapter 50 also gives the TNRCC the authority to carry out these amendments.

§293.34. Form of Affidavit for Appointment as Director. The following form of affidavit must be completed, executed and filed with the chief clerk of the commission at least ten working days prior to the commission hearing on the appointment of such directors.

Request for Consideration of Appointment as Director

Instructions

The following form must be filed with the chief clerk of the commission prior to consideration for appointment [the creation hearing]. Answer each question or request in complete detail and in writing. Sign your answers to the questions or requests and swear to the truth of your responses before a Notary Public.

Name _____
Address _____
City _____
Zip _____
Name _____ of _____ District _____

State of Texas:
County of _____:

Before me, the undersigned authority of the State and County aforesaid, on this day personally appeared _____ who desires to be appointed as _____ director of _____ to serve until his successor is elected or appointed.

(1) State whether you are 18 or 21 years old (as applicable to the type of district), a resident citizen of Texas, and either own land subject to taxation in the district or are a qualified voter within the district. If applying for director of a Regional District for Water, Sanitary Sewer,

and Wastewater Drainage, you are not required to state whether you own land or are a qualified voter within the district. If applying for director of a Special Utility District, state whether you are a resident citizen of this state and whether you either own land subject to taxation in the district, are a user of the facilities of the district, or are a qualified voter of the district. If applying for director of a Stormwater Control District, state whether you reside within the boundaries of the proposed district, but you are not required to state whether you own land or are a qualified voter within the district.

(2) State whether you are a developer of property in the district, related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district, or are or were within the two years immediately preceding this proposed appointment an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district.

(3) State your present occupation and employment. Is this your main source of income? If not, please explain.

(4) State whether you plan to live in the district. If you do not plan to live in the district, what are your plans for the use and disposition of the land? Not applicable if applying for director of a Regional District for Water, Sanitary Sewer, and Wastewater Drainage.

(5) Do you, or your employer, have any business or other connections with any developer of the proposed district, the attorney representing the proposed district, or the consulting engineer for the proposed district or developer? If so, please explain.

(6) Are you aware that the district is a public entity and that by law notice of its meetings must be given and the meeting must be open to the public and its records shall be available for public inspection at all reasonable times?

(7) Are you aware that the district is subject to the continuing supervision of the commission and will you fully cooperate with the commission?

(8) Do you affirm that you will faithfully execute the duties of the office of director of the district of the State of Texas, and will to the best of your ability preserve, protect, and defend the constitution and laws of the United States and of this state; do you affirm that you have not directly nor indirectly paid, offered or promised to pay, contributed, nor promised to contribute any money, or valuable thing, or promised any public office or employment as a reward to secure your appointment?

Before me, the undersigned authority, on this day personally appeared _____

who desires to be appointed as director of _____

_____ to serve until his successor is elected or appointed, and who being by me duly sworn on his oath deposed and said that every response and statement set forth herein is true and correct.

Signature _____

Sworn to and subscribed before me this _____ day of _____, 19____.

Notary Public in and for _____ County, 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 December 8, 1993.

TRD-9333232

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: January 14, 1993

For further information, please call: (512) 463-8069

Issuance of Bonds

• 30 TAC §§293.44, 293.45, 293.50, 293.51, 293.56, 293.59

The amendments are proposed under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.44. Special Considerations.

(a) Developer projects. The following provisions shall apply unless the commission, in its discretion, determines that application to a particular situation renders an inequitable result.

(1)-(12) (No change.)

(13) Bridge and Culvert Crossings shall be financed in accordance with the following provisions:

(A) The costs of bridge and culvert crossings needed to accommodate the development's road system shall not be financed by a district unless such crossing consists of one or more culverts with a

combined [a single culvert with a] cross sectional area of not more than nine square feet. The districts share shall be subject to the developer's 30% contribution as may be required by §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer).

(B) Drainage Districts and Levee Improvement Districts which were confirmed and operating pursuant to the Water Code Chapters 56 and 57, respectively, prior to September 1, 1989, may fund the costs of bridge and culvert crossings larger than those specified in subparagraph (A) of this paragraph which are necessary as a result of required channel improvements subject to the following limitations:

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

(iv) the district shall be responsible for not more than 50% of the *pro rata share* [cost] as calculated under this subsection, subject to the developer's 30% contribution as may be required by §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer).

(C) (No change.)

(14) (No change.)

(15) Bond issue proceeds will not be used to pay or reimburse consultant fees for the following:

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

(C) fees for completed projects which are not and will not be of benefit to the district;[.]

(D) provided, however, that the foregoing limitations shall not apply to regional projects or special or investigative reports necessary to properly evaluate the feasibility of alternative district projects.

(16)-(20) (No change.)

(b) (No change.)

§293.45. *Action of the Commission and Bond Proceeds Fee.*

(a) The commission may by order dismiss an application for lack of prosecution or failure to comply with the regulations of the commission, allow the applicant to withdraw the application, or approve or deny the project and the issuance of bonds therefore. Upon issuing such an order, the commission shall forward certified copies to the applicant and the attorney general of Texas. District compliance with any special

condition in the Order Approving Engineering Project and Issuance of Bonds, as executed by the commission, is mandatory. Unless bids are received and accepted for sale of the bonds within one year of the effective date of the commission's order approving the bonds, the district may not proceed with the sale of such bonds without executive director approval of an application for an extension of time meeting the requirements of §293.87 [§293.88] of this title (relating to Application for Extension of Time to Sell Bonds). Under no circumstances shall a commission order approving a bond issue be extended beyond three years from the date of the commission order originally approving the bonds.

(b)-(c) (No change.)

§93.50. *Developer Interest Reimbursement.*

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

(d) If otherwise determined to be feasible by the commission, time limitations on accrued developer interest shall not apply to:

(1) wastewater treatment facilities serving or programmed [projected] to serve 2,000 acres or more;

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

(e) (No change.)

§293.51. *Land and Easement Acquisition.*

(a) Water, Sanitary Sewer, Storm Sewer, and Drainage Facilities Easements. All easements required within a district's boundaries for water lines, sanitary sewer lines, storm sewer lines, drainage channels, sanitary control at water plants, and noise and odor control at wastewater treatment plants shall be dedicated to the district or the public by the developer without payment or reimbursement from the district. If any easements are required for such facilities on land not owned by a developer in the district, the district may acquire such land at its appraised market value, and may also pay legal, engineering, surveying or court fees and expenses incurred in acquiring such land, and §293.47 of this title (relating to Thirty Percent of District Construction Costs To Be Paid by Developer) shall not apply to such acquisition.

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

(e) [When one or more upstream districts need land or easements through one or more downstream district(s) each upstream district may pay its pro rata share for its needs if none of the acquisitions is or will be required for partial or full development of the downstream district(s).] If the out-of-district land or easement is required for a drainage channel downstream of the district and a portion of such land or ease-

ment is or will be needed by another district(s), whether upstream or downstream, for development, the district shall only pay for its proportionate share of the land costs based upon the acreage of the drainage area contributing drainage to such drainage channel at full development. However, in the event there is no developer in another district(s) to dedicate the district's pro rata share of the required land, the district may pay the entire cost to acquire such land, but the commission shall order the other district(s) to reimburse the district at such time as development occurs in the other district that requires such drainage right-of-way.

(f)-(g) (No change.)

§293.56. *Requirements for Letters of Credit (LOC).*

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

(c) All LOC's must be valid for a minimum of one year from the date of issuance and if the aggregate amount of the LOC is \$100,000 or more, the LOC shall be held and administered in an account for the benefit of the district by a bank corporate trust department. The district shall authorize the agent to administer all draws on the letter of credit including a final draw prior to the LOC expiration date [should provide that] if the letter of credit is:

(1) not renewed for an additional year at least 45 [30] days prior to its date of expiration;

(2) not called upon in its entirety at least 30 days prior to its [is] date of expiration;

(3) not found to be unnecessary by the commission at least 45 [30] days prior to its date of expiration; or

(4) no longer required because [unless] the construction project has been completed as certified by the district's engineer at least 45 [30] days prior to its date of expiration.[.] [the financial institution shall deposit in a special account in the name of the district, the face amount of the letter of credit. The District shall not commit or expend such funds until the commission has held a hearing authorizing the use of said funds.]

(d) Should the financial institution or agent deposit funds in an account in the name of the district, the district shall not commit or expend such funds until the commission has held a hearing authorizing the use of said funds.

(e)[(d)] All LOC's required pursuant to these rules must be approved by the commission staff.

(f)[(e)] Form of Letter of Credit. The following form shall be used as a letter

of credit for the financial guarantee for utilities construction and/or construction and paving of streets.

ROCK OF GIBRALTAR BANK

LETTER OF CREDIT

GREEN ACRES MUNICIPAL

UTILITY DISTRICT

ONE HOLLOW LOG LANE

MEGALOPOLIS, TEXAS 77000

GENTLEMEN:

Irrevocable Credit No. 1

Amount: \$250,000

You are hereby authorized to value on ROCK OF GIBRALTAR BANK for account of ALL AMERICAN HOMES, INC. up to an aggregate amount of ----- TWO HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ----- available by your drafts at ----- SITE ----- to be accompanied by the original of this letter of credit and the following documents:

1. Written statement signed by the President or Vice President of the Board of Directors of Green Acres Municipal Utility District (or Collateral Agent if LOC is for \$100,000 or more) that All American Homes Inc. has failed to construct streets in Knot Holes West Subdivision in accordance with the terms of the Utility/Street And Road Construction Agreement dated December 1, 1980. (Required only for draft No. 1), and a written certification(s) by the engineer for Green Acres Municipal Utility District that payment is due to the contractor for construction of streets in Knot Holes West Subdivision in the amount shown on the draft(s); or

2. Written statement signed by the President or Vice President of the Board of Directors of Green Acres Municipal Utility District (or Collateral Agent if LOC is for \$100,000 or more) that All American Homes, Inc. has failed to renew or replace this letter of credit within forty-five (45) days prior to its expiration date; or

3. Written statement signed by the President or Vice president of the Board of Directors of Green Acres Municipal Utility District (or Collateral Agent if LOC is for \$100,000 or more) that All American Homes, Inc. has commenced any proceeding, voluntary or involuntary, or that any proceeding has been commenced against All American Homes, Inc. involving bankruptcy [bankruptcy], insolvency, reorganization, liquidation or dissolution of All American Homes, Inc., that any receiver has been appointed by All American Homes, Inc., or that All American Homes,

Inc. has made a general assignment for the benefit of creditors.

Multiple drafts may be presented.

Drafts must be presented to drawee bank not later than May 31, 1983, all drafts must state on their face "DRAWN UNDER ROCK OF GIBRALTAR BANK IRREVOCABLE CREDIT NO. 1".

We hereby engage with you, that all drafts drawn under and in compliance with the terms of this credit will be duly honored, if drawn and presented for payment at our office in Megalopolis, Texas, on or before the expiration date of this credit. We further engage with you that without further notice, if so requested by the President or Vice President of the Board of Directors of Green Acres Municipal Utility District (or Collateral Agent if LOC is for \$100,000 or more), we shall deposit in a special account in the name of the district, the remaining face amount of the letter of credit if the letter of credit is:

(1) not renewed for an additional year at least 45 [30] days prior to its date of expiration;

(2) not called upon in its entirety at least 45 [30] days prior to its date of expiration;

(3) not found to be unnecessary by the Executive Director of the Texas Water Commission at least 45 [30] days prior to its date of expiration; or

(4) unless the construction project has been completed as certified by the district's engineer at least 45 [30] days prior to its date of expiration.

Very truly yours,
Authorized Signature

\$293.59. *Economic Feasibility of Project.*

(a)-(k) (No change.)

(l) For a district's second and subsequent bond issues, all of the foregoing of subsection (k) of this section shall apply, and the following shall apply except that

paragraphs (2), (3), (4), and (5) of this subsection only apply to districts that have a developer as defined by the Water Code, §50.026(d), or to districts which fail to meet the criteria set out in subsection (k)(11) of this section.

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

(5) The requirements of subsection (k)(10) of this section shall apply, unless the district requests and the commission, in its discretion waives such requirement for one of the following reasons:

(A) disregarding those areas which had growth projected and were financed in previous bond issues, at least 50% of the value of the houses and/or buildings shown in the buildout schedule and used in the projected tax rate calculations supporting the subject bond issue must be existing [within the areas to be served by the proposed bond issue is 50% of the proposed value of the houses and/or buildings shown in the projected tax rate calculations];

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

(m)-(o) (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 December 8, 1993.

TRD-933233

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-8069

◆ ◆ ◆
District Actions if the Commission Approves the Engineering Project and Issuance of Bonds

• **30 TAC §293.69**

The amendments are proposed under the Texas Water Code, (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.69. Purchase of Facilities.

(a) A district shall not purchase facilities financed or constructed by a developer in contemplation of sale to the district or assume facility contracts from the developer or reimburse the developer for funds advanced to finance construction of facilities until the commission has inspected the project, reviewed contract administration, and given written authorization to finalize the purchase or reimbursement. The commission shall inspect the facilities and subject to the requirements contained in this subsection, issue its written approval or disapproval of such proposed purchase within 30 days after receipt of written request from a district or a district's authorized representative. The written approval shall be valid for 120 days.

(b) If the purchase of facilities or reimbursement of funds to the developer is not completed within 120 days after the date of the commission's written approval, the district shall again obtain the written approval as provided herein.

(c) If the purchase is for existing facilities which have no active meters or connections (dormant), the following shall apply:

(1) water lines shall be flushed and disinfected to meet minimum standards as outlined in §290.44(f) of this title (relating to Sanitary Precautions and Disinfection);

(2) water lines must have been pressure tested within the two years prior to the purchase; and

(3) for wastewater lines, and infiltration, exfiltration or low-pressure air test is recommended and may be required if the line has been dormant for the previous 12 months.

(d) The inspection of all underground lines should include a visual inspection above ground for depressions or sinkholes.

(e) The seller of the facilities shall be responsible for cleaning out all pipes, inlets or manholes, and outfalls which are not properly operating.

(f) The district shall not be responsible for the cost of repairs needed as a result of negligence or improper construction.

(g) Costs for testing of the facilities may be eligible for reimbursement by the district upon commission approval

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 December 8, 1993.

TRD-9333235

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-8069

◆ ◆ ◆
Other Actions Requiring Commission Consideration for Approval

• **30 TAC §§293.82, 293.83, 293.85**

The amendments are proposed under the Texas Water Code (Vernon 1992), §§5.103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.82. Change in Project Scope or Plans.

(a) A change in project scope is a change in projects funded or a change in the land use plan used to support the feasibility of a commission approved bond issue which affects the central water or wastewater needs of the district or the amount of financial guarantees required pursuant to commission rules and that does not require an increase in the commission approved bond amount. All applications for a change in the project scope shall include:

(1)-(9) (No change.)

(10) plans and specifications approved by all entities having jurisdictional responsibilities; [and]

(11) filing fee in the amount of \$100; and

(12) other information as the executive director or commission may require.

(b) A change in plans is a change in commission-approved plans and specifications for construction work that is not under contract and that does not require a change in the commission approved bond amount.

(1) (No change.)

(2) If the change in plans is \$25,000 or less, a copy of the change order signed by the contractor and an authorized representative of the district shall be filed with the executive director within ten days of the execution date of the change order, together with any revised construction plans and specifications approved by all agencies and entities have jurisdictional responsibilities, i.e., city, county, state, other, if required.]

(2)[(3)] All applications for change in plans shall include:

(A)-(J) (No change.)

(3)[(4)] For purposes of this section, if either the total additions or total deletions contained in the change order exceed \$25,000, even though the net change in the contract price will be \$25,000 or less, approval by the executive director is required.

(c) (No change.)

§293.83. District Use of Surplus Funds. Except as provided in paragraphs (3), (4), and (5) of this section, a district contemplating use of surplus bond funds, interest earned on invested bond proceeds, grants, contributions by others for costs sharing of facilities constructed with bond funds and litigation settlements related to projects financed by bond proceeds must receive approval from the executive director prior to obligation of these funds for any purpose.

(1) For engineering projects, the following documents shall be filed:

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

(C) a detailed explanation of [for] the project;

(D)-(J) (No change.)

(2) (No change.)

(3) Subject to the requirements prescribed in paragraph (4) of this section, a district which has a no-growth tax rate of \$2.00 per \$100 assessed valuation or less calculated by dividing its average annual

debt service on existing tax supported debt by current taxable assessed valuation, [meets the requirements of §293.59(k) (4) of this title (relating to Economic Feasibility of Projects) related to the combined no-growth debt service tax rate] may use surplus funds for improvements necessary to serve development within the district as follows without further approval:

(A)-(D) (No change.)

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

§293.85. Change in Commission Approved Maturity Schedules, Commission Approved Tax Rates, or Increase in Commission Approved Bond Interest Rate.

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

(c) If a district proposes a change in a commission-approved interest rate or maturity schedule which requires a change in the commission-approved tax rate, approval of the executive director, is required. To secure such approval, the district shall file the following:

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

(3) a detailed explanation for the change; [and]

(4) a filing fee in the amount of \$100; and

(5) other information as the executive director may require.

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 December 8, 1993.

TRD-9333236

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-8069

Petition for Approval of Impact Fee

• 30 TAC §293.171

The amendment is proposed under the Texas Water Code (Vernon 1992), §§5. 103, 5.105, and 5.235, which provides the Texas Natural Resource Conservation Commission with the authority to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state, to establish and approve all general policy of the commission, and to collect statutory fees from persons filing various applications with the commission.

§293.171. Definitions of Terms. The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Impact fee—Impact fee means a charge or assessment imposed by a district against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development. A tap fee, the revenue from which is deposited into the district's general fund and not used for capital improvements, is not considered an impact fee but is a rate which may be appealed under Water Code Chapter 13 (related to water rates and services).

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

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

TRD-9333234

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource
Conservation
Commission

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-8069

Title 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.316

The Comptroller of Public Accounts proposes an amendment to §3.316, concerning occasional sales. The addition of subsection (g) to the Tax Code, §151.304, provides that a person holding a permit who makes a purchase in a transaction on which the seller is not required to collect tax under §151.304(b)(1) must accrue tax on the transaction and remit the tax to the comptroller. The amendment to the Tax Code is effective September 1, 1993.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. This rule is adopted under the Tax Code, Title

2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Charles C. Johnstone, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

This amendment is proposed under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2. The amendment implements the Tax Code, §151.304 and §151.055.

§3.316. Occasional Sales. (Texas Tax Code §151.304 and §151.055)

(a) Sales exempt. Except as provided by subsection (i) of this section, a [A] taxable item sold or purchased by way of an occasional sale is exempt from the sales and use tax.

(b) Occasional sales by persons not in the business of selling, leasing or renting.

(1) One or two sales of taxable items, other than an amusement service, during any 12-month period by a person who does not hold himself out as engaging (or who does not habitually engage) in the business of selling taxable items are occasional sales.

(2) The third sale of a taxable item in a 12-month period by a person not previously in the business of selling, leasing, or renting taxable items causes that person to become a retailer. Tax must be collected and reported on the third sale and all subsequent sales unless the sale qualifies for exemption under subsection [subsections] (d) or (e) of this section. If three or more sales are made in a 12-month period, then the person must obtain a permit. See §3.286 of this title (relating to Seller's and Purchaser's Responsibilities). Example: A lump-sum contractor sells a backhoe in October, a typewriter in December, and a crane in February. The contractor has not sold, leased, or rented any construction equipment prior to the sale of the backhoe; therefore, the contractor can sell the backhoe and typewriter tax free as occasional sales. The sale of the crane is the third sale within 12 months from the sale of the backhoe. The sale of the crane is not an occasional sale. The contractor must obtain a permit, collect tax on the sale of the crane and, until an intervening 12 months have passed between sales, all subsequent sales of taxable items.

(3) The sale of not more than ten admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging (or

who does not habitually engage) in the provision [providing] of amusement services are occasional sales.

(4) The exemption provided under subsection (b) of this section does not apply to a rental or lease of a taxable item.

(c) Persons holding permits.

(1) Persons engaged in the business of selling, leasing, or renting taxable items and persons selling, leasing, or renting three or more taxable items in a 12-month period are retailers for the purposes of this section. Also, persons selling more than 10 admissions for amusement services during a 12-month period are retailers for the purposes of this section.

(2) Sales made by a retailer and other persons holding sales or use tax permits that [which] are not made in the regular course of business are not occasional sales. All sales by a retailer are subject to tax except for sales that qualify [unless the sale qualifies] for exemption under subsection [subsections] (d) or (e) of this section.

(3) Sales made by persons holding direct payment permits are not occasional sales. All sales by direct payment permit holders are subject to tax except for sales that qualify [unless the sale qualifies] for exemption under subsection [subsections] (d) or (e) of this section.

(d) Sale of a business or an identifiable segment of a business.

(1) The sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business is an occasional sale. The lease or rental of an identifiable segment does not qualify as an occasional sale.

(2) The sale of the entire operating assets of a separate division, branch, or identifiable segment of a business is an occasional sale if, prior to the sale, the income and expenses attributable to the separate division, branch, or identifiable segment could be separately established from the books of account or record.

(3) For the purposes of this section, a "separate division, branch, or identifiable segment" means an enterprise engaged in providing a product or service to customers, usually for a profit. "Income" means revenue generated by the enterprise in providing that product or service. "Expenses" mean those operating expenses incurred by the enterprise in providing the product or services that are directly traceable to that enterprise. "Operating assets" means tangible personal property [mean those assets] used exclusively by the enterprise in providing the product or service but does not mean tangible personal property [assets] maintained and used for general business purposes in addition to use by the specific enterprise.

(4) The entire operating assets [(excluding intangibles and real property)] of the business or of the division, branch, or identifiable segment of the business must be sold in a single transaction to a single purchaser. The sale of the entire operating assets through several transactions to several purchasers will not qualify as an occasional sale under this section.

(e) Transfer without change in ownership.

(1) Any transfer of all or substantially all the property held or used by a person in the course of an activity, when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer, is an occasional sale. Since ownership must be transferred, "transfer" does not include the lease or rental of property.

(2) For the purposes of this section, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity. Ownership is "substantially similar" if the person transferring the property owns 80% or more of the stock in the corporation to which the transfer is being made. Ownership is "substantially similar" if 80% or more of the stock in the corporation making the transfer is owned by the transferee.

(3) "All or substantially all" of the property will be considered to have been transferred if 80% or more is transferred.

(f) Occasional sales as defined in subsections (d) and (e) of this section are not restricted by subsections (a) and (b) of this section. Three or more sales of the type defined in subsections (d) and (e) of this section would not result in the loss of the occasional sale exemption.

(g) Resale certificates--occasional sales--leases.

(1) When a lessor purchases a taxable item tax free for rental or lease and later sells, leases or rents the item by way of an occasional sale as provided in subsection [subsections] (d) or (e) of this section, then the lessor owes tax on the amount by which the lessor's purchase price exceeds the amount of rent, if any, upon which tax has been collected and reported from the prior rental or lease of the item.

(2) If the item was exempt from sales tax when originally purchased by the lessor or if tax was paid on the full purchase price at the time of purchase by the lessor, then the lessor does not incur sales tax liability on the original purchase price when sold by way of an occasional sale as provided in subsection [subsections] (d) or (e) of this section.

(h)[(3)] Purchases exempt from tax. Except as provided in subsection (i) of this section, the purchase [The sales] price of an item sold by means of an occasional sale is not subject to tax.

(i) Exception to subsection (h) of this section. A person who holds a permit issued pursuant to the Tax Code, Chapter 151, who makes a purchase in a transaction on which the seller is not required to collect tax under subsection (b) of this section, must accrue and remit tax to the comptroller on the transaction.

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 December 7, 1993.

TRD-9333187

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

Earliest possible date of adoption: January 14, 1994

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

◆ ◆ ◆
Chapter 9. Property Tax
Administration

Subchapter H. Tax Record
Requirements

• 34 TAC §9.3015

The Comptroller of Public Accounts proposes an amendment to §9.3015, concerning the report of decreased value forms. Section 9.3015 sets out the contents of the forms for the report of decreased value by any property owner. The amendment is necessary because House Bill 1016, 73rd Legislature, 1993, changed the deadline to file a report of decreased value from April 1 to April 14. The proposed amendment reflects the new filing deadline for renditions and property reports.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the rule will be in effect there will be no significant revenue impact on the state or local government.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. There will be no significant fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Barbara Truesdale, Manager, Property Tax Division, 4301 Westbank Drive, Building B, Suite 150, Austin, Texas 78746-6565.

This amendment is proposed under the Tax Code, §5.07, which requires the comptroller to prescribe the contents of all forms necessary for the administration of the property tax system, and the Tax Code, §22.24, which permits the comptroller to prescribe the contents of renditions and reports of property value. The amendment implements the Tax Code, §23.03 and §22.23.

9.3015. Report of Decreased Value Forms.

(a) All appraisal offices shall prepare and make available forms for the report of decreased value by any property owner.

(b) All forms for the report of decreased value by any property owner shall provide for the following information:

(1) a statement indicating that the report form is to be filed by the property owner between January 1 and April 14 [1];

(2) the year for which the report of decreased value is filed;

(3) the name of any taxing units to which the report of decreased value is filed;

(4) the identification of the property owner filing the report of decreased value (name and address);

(5) the legal description of the property involved in the filing of the report of decreased value and its location;

(6) the name and address of a person to contact for additional information;

(7) the date of the report of decreased value;

(8) the signature of the property owner, or the authorized officer or agent, filing the report of decreased value; and

(9) a statement that the report of decreased value is confidential and not open to public inspection, except for those instances set forth in the Texas Property Tax Code, §22.27(b).

(c) In order to determine the appraised value of property that is the subject of a completed and timely filed report of decreased value, the report form will provide for the following necessary information:

(1) a statement indicating the nature and cause of decreased value of the property subject to the report; and

(2) a statement indicating that the property owner may state his or her opinion about the market value of the property subject to the report.

(d) All forms for the report of decreased value by any property owner shall require the property owner to state that the information contained in the form is true and correct.

[(e) All forms for the report of decreased value by any property owner shall contain the following statement: Any person who makes a false entry upon the foregoing

record shall be subject to one of the following penalties:

[(1) imprisonment of not more than 10 years nor less than two years and/or a fine of not more than \$5,000 or both such fine and imprisonment; or

[(2) confinement in jail for a term up to one year or a fine not to exceed \$2,000 or both such fine and imprisonment as set forth in the Penal Code §37.10.]

(e)[(f)] All forms for the report of decreased value by any property owner shall make provision for the following information on the back of the form:

(1) the name of the person from the tax office who reviews the property to verify any change in value;

(2) the date the person from the tax office views the property subject to the report or, in the case of an oil and gas property, reviews the appraisal of the property; and

(3) the determination of any decrease in appraised value and its cause and nature by the person from the tax office who views the property to verify any change in value.

(f)[(g)] Appraisal offices failing to establish a form for the report of decreased value as required in this section may be judged to be in compliance upon a showing to the board that a form for the report of decreased value substantially equivalent to that required in this section has been established.

YEAR

REPORT OF DECREASED VALUE

assessing district name

Phone (area code & number)

This application covers property you owned on January 1 of this year. If you believe the property's appraised value decreased during the preceding tax year for any reason other than normal depreciation, you must file this completed form between January 1 and April 14 of this year. You may ask for additional time if you can show good cause to the chief appraiser. Return the completed form to the address above.

This report is confidential and not open to public inspection, except as Sec. 22.27(b), Tax Code, provides.

Step 1: Owner's name and address	Owner's name	
	Present mailing address (number and street)	
	City, town or post office, state, ZIP code	Phone (area code and number)
Step 2: Describe the property	Legal description:	
	Taxing units in which property is located:	
	State the property's market value (optional)	
	\$ _____	
Explain in detail the cause of the value decrease and how it affected the property's value.		
Step 3: Sign the application	By signing this application, you certify that this information is true and correct to the best of your knowledge and belief.	
	Signature sign here ▶	Date
	On behalf of (name of owner)	Title
	For additional information about this property, contact: (name)	
	Present mailing address (number and street)	
	City, town or post office, state, ZIP code	Phone (area code and number)

FOR APPRAISAL DISTRICT USE

Reviewer

Title

Real property

Personal property

Date property was
viewed

Oil or gas
property

Date appraisal was
reviewed

Reviewer's determination:

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 December 8, 1993.

TRD-9333254

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

Earliest possible date of adoption: January 14, 1994

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

◆ ◆ ◆
• 34 TAC §9.3038

The Comptroller of Public Accounts proposes an amendment §9.3038, concerning the current, delinquent, and special valuation rollback tax bills or statements. Section 9.3038 sets forth the requirements for the contents of tax bills and statements. The amendment is necessary because Senate Bill 878, 73rd Legislature, 1993, creates a new method under which the owner of a special inventory as defined by the Tax Code, §23.12A, pays a tax levied against the inventory. The bill also requires relevant taxing units to itemize separately the taxes levied against special inventories on the tax bills prepared for the owners of special inventory. This bill becomes effective January 1, 1994. The proposed amendment requires that taxing units itemize separately the tax levied against a special inventory on the current and delinquent tax bills.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. There will be no significant fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Barbara Truesdale, Manager, Property Tax Division, 4301 Westbank Drive, Building B, Suite 150, Austin, Texas 78746-6565.

This amendment is proposed under the Tax Code, §5.07, which requires the comptroller to prescribe the contents of all forms necessary for the administration of the property tax system, and the Tax Code, §31.01, which permits the comptroller to require certain information on the tax bill. The bill implements the Tax Code, §23.12A.

§9.3038. *Current, Delinquent, and Special Valuation Rollback Tax Bills or Statements.* (Tax Code §23.12A).

(a) All offices assessing and collecting taxes for purposes of ad valorem taxation shall prepare and issue current, delinquent, and special valuation rollback tax bills or statements, as applicable and required by the [Property] Tax Code.

(b) Current tax bills or statements shall be prepared as follows.

(1) Current tax bills shall be issued to each person in whose name the property is listed, or to his authorized agent, by October 1, or as soon thereafter as practicable. In the case of mortgaged property where taxes are paid from an escrow account controlled by the mortgagee (mortgage holder), the notice requirements shall be satisfied by sending the tax bill to the mortgagee. Written authorization by the property owner is not required in order to deliver the tax bill to the mortgage company when the mortgage company acknowledges that it has authority for payment of taxes on the property.

(2) The items of information to be included on the current tax bill are those set forth in the [Texas Property] Tax Code, §31.01(c) and (d).

(3) Current tax bills prepared for owners of special inventory shall separately itemize the taxes levied against the special inventory pursuant to Tax Code, §23.12B(g).

(c) Delinquent tax bills or statements shall be prepared as follows.

(1) As outlined in the [Texas Property] Tax Code, §33.04, delinquent tax bills shall be delivered to each person whose name appears on the current and cumulative delinquent tax rolls.

(2) The following items of information shall be included on each delinquent tax bill:

(A) the name and address of the collecting office and the name of the taxing unit(s) for which delinquent taxes are due on the specified property for which that office collects;

(B) the name and address of the property owner and/or agent;

(C) the description of the property;

(D) the account number of the property;

(E) the year(s) for which the taxes are delinquent;

(F) the amount(s) of delinquent taxes, penalties, and interest due, indicating the amount due each taxing unit;

(G) the date by which the taxes delinquent should be paid before additional penalties and interest are applied;

(H) at the option of the collecting office, more than one year of delinquent taxes may be included on one delinquent tax bill.

(3) Delinquent tax bills prepared for owners of special inventory shall separately itemize the taxes levied against special inventory pursuant to Tax Code, §23.12B(g).

(d) Special valuation rollback tax bills shall be prepared as follows.

(1) Special valuation rollback tax bills shall be issued as provided in the [Property] Tax Code, Chapter 23, specifically §23.46(c) for the rollback taxes under agricultural-use valuation; §23.55(e) for the rollback taxes under open-space agricultural land valuation; §23.76(e) for the rollback taxes under open-space timber land valuation; §23.86(c) for the rollback taxes for recreational, park, and scenic land valuation; and §23.96(c) for the rollback taxes for public access airport property.

(2) The following minimum items of information shall be included on the special valuation rollback tax bills:

(A) the description of the property subject to the rollback tax;

(B) the account number of the property;

(C) the year(s) for which the rollback tax is imposed;

(D) the amount of taxes which would have been imposed on the property for the year(s) based on the market value of the property;

(E) the amount of taxes that were imposed on the property for the year(s) based on the productivity value of the property;

(F) the difference of taxes between market and productivity values for the year(s) on the property;

(G) the amount of interest imposed on the property for the year(s);

(H) the total amount of tax and interest due and the due date;

(I) the rates of penalty and interest imposed for delinquent payment of the taxes and interest;

(J) a statement indicating that the taxes due are for rollback tax purposes.

(e) Offices assessing and collecting taxes for purposes of ad valorem taxation that fail to prepare and issue current, delinquent, and special valuation rollback tax bills as required in this section may be judged to be in compliance upon a showing to the board that such statements substantially equivalent to those required in this section have been prepared.

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 December 8, 1993.

TRD-9333253

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

Earliest possible date of adoption: January 14, 1994

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

Subchapter I. Validation Procedures

• 34 TAC §9.4026

The Comptroller of Public Accounts proposes new §9.4026, concerning forms for the appraisal of special inventory consisting of motor vehicles, and other applicable inventory required to register with the Texas Department of Transportation through the county tax assessor-collector. Section 9.4026 sets out the contents of the special inventory tax statement and the special inventory declaration, which incorporate the requirements of the Tax Code, §23.12B, effective January 1, 1994. The new section is necessary because Senate Bill 878, 73rd Legislature, 1993, created a new appraisal method for the owners of special inventory. The law requires the comptroller to create a special inventory tax statement, which the owner of the special inventory must file monthly with the chief appraiser for each unit sold. The form's purpose is to disclose tax information about vehicles sold by the owners of special inventory. The owner must also file on or before February 1 of each year, a special inventory declaration with the chief appraiser. This form includes general information about the special inventory owner's business.

The new section specifies the language and order of the information required in the forms. This information is necessary for chief appraisers to implement the new appraisal of special inventory. Information on the special inventory tax statement must include: a de-

scription of the units sold, whether they came from special inventory, sales prices, unit property tax values, and if a unit were excluded from special inventory, the reason for exclusion. The special inventory declaration must include: the owner's name and each business address, any of the owner's general distinguishing numbers issued by the Texas Department of Transportation, a statement that he or she owns a special inventory, and the inventory's §23.12A market value. The rule adopts the forms by reference.

Mike Reissig, chief revenue estimator, has determined that for the first five-year period the proposed rule will be in effect there will be no significant revenue impact on the state or local government as a result of enforcing the rule.

Mr. Reissig also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. There are no significant fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the new section may be submitted to Barbara Truesdale, Manager, Property Tax Division, 4301 Westbank Drive, Building B, Suite 150, Austin, Texas 78746-6565.

This new section is proposed under the Tax Code, §5.03, which requires the comptroller to adopt rules establishing minimum standards for the administration and operation of appraisal districts; §5.07, requiring the comptroller to prescribe the contents of all forms necessary for the administration of the property tax system; and §23.12B, requiring the comptroller to promulgate the special inventory tax statement. The new section implements the Tax Code, §23.12A and §23.12B.

§9.4026. Forms for Appraisal of Special Inventory. (Tax Code §23.12A and §23.12B).

(a) Appraisal offices shall prepare and make available special inventory tax statement and special inventory declaration forms as provided by the Tax Code, §23.12B.

(b) A property owner shall use comptroller Model Forms 23.12B and 23.12B-1 to file the special inventory tax statement and special inventory declaration forms required by Tax Code, §23.12B.

(c) The special inventory tax statement shall provide spaces for the appraisal office to indicate the name of the appraisal district, address, and telephone number.

(d) The special inventory tax statement shall require a property owner to provide the following information:

(1) the property owner's name, mailing address, and telephone number;

(2) the inventory location;

(3) the appraisal district account number;

(4) the name of the person who completes the form;

(5) the capacity in which the person who completes the form serves the business;

(6) the month and year the information reflects;

(7) a description of each unit sold, including model year, make, and vehicle identification number;

(8) date of sale;

(9) name of purchaser;

(10) type of sale, indicating whether unit is sold from special inventory or from excluded inventory;

(11) sales price of the unit; and

(12) unit property tax value of the unit, calculated as required by §9.4027 of this title (relating to Appraisal of Special Inventory), if it was sold from the owner's special inventory.

(e) The chief appraiser shall include the following information on the special inventory tax statement:

(1) information about how and when to file a special inventory tax statement;

(2) a statement that an owner who fails to file a special inventory tax statement commits an offense, which is a misdemeanor punishable by a fine not to exceed \$100, and that each day during which an owner fails to comply is a separate violation;

(3) a notice of the penalties prescribed under the Penal Code, §37.10, for making or filing an application containing a false statement; and

(4) a statement that the chief appraiser may require the property owner to submit documentation verifying the information in the form.

(f) The special inventory declaration shall provide spaces for the appraisal office to indicate the name of the appraisal district, address, and telephone number.

(g) The special inventory declaration shall require a property owner to provide the following information:

(1) the property owner's name, mailing address, and telephone number;

(2) the name of the person who completes the form;

(3) the capacity in which the person who completes the form serves the business;

- (4) the inventory location;
 - (5) the appraisal district account number;
 - (6) starting date of business;
 - (7) each of the owner's general distinguishing numbers, if the owner has a general distinguishing number issued by the Texas Department of Transportation;
 - (8) a statement that the owner is the owner of a special inventory; and
 - (9) the market value of the inventory for the current tax year as computed under the Tax Code, §23.12A(b).
- (h) The chief appraiser shall include the following information on the special inventory declaration:

(1) information about how to file the special inventory declaration;

(2) a statement that an owner who fails to file a special inventory declaration commits an offense, which is a misdemeanor punishable by a fine not to exceed \$500, and that each day during which an owner fails to comply is a separate violation; and

(3) a notice of the penalties prescribed under the Penal Code, §37.10, for making or filing an application containing a false statement.

(i) The chief appraiser may duplicate Model Forms 23.12B and 23.12B-1, or employ different forms that set out the information listed in subsections (b)-(h) of this section in the same language and sequence as the model forms.

(j) In special circumstances, the chief appraiser may use forms that provide additional information, delete information required by this section, or set out the required information in different language or sequence than that required by this section if the form has been previously approved by the Property Tax Division, Comptroller of Public Accounts.

(k) The Comptroller of Public Accounts adopts by reference Model Form 23.12B, special inventory tax statement and Model Form 23.12B-1, special inventory declaration. Copies of the forms are available for public inspection at the Office of the Secretary of State, *Texas Register* Division, or may be obtained by writing the Comptroller of Public Accounts, Property Tax Division, P.O. Box 13528, Austin, Texas 78711-3528.

YEAR

SPECIAL INVENTORY DECLARATION

Appraisal district name

Phone (area code & number)

Address

INSTRUCTIONS: If you own an inventory subject to the provisions of Sec. 23.12A, Tax Code, you must file this special inventory declaration with the chief appraiser and a copy with the tax assessor-collector not later than February 1 of each year. If you were not in business on January 1, you must file this statement not later than 30 days after starting business. Failure to file this form is a misdemeanor offense punishable by a fine not to exceed \$500. Each day during which you fail to comply is a separate offense.

Step 1:

Owner's name and address

Owner's name

Current mailing address (number and street)

City, town or post office, state, ZIP code

Phone (area code and number)

Person completing application

Title

Step 2:

Required information about business

Name of each business (attach additional pages if necessary)

Address of each business (attach additional pages if necessary)

Owner's general distinguishing number(s) (GDN) issued by the Texas Department of Transportation. (attach additional pages if necessary)

Step 3:

Optional information about the business

Give appraisal district account number if available, or attach tax bill or copy of appraisal or tax office correspondence concerning this account. (attach additional pages if necessary)

Starting date of business, if not in business on January 1st of this year

Step 4:

Ownership statement

_____ (Owner's name)
is the owner of a special inventory.

Step 5:

Market value of your special inventory

State the market value of your special inventory for the current tax year, as computed under Sec. 23.12A(b), Tax Code (total annual sales from the special inventory for the previous 12-month period corresponding to the prior tax year divided by 12 equals market value). If you were not in business for the entire 12-month period, report the number of months you were in business and the total number of sales for those months. The chief appraiser will determine your inventory's market value.

Note: If you did not own an inventory subject to the provisions of Section 23.12A, Tax Code, on January 1 of this year, the market value will be zero.

Special Inventory Sales for Current Year. Market Value

\$ _____ + 12 = _____

Step 6:

Sign the form

Signature
sign here

Date

Under Texas Penal Code, Section 37.10, if you make a false statement on this application, you could receive a jail term of up to 1 year and a fine of up to \$3,000, or community correctional facility confinement of up to 1 year, or a prison term of 2 to 10 years and a fine of up to \$10,000.

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 December 8, 1993.

TRD-9333256

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

Earliest possible date of adoption: January 14, 1994

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

◆ ◆ ◆
• 34 TAC §9.4027

The Comptroller of Public Accounts proposes new §9.4027, concerning appraisal of special inventory consisting of motor vehicles and other applicable inventory required to register with the Texas Department of Transportation through the county tax assessor-collector. The new section clarifies the requirements of the Tax Code, §23.12A and §23.12B, effective January 1, 1994. The section is necessary because of the passage of Senate Bill 878, 73rd Legislature, 1993, which created a new appraisal method for the owners of special inventory. The comptroller is directed to create a special inventory tax statement, which the owner of the special inventory must file monthly with the chief appraiser for each unit sold. The owner must also file on or before February 1 of each year, a special inventory declaration with the chief appraiser, with a copy to the county tax assessor-collector.

The rule clarifies the definition of "most recent" in describing county aggregate tax rate, as provided for in the definition of "unit property tax value factor" in the Tax Code, §23.12B(10). This addition is necessary for the implementation of the requirements for the new appraisal of special inventory.

Mike Reising, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Reising also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be in providing new information regarding tax responsibilities. There are no significant fiscal implications for small businesses. There is no significant anticipated economic cost to persons who are required to comply with the proposed rule.

Comments on the new section may be submitted to Barbara Truesdale, Manager, Property Tax Division, 4301 Westbank Drive, Building B, Suite 150, Austin, Texas 78746-6565.

This new section is proposed under the Tax Code, §11.43(f), which requires the comptroller to prescribe the contents and form for

each kind of property tax exemption. The bill implements the Tax Code, §23.12A and §23.12B.

§9.4027. *Appraisal of Special Inventory.* The term "most recent" describing "county aggregate tax rate" contained in the definition of "unit property tax value factor" in the Tax Code, §23.12B(10), means the tax rate for the tax year preceding the year in which the vehicle is sold.

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 December 8, 1993.

TRD-9333255

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

Earliest possible date of adoption: January 14, 1994

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

◆ ◆ ◆
TITLE 37. PUBLIC
SAFETY AND CORREC-
TIONS

Part III. Texas Youth
Commission

Chapter 85. Admission and
Placement

Placement Planning

• 37 TAC §85.23, §85.29

The Texas Youth Commission (TYC) proposes amendments to §85.23 and §85.29, concerning classification and program completion and movement. The amendments will allow staff to reclassify youth involved in a riot at a TYC facility and changes criteria by which a youth may be moved to a follow-up placement following the initial placement.

John Franks, director of Fiscal Affairs, 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. Franks also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be more efficient control of delinquent youth. 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 Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendments are proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to confine youth under conditions it believes are in the best interest of the youth and of the public.

The proposed rules implement Human Resources Code, §61.078.

§85.23. *Classification.*

(a) Policy. Classification is based on the youth's offense history, the classifying offense, and a finding regarding extenuating circumstances incident to the classifying offense. A youth who commits an offense while in TYC custody may be administratively reclassified through a Level I hearing.

(b) Explanation of Terms Used.

(1) Classifying Offense. The classifying offense is the most serious of the relevant offenses documented in the youth's record. Relevant offenses are:

(A) on commitment, the committing offense and any offense(s) for which the youth was on probation at the time of the committing offense; or

(B) following a level I hearing, the offense(s) found at the hearing.

(2) Committing Offense. The committing offense is the most serious of the offenses found at the youth's most recent judicial proceeding [adjudication].

(3) Most Serious Offense. The most serious offense is determined according to the following hierarchy, with each subsequent factor being considered only if two or more relevant offenses yield the same result under the preceding factor. If two or more offenses yield the same results through all steps of the hierarchy, determination of the most serious offense is left to the discretion of the staff assigning classification.

(A) an offense which carries a determinate sentence;

(B) the offense for which the designated minimum length of stay will produce the longest time in the physical custody of TYC;

(C) the offense which requires the highest level of restriction in placement;

(D) the offense which carries the most severe criminal penalty; and

(E) the most recently adjudicated offense.

(4) **Federal Offenses.** If a committing and/or classifying offense is a violation of a federal statute, the offense will be treated as a violation of a state statute which prohibits the same conduct as the relevant federal statute. Federal violations will be identified by the code number assigned to the corresponding substantive state statute receded by an "F".

(c) Rules.

(1) Classifications.

(A) **Sentenced Offender.** A sentenced offender is a youth committed to TYC pursuant to §54.04(d)(3) or §54.05(f), Family Code:

- (i) murder, 19.02, all
- (ii) capital murder, 19.03, all
- (iii) aggravated kidnaping, 20.04, all
- (iv) aggravated sexual assault, 22.021, all
- (v) deadly assault on a law enforcement officer, corrections officer, or court participant, 22.03, all
- (vi) criminal attempt, 15.01, only if the offense attempted was Capital Murder (Sec. 19.03)

(B) **Type A-Violent Offender.** A type A violent offender is a youth whose classifying offense is one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the Texas Penal Code definition (Title 5) for each offense in its entirety except where TYC policy limits the applicability to the specific subsections or under the conditions named.

- (i) murder, 19.02, all
- (ii) capital murder, 19.03, all
- (iii) voluntary manslaughter, 19.04, all
- (iv) criminal attempt, 15.01, only if the offense attempted was Capital Murder (Sect. 19.03) or murder (Sec. 19.02)

(C) **Type B-Violent Offender.** A type B violent offender is a youth whose classifying offense is the commission, attempted commission, aiding the commission, conspiracy to commit, or solicitation of one of the offenses listed in this paragraph and who has not been sentenced to commitment in TYC. TYC adopts the

Texas Penal Code definition (Titles 5 and 7) for each offense in (i)-(xvii) in its entirety except where TYC policy limits the applicability to specific subsections or under the conditions named.

- (i) murder, 19.02, conspiracy or solicitation only
- (ii) capital murder, 19.03, conspiracy or solicitation only
- (iii) voluntary manslaughter, 19.04, attempts, conspiracy or solicitation only
- (iv) involuntary manslaughter, 19.05, all
- (v) kidnapping, 20.03, all
- (vi) aggravated kidnaping, 20.04, all
- (vii) sexual assault, 22.011 all
- (viii) intentionally exposing another to AIDS or HIV, 22.012, all
- (ix) aggravated assault, 22.02, only causing serious bodily injury, or involving use of a deadly weapon
- (x) aggravated sexual assault, 22.021, all
- (xi) deadly assault on a law enforcement or corrections officer or court participant, 22.03, all
- (xii) injury to child or elderly individual, 22.04, first degree felony only
- (xiii) aiding suicide, 22.08, felony only
- (xiv) tampering with a consumer product, 22.09, first and second degree felony only
- (xv) arson, 28.02, all
- (xvi) aggravated robbery, 29.03, all
- (xvii) burglary, 30.02, only with intent to commit any other violent offense defined in this paragraph
- (xviii) intentionally participating with six or more persons in conduct at a TYC facility that endangers persons or property and substantially obstructs the performance of facility operations;
- (xix)[(xviii)] intentionally, knowingly, or recklessly causing bodily injury to a TYC staff member if the assault:
 - (I) is incident to and in furtherance of an escape; or
 - (II) involves the use of a deadly weapon; or

(III) causes serious bodily injury; or

(IV) appears from evidence to have been the result of planning; or

(V) appears from evidence to have been the result of concerted action by more than one youth; or

(VI) is deliberate, unprovoked, and causes bodily injury requiring medical attention.

(D) **Chronic Serious Offender.** A chronic serious offender is a youth whose classifying offense is a felony and who has been found to have committed at least one felony in each of at least three separate and distinct due process hearings, where the second felony was committed after the disposition of the first felony and the third felony was committed after the disposition of the second felony.

(E) **Controlled Substances Dealer.** A controlled substances dealer is a youth whose classifying offense is any felony grade offense defined as a manufacture or delivery offense under the Texas Controlled Substances Act, Chapter 481, Health and Safety Code.

(F) **Firearms Offender.** A firearms offender is a youth whose classifying offense involved a finding by the court or TYC hearings examiner that the youth possessed a firearm during the offense. Classifying offenses for this classification are not limited to offenses specified in Chapter 46 of the Texas Penal Code.

(G) **Violator of CINS Probation.** A violator of CINS probation is a youth who:

(i) is committed for violating terms of probation by an act which would not be punishable by imprisonment or confinement in jail if committed by an adult; and

(ii) was on probation at the time of the probation revocation for no act more serious than Conduct Indicating a Need for Supervision (CINS) as defined in the Texas Family Code, Title 3.

(H) **General Offender.** A general offender is a youth who is not eligible for any other classification.

(2) **Extenuating Circumstances.**

(A) The staff assigning classification will consider any extenuating circumstances incident to the classifying offense.

(B) Extenuating circumstances incident to a violent offense are those facts which indicate that the youth is not a significant danger to the physical or emotional well-being of another. Examples of such facts include, but are not limited to:

(i) the youth was an indirect or passive participant in a violent act;

(ii) the youth set fire to an abandoned vehicle;

(iii) the youth engaged in consensual sexual intercourse with someone who was capable of appraising the nature of that act and of resisting it.

(C) Extenuating circumstances incident to offenses other than violent offenses are those facts which explain a youth's conduct but do not constitute a legally-recognized defense to the conduct. Examples of such facts include, but are not limited to acts in which:

(i) the only property involved in the offense was of minimal value and was returned undamaged to its owner;

(ii) the only bodily injury intended or inflicted by the youth consisted of brief or minor discomfort;

(iii) the youths conduct was an impulsive response to perceived provocation and posed no threat to persons or property;

(iv) the youth was persuaded to participate in the offense by a parent or other authority figure.

(D) When extenuating circumstances incident to the classifying offense are found, the designated classification may be waived.

(3) Waivers.

(A) A designated classification, except sentenced offender, may be waived and a less restrictive classification assigned when a waiver is requested by the youth assessment panel and granted by the executive director or his designee.

(i) The assessment panel may request a waiver when, in the professional judgment of its members, a youth's needs can best be met by such a waiver.

(ii) The assessment panel will always consider requesting a waiver when a youth's classifying offense is a violent offense and there are extenuating circumstances incident to the offense.

(B) A designated classification except sentenced offender may be waived and a less restrictive classification assigned by a TYC hearings examiner at a TYC Level I due process hearing when the hearings examiner finds extenuating circumstances.

(C) When a designated classification is waived, the youth will be assigned the classification with the longest minimum length of stay from among the remaining applicable classifications.

§85.29. Program completion and Movement.

(a) Policy. The Texas Youth Commission (TYC) uses specific objective criteria to determine when a youth has completed a program and is eligible to be released home or to another program. Progress toward successful completion of criteria is evaluated at specific regular intervals. When criteria are substantially completed, the youth attains parole status and is moved to his or her home. When certain criteria are met but completion of required criteria is not possible or is not desirable in the current placement program, the youth is moved to a follow-up placement where completion is possible. TYC does not accept the presence of a detainer as an automatic bar to earned release. The agency releases a youth to authorities pursuant to a warrant. Additional procedures and restrictions are applied prior to the release on parole from TYC facilities for all sentenced offender youth. See GOP.47.15, §85.35 of this title, relating to Sentenced Offender Disposition. Youth may be moved to a placement of equal or more restriction as a disciplinary consequence. Each of these and other types of placement changes are subject to policies in this chapter and in the Disciplinary Practices chapter, GOP.63.

(b) Rules.

(1) Program Completion Criteria.

(A) Youth become eligible for program release and parole status when the following criteria are met:

(i) completion of the minimum length of stay;

(ii) completion of required Individual Case Plan (ICP) objectives; and

(iii) no major violations of rules of conduct within 30 days:

(I) prior to the case review to determine eligibility for parole release; and

(II) prior to the actual release.

(B) TYC program staff where the youth is assigned determine when criteria have been met.

(C) Program completion criteria are explained to every youth through the youth handbook and during orientation to each placement.

(2) Sentenced Offender Treatment. Due to the nature of determinate sentences, some rules governing the classification, placement, release, follow-up, parole status, and disciplinary movement of TYC youth must be applied differently to sentenced offenders.

(A) Classification. A youth classified at commitment as a sentenced offender retains that classification as long as the youth remains in the custody of TYC as a result of that commitment. See GOP.47.03, §85.23 of this title, relating to Classification.

(B) Initial Placement. All sentenced offenders are assigned to TYC operated perimeter-secure facilities unless the executive director waives such placement for a particular youth in compliance with GOP.47.01, §85.21 of this title, relating to Program Assignment System.

(C) Movement and Parole. Sentenced offenders who meet program completion criteria for release on follow-up or parole may not be released without proper authorization:

(i) Prior to a sentenced offender's 18th birthday, a youth may be placed in an appropriate follow-up program if approved by the deputy executive director. A follow-up placement may be to any location other than home or home substitute.

(ii) When a juvenile court orders that a sentenced offender be released under supervision, the youth shall be released on follow-up or parole, as appropriate to the youth's progress at the time of the court's order.

(iii) When the juvenile court orders that a sentenced offender be recommitted to TYC without a determinate sentence, the youth's eligibility for release on parole or follow-up shall be governed by the release criteria and procedures for the classification the youth would have received if not a sentenced offender.

(D) Disciplinary Movement.

A sentenced offender may be assigned to any appropriate placement, including a maximum restriction facility, following a disciplinary hearing. The appropriate placement is selected according to the totality of the circumstances, including the youth's age, sentencing offense, length of time and progress in TYC custody, and the nature of the misconduct for which the youth is being disciplined.

(B) Release Exceptions. Sentenced offenders will be considered for release under a hardship or for population control only if:

(i) the youth is less than 18 years of age and the release is approved by the committing court; or

(ii) the youth is 18 years of age or older and meets the exception criteria for the classification the youth would have received if not a sentenced offender.

(3) Release Review Requirements.

(A) A release review is held specifically to evaluate a youth's status in meeting all program completion criteria and thus his or her release and parole status eligibility. Release reviews are held on the following schedule.

(i) For youth in TYC operated residential programs as an initial placement, i.e., on commitment, recommitment or following a disciplinary movement:

(I) every 90 days; and

(II) within 30 days prior to completion of minimum length of stay; and/or

(III) within 30 days prior to release.

(ii) For youth in TYC operated residential programs as a follow-up placement or in a TYC contract program, every 30 days.

(B) If, at the release review, it is determined the youth has not completed all criteria and that substantial completion is possible in the current program, the youth continues in the current program.

(C) If, at the release review, it is determined the youth has not completed all criteria and that completion may be more appropriate in a different placement, follow-up placement is considered and the objective(s) not met is documented.

(D) If, at the release review, it is determined the youth has completed all required program completion criteria, a date of release and parole is set for within 30 days.

(4) Criteria Incomplete-Follow-up Movement Procedures.

(A) A follow-up placement is always to a placement of equal or less restriction than the youth's current placement but no less restriction than medium level unless the minimum length of stay has been completed.

(B) A youth may be released to a follow-up placement when at a release review, program staff finds and documents that:

(i) the youth has met all program completion criteria except required ICP objective(s) and that the [a follow-up] program is one [a more appropriate placement] in which the youth can meet remaining objective(s); or

(ii) the youth is not a type A violent offender and has met program completion criteria except required minimum length of stay and required ICP objective(s) and that the [a] follow-up program is one [a more appropriate placement] in which the youth can meet remaining objective(s). The youth is required to complete the minimum length of stay in the follow-up placement. A youth who may be considered is one who:

(I) has been in placement at least four months if the minimum length of stay is nine months or more, or three months if the minimum length of stay is six months;

[(I) has been in initial placement at least four months;]

(II) has made substantial progress on ICP objectives; and

(III) has no major rule violations within the 30 days prior to movement.

[(III) is low risk according to the parole risk assessment.]

(C) A youth may request and in doing so will be granted a level II (transfer) hearing prior to the release movement.

(5) Criteria Complete-Parole Release Procedures.

(A) If, at a release review, it is determined the youth has completed all required program completion criteria, the youth is released to his home or home substitute within 30 days unless such movement is not possible according to GOP.47.11, §85.31 of this title, relating to Home Placement. If a youth's release to his home or home substitute is not immediately possible, he is released as soon as possible. If a youth in a maximum or high restriction program has not been placed within 30 days of determining that criteria have been met, he is moved to a temporary placement.

(B) Release of Type A violent offenders must be approved by the executive director. A release packet includes the ICP, record of progress through the level system, record of major rules violations, the home evaluation, parole plan, initial commitment psychological, a current psychiatric and/or psychological report, and the institutional superintendent's and director of institutions' recommendations and justifications. The executive director notifies the youth, superintendent and director of institutions in writing of the decision. If release is denied, the executive director indicates a date for resubmitting the release packet.

(C) A youth may request and in doing so will be granted a level II (transfer) hearing prior to the release movement.

(D) When it is determined that a youth will be paroled out of state upon completion of the program, see GOP.47.23, §85.43 of this title, relating to Interstate Compact for TYC youth. Arrangements for out-of-state supervision requires a minimum of six to eight weeks to complete.

(6) Parole-Earned and Granted.

(A) Parole status means that a youth, having attained parole status, shall not be moved into a placement of maximum or high restriction without a level I hearing. A youth either earns parole status or is granted parole status under specific conditions.

(B) A youth earns parole status when he is deemed to have substantially completed all program completion criteria. When a youth has earned parole status and release is pending, he attains parole status in the current program prior to the release unless he is in a high or maximum restriction program, in which case he attains parole status on leaving the facility.

(C) If a youth does not earn parole status, he is granted parole status in the following circumstances:

(i) A youth in a follow-up program which is not a high restriction program attains parole status automatically when he has been in follow-up for six consecutive months after release to the first follow-up placement which is not a high restriction program. For youth who are not in a high restriction follow-up program, parole status is automatically attained in six months:

(I) regardless of progress toward completion of ICP objectives in the follow-up plan;

(II) regardless of the number of consecutive follow-up placements the youth has been in since the first follow-up placement; and

(III) if the youth has not been moved to any placement as a disciplinary move since his placement in the first follow-up program.

(ii) A youth whose initial placement is a medium [minimum] restriction level facility [because his needs are primarily for basic care.] shall attain parole status after completion of six months if the youth has not been moved to any other placement as a disciplinary move.

(D) A youth in a high restriction follow-up program must earn parole by meeting program completion criteria unless the youth is transferred to another, less restrictive follow-up placement prior to completing the high restriction program and subsequently meets the criteria in paragraph (C) of this subsection, for granted parole.

(7) Disciplinary Movements.

(A) A disciplinary movement is the movement of a youth, following appropriate due process, as a consequence of violation of rule(s). Disciplinary movements are always to placements of equal or more restriction than the current placement, as defined by GOP.47.07, §35. 27 of this title, relating to Program Restriction Levels.

(B) Disciplinary movements and assigned minimum lengths of stay must be justified through an appropriate due process hearing. See chapter on Disciplinary Practices.

(C) Any disciplinary movement requires that a new set of program completion criteria be developed in the new placement which must be met prior to release from the new program.

(D) When a youth in a follow-up program is assessed a disciplinary movement, he loses credit for the time spent in follow-up program(s). The six month time count begins again if, upon completion of the necessary program completion criteria, the youth is assigned to a different follow-up program.

(E) In accordance with disciplinary policies, a disciplinary movement justified through a due process hearing may not always physically occur. When a youth in a follow-up program is held in the same program and assigned a minimum length of stay in lieu of a transfer, the program is no longer considered a follow-up program. When this occurs, a new set of program completion criteria is assigned and any accumulated follow-up time is lost just as it would be if the youth had physically moved.

(8) Six Month Justification. Retention of a youth in any community residential placement beyond six months must be justified to and approved by the regional director. Retention of a youth in order to complete a minimum length of stay is adequate justification.

(9) Release Exceptions in Hardship Cases. Youth may be released and paroled home without meeting completion criteria in hardship cases upon the recommendation by parole staff. Release in hardship cases requires approval of the executive director if the youth is a type A violent offender, or of the deputy executive director for any other classification.

(10) Release Exceptions to Control Population. When necessary to control population and/or manage available funds concerning youth in residential placement, the deputy executive director may approve one or more of following options. Youth, except type A violent offenders, may be:

(A) moved into similar residential placements of equal restriction without meeting completion criteria when early release or movement to a less restrictive placement is not indicated, but movement is necessary to manage available funds; or

(B) released early without meeting completion criteria when population is at or above established capacity. Youth who have completed the minimum length of stay and are low risk are released first. In general, youth who are closest to completing criteria may be released next; however, type B violent, chronic serious, controlled substance dealer, firearms and general offenders with a minimum length of stay must meet the following criteria:

(i) completion of a portion of the minimum length of stay:

(I) if 12 months, complete 9 months;

(II) if 9 months, complete 7 months;

(III) if 6 months, complete 5 months.

(ii) substantial completion of ICP objectives;

(iii) no major violations of Rules of Conduct within 30 days prior to consideration for waiver and prior to the actual release; and

(iv) recommendation by superintendent.

(11) Notification.

(A) Parents or guardians are notified prior to all movements.

(B) Send original Notification to the Juvenile Court, CCF-181, to the committing juvenile judge and copies to the prosecuting attorney and parole officer no later than 15 days prior to the youth's:

(i) release under supervision (release to youth's home or home substitute whether paroled or as follow-up);

(ii) authorization for an absence from custody (out-of-state placement); or

(iii) discharge.

(C) Send original Notification to Chief Juvenile Probation Officer, CCF-185 to the county chief juvenile probation officer in the county to which the youth is being moved (any placement other than into an institution) within ten days of the placement.

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 December 3, 1993.

TRD-9333177

Steve Robinson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: January 14, 1994

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

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Part XIII. Texas
Commission on Fire
Protection

Chapter 421. Standards For
Certification

• 37 TAC §421.5

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

The Texas Commission on Fire Protection proposes the repeal of §421.5, concerning definitions. The repealed section will be replaced by a new section dealing with the same subject matter that adds new definitions for assigned/work, auxiliary fire fighter, benefits, compensation, federal fire fighter, fire suppression duties, and part-time fire protection employee; and changes the definition of full time and fully paid.

The justification for the repeal is to replace obsolete language with a new section dealing with the same subject matter. The repealed section is replaced by a new section that adds definitions that clarify terms in Senate Bill 1110 and change other definitions consistent with statutory changes.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Bostick also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be greater flexibility for local governments in meeting fire protection needs by allowing local governments to employ part-time fire protection employees and compensation of volunteer/auxiliary fire fighters within limits. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeal is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.021, concerning definitions pertaining to Subchapter B, Chapter 419, is affected by this proposed repeal.

§421.5. Definitions.

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 December 8, 1993.

TRD-9333130

Jack Woods
General Counsel
Texas Commission of Fire
Protection

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 873-1700

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• 37 TAC §421.5, §421.9

The Texas Commission on Fire Protection proposes new §421.5, concerning definitions and new 421.9, concerning standards for certification. The new §421.5 replaces a repealed section dealing with the same subject matter and adds new definitions for assigned/work, auxiliary fire fighter, benefits, compensation, federal fire fighter, fire suppression duties, and part-time fire protection employee; and changes the definition of full time and fully paid. New §421.9 adds a section concerning designation of fire protection duties.

The justification for §421.5 is to add definitions that clarify terms in Senate Bill 1110 and change other definitions consistent with statutory changes. New §421.9 allows for each fire fighter to be designated as fire protection personnel, a part-time fire protection employee, or a volunteer fire fighter within the department. The requirement of employment notice formalizes agency practice.

Alton Bostick, standards and licensing division director, has determined that for the first five year-period the sections are in effect there will be fiscal implications for state government and local governments. For state government there will be an increase in revenue from additional certification fees of \$20 each based on the new definitions of full-time and fully paid in an undetermined amount; and a corresponding increase in costs due to increase in the number of departments inspected. For local governments there will be an annual certification fee of \$20 for each new individual subject to mandatory regulation, as well as initial training costs of training of \$600-\$1,200 per recruit if the departments hire untrained personnel.

Mr. Bostick 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 greater flexibility for local governments in meeting fire protection needs by allowing local governments to employ part-time fire protection employees and compensation of volunteer/auxiliary fire fighters within limits. There will be no effect on small or large business. The possible economic cost to persons required to comply with the section as proposed will be \$600-\$1,200 in training costs if an individual comes within mandatory regulation by virtue of level of compensation and if the employing entity does not pay for training costs.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.021, concerning definitions pertaining to Subchapter B, Chapter 419, is affected by these proposed new sections.

§421.5. Definitions.

(a) Certain definitions are used in describing the minimum standards and related requirements as specified by the commission.

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

(1) Accredited Training—A curriculum or training program which carries written approval from the commission, credit hours that appear on an official transcript from an accredited college or university and any fire service training received from a nationally recognized source, i.e., The National Fire Academy.

(2) Admission to Employment—An entry level full-time full-paid employee of a local government entity in one of the categories of fire protection personnel.

(3) Approved Training—Any training which will be used toward any level of certification must be submitted to the commission for approval prior to the commencement of the training. The training submission must be in a manner specified by the commission and contain all information requested by the commission. The commission will not grant credit twice for the same subject content or course.

(4) Assigned/Work—A fire protection personnel or a part-time fire protection employee shall be considered "assigned/working" in a position, anytime the individual is receiving compensation and performing the duties that are regulated by the Texas Commission on Fire Protection certification.

(5) Assistant Fire Chief—The officer occupying the first position subordinate to the head of a fire department.

(6) Auxiliary Fire Fighter—A volunteer fire fighter.

(7) Benefits—Benefits shall include, but are not limited to, inclusion in group insurance plans (such as health, life, disability, worker's compensation) or pension plans, stipends, free water usage, and reimbursed travel expenses (such as meals, mileage, and lodging). Reimbursement for the cost of training and materials associated with the cost of training shall also be considered benefits.

(8) Chairman—The presiding officer of the commission.

(9) Class Hour—Defined as not less than 50 minutes of instruction, also defined as a contact hour; a standard for certification of fire protection personnel.

(10) Code—The official legislation creating the commission.

(11) College Credits—Credits earned for studies satisfactorily completed at an accredited institution of higher learning in a program leading to an academic degree.

(12) Commission—Commission on Fire Protection Personnel Standards and Education.

(13) Compensation—Compensation is to include wages, salaries, and "per call" payments (for attending drills, meetings, or answering emergencies).

(14) Coordinator—The official responsible for course curriculum, training facility, and/or school (other than fire department) by whatever title he/she may be called.

(15) Department—A fire department which is a part of, or is administered by, a city or any political subdivision of the state which is responsible for fire prevention and protection.

(16) Federal Fire Fighter—A person as defined in the Texas Government Code, §419.084(h).

(17) Fire Chief—The head of a fire department.

(18) Fire Fighter—A full-time employee of a fire department who has met the certification requirements.

(19) Fire Protection Personnel—Any person who is a full-paid permanent employee of a government entity and who is assigned full-time duties in one of the following categories: fire suppression, fire inspection, fire and arson investigation, marine fire fighting, aircraft crash and rescue fire fighting, fire training, fire education, fire administration, and others employed in related positions necessarily or customarily appertaining thereto.

(20) Fire Suppression Duties—Engaging in the controlling or extinguishment of a fire of any type or performing activities which are required for and directly related to the control and extinguishment of fires or standing by on the employers premises or apparatus or nearby in a state of readiness to perform these duties.

(21) Fully Paid—An officer or employee is considered fully paid if the annual compensation, including benefits and reimbursement for expenses, is equal to

or more than what the person would have received working 2,080 hours in a calendar year, at the federal minimum wage.

(22) Full Time—An officer or employee is considered full time if the employee works an average of 40 hours a week or averages 40 hours per week or more during a work cycle in a calendar year. For the purposes of this definition paid leave will be considered time worked.

(23) Government Entity—The local authority having jurisdiction as employer of full-time, full-paid fire protection personnel in a state agency, incorporated city, village, town or county, education institution, or political subdivision.

(24) High School—a school accredited as a high school by the Texas Education Agency.

(25) Inactive Status—When a person no longer is employed by an entity regulated by the commission under the Texas Government Code, Chapter 419, Subchapter B, or no longer meets the requirements for certification.

(26) Lead Instructor—An individual charged with the responsibility of conducting a training school under the provision of the Code.

(27) Municipality—Any incorporated city, village, or town of this state and any county or political subdivision or district in this state. Municipal pertains to a municipality as herein defined.

(28) Part-Time Fire Protection Employee—An individual who is designated as a part-time fire protection employee and who receives compensation, including benefits and reimbursement for expenses. A part-time fire protection employee may or may not be fully paid, but is not full time as defined in this subsection.

(29) School—Any school, college, university, academy, or local training program which offers fire service training and included within its meaning the combination of course curriculum, instructors, and facilities.

(30) Trainee—A member of a fire department who has not satisfied the requirements to become a fire fighter.

(31) Training Officer—The full-time officer or supervisor, by whatever title he or she may be called, that is in charge of the fire department training programs.

(32) Training Points—One semester hour earned at any accredited college or university shall equal one training point or 20 class hours of accredited training other than college semester hours shall be equal to one training point.

(33) Years of Experience—Defined as full years of full-time, full-paid

service as an employee of a government entity.

§421.9. Designation of Fire Protection Duties.

(a) An individual who performs one or more fire protection duties, listed in the Texas Government Code, §419.021(a)(3)(B), for a fire department of local government shall be designated to only one of the following categories:

- (1) fire protection personnel;
- (2) a part-time fire protection employee; or
- (3) a volunteer firefighter.

(b) A fire department or local government regulated by the commission may not designate the same person under more than one category under this section. The designation shall be made on the records of the department and the designation shall be made available for inspection by the commission or sent to the commission on request.

(c) A fire department or local government regulated by the commission shall report to the commission on the proper form, within 14 calendar days of a person's employment to, termination from, or change of designation to a position as fire protection personnel or part-time fire protection employee.

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 December 6, 1993.

TRD-9333129

Jack Woods
General Counsel
Texas Commission of Fire
Protection

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For further information, please call: (512) 873-1700

Chapter 423. Fire Suppression

Subchapter A. Minimum Standards for Structure Fire Protection Personnel Certification

• 37 TAC §§423.1, 423.3, 423.5,

The Texas Commission on Fire Protection proposes an amendment to §423.1 and new §423.3 and §423.5, concerning structural fire protection personnel. The amendment to §423.1 deletes the one year's experience requirement for full-time/full-paid fire fighters coming from out-of-state training programs and military training programs deemed equiv-

alent to the commissions approved basic fire suppression curriculum.

The justification for the new sections is to make out-of-state certification requirements consistent with in-state requirements. The new sections for higher levels of certification create more flexibility to combine college courses and contact hour courses to meet core course requirements. The changes were requested by members of the fire service experiencing difficulty in course availability.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state government. For local government there will likely be no increase in costs because of the additional flexibility, except for departments with personnel who have none of the core courses.

Mr. Bostick 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 that greater flexibility for core courses will encourage fire fighters to obtain additional training for higher levels of certification resulting in a better educated fire service. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the section as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to obtain core courses if they have none and their department does not pay for training costs.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment and new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel, is affected by these proposed sections.

§423.1. Minimum Standards for Basic Structural Fire Protection Personnel.

(a) (No change.)

(b) All full-time, full-paid employees of any local government entity, who are assigned structure fire protection duties must be certified by the commission. In order to be certified, structure fire protection personnel must:

(1) complete a commission-approved basic structure fire suppression program and successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification) prior to being assigned to fire suppression duties. An approved basic

structure fire suppression program shall consist of one of the following:

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

(C) completion of an out-of-state training program deemed equivalent to the commission-approved Basic Fire Suppression Curriculum [and documentation of one years' experience as a full-time/full-paid fire fighter;] or

(D) completion of a military training program deemed equivalent to a commission-approved basic fire suppression curriculum [and documentation of one years' experience as a full-time/full-paid fire fighter].

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

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

§423.3. Minimum Standards for Intermediate Structural Fire Protection Personnel Certification.

(a) Applicants for Intermediate Structural Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Structural Fire Protection Personnel certification, as defined in §423. 1 of this title (relating to Minimum Standards for Basic Structural Fire Protection Personnel);

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and the year of experience that was used to qualify for basic certification.

(A) 20 training points and at least eight years of service; or

(B) 20 training points which includes at least 15 college semester hours in fire science subjects and at least seven years of service; or

(C) 40 training points and at least six years of service; or

(D) 40 training points which includes at least 15 college semester hours in fire science subjects and at least five years of service; or

(E) an associate degree or 60 training points and at least four years of service; or

(F) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least three years of service; or

(G) a baccalaureate degree or an associate Degree in Fire Science or 120 training points and at least two years of service;

(3) as part of the training specified in paragraph (2) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours of fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration I, or a course that meets the following course description—Organization and management of a fire department. Topics include budgeting, maintenance of records and reports, and management of fire department officers. Personnel administration, distribution of equipment and personnel, and relations of government agencies to fire protection areas. Fire Service Leadership as viewed from the company officer's position; or

(ii) Fire Fighting Tactics and Strategy, or a course that meets the following course description—Essential elements in analyzing the nature of fire and determining the requirements to fight a fire. Efficient and effective utilization of manpower, equipment and apparatus. Pre-planning, conflagration problems, fire ground organization problem-solving related to fire ground decision making and attack tactics and strategy. Use of mutual aid and large scale command problems; or

(iii) Hazardous Materials I, or a course that meets the following course description—Characteristics and behavior of various materials that burn or react violently are studied. Flammable liquids, combustible solids, and gases are included. Storage, transportation, and handling are covered. Emphasis is on emergency situations and methods of control;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses: NOTE: It is recommended, by the NFA, that the Managing Company Tactical Operations Series be taken in the sequence listed.

(i) Incident Command System (ICS) (16 hours);

(ii) Initial Response to Hazardous Materials Incidents: Basic Concepts (12 hours) and Recognizing and Identifying Hazardous Materials (three hours);

(iii) Initial Response to Hazardous Materials incidents: Concept Implementation (16 hours);

(iv) Instructional Techniques for Company Officers (12 hours);

(v) Fire Supervision-Increasing Team Effectiveness (12 hours);

(vi) Fire Supervision-Increasing Personal Effectiveness (12 hours);

(vii) Pesticide Challenge (12 hours);

(viii) Conducting Basic Fire Prevention Inspections (12 hours);

(ix) Fire/Arson Detection (12 hours);

(x) Managing Company Tactical Operations: Preparation (12 hours);

(xi) Managing Company Tactical Operations: Command Decision Making (12 hours);

(xii) Managing Company Tactical Operations: Tactics (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in Option #1 and 40 hours of the courses listed in Option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Structural Fire Protection Personnel Certification.

(c) National Fire Academy off campus courses that are discontinued and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§423.5. Minimum Standards for Advanced Structural Fire Protection Personnel Certification.

(a) Applicants for Advanced Structural Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Structural Fire Protection Personnel certification, as defined in §423.3 of this title (relating to Minimum Standards for Intermediate Structure Fire Protection Personnel Certification);

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and years of experience that was used to qualify for all lower levels of certification:

(A) 40 training points and at least 12 years of service; or

(B) 40 training points which includes at least 15 college semester hours in fire science subjects and at least 10 years of service; or

(C) an associate degree or 60 training points and at least nine years of service; or

(D) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least six years of service; or

(E) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least four years of service; or

(F) a baccalaureate degree or 120 training points either of which includes at least 15 college semester hours in fire science subjects and at least three years of service.

(3) as a part of the training specified in paragraph (2) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours in fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration II, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies;

design and construction of fire department buildings; or

(ii) Fire Safety Education, or a course that meets the following course description—Physical, chemical, and electrical hazards and their relationship to loss of property and life. Study of codes, laws, problems, and cases. Detailed examination of the physical and psychological variables related to the occurrence of casualties. Safe storage, transportation, and handling techniques are stressed to eliminate or control potential risks; or

(iii) Building Construction, or a course with the following course description—Fundamental consideration and exploration of building construction and design with emphasis on fire resistance of building materials and assemblies, exposures, and related data focused on fire protection concerns; elements of structural collapse and failure during a fire are included; or

(iv) Building Codes, or a course with the following course description—An in-depth study of the National Fire Protection Association's Life Safety Code. An introduction to other model codes and the fire codes as they relate to building design; or

(v) Building Codes and Construction, or a course with the following course description—The fire resistance of building construction is considered. Included are building materials, assemblies, and exposures. Both local and national laws and guidelines are reviewed. Model building codes and the life safety code are also studied;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses:

(i) Building Construction for Fire Suppression Forces—Principles, Wood and Ordinary Construction (12 hours);

(ii) Building Construction for Fire Suppression Forces—Principles, Non-Combustible and Fire Resistive Construction (12 hours);

(iii) Firefighter Safety and Survival: The Company Officer's Responsibility (16 hours);

(iv) Firefighter Health and Safety: Program Implementation and Management (16 hours);

(v) Fire Service Management (12 hours);

(vi) Leadership I: Strategies for Company Success (12 hours);

(vii) Leadership II: Strategies for Personal Success (12 hours);

(viii) Leadership III: Strategies for Supervisory Success (12 hours);

(ix) Public Fire Education Planning (12 hours);

(x) Infection Control for Emergency Response Personnel: The Supervisors Role and Responsibilities (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in option #1 and 40 hours of the courses listed in option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Structural Fire Protection Personnel Certification.

(c) National Fire Academy off campus courses that are discontinued and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

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

Issued in Austin, Texas, on December 6, 1993.

TRD-9333128 Jack Woods
General Counsel
Texas Commission of Fire
Protection

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For further information, please call: (512) 873-1700



• 37 TAC §423.3, §423.5

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

The Texas Commission on Fire Protection proposes the repeal of §423.3 and §423.5, concerning higher levels of certification for structural fire protection personnel.

The justification for the repeals is to replace obsolete language with new sections dealing with the same subject matter. The repealed sections are replaced by new sections with similar requirements that allow more flexibility in combining college courses and National Fire Academy courses.

Alton Bostick, standards and licensing division director, 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. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that greater flexibility for core courses allowed by the new sections which replaced those repealed sections. There will be no increased cost to small or large businesses, or to persons required to comply with the repeals. The costs of compliance with the new sections are discussed in the preambles for those new sections published in this issue of the *Texas Register*.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P. O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel, is affected by these proposed repeals.

§423.3. Minimum Standards for Intermediate Structural Fire Protection Personnel.

§423.5. Minimum Standards for Advanced Structural Fire Protection Personnel.

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

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Subchapter B. Minimum Standards for Aircraft Crash and Rescue Fire Protection Personnel

• 37 TAC §423.205, §423.207

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

The Texas Commission on Fire Protection proposes the repeal of §423.205 and §423.207, concerning higher levels of aircraft rescue fire protection personnel.

The justification for the repeals is to replace obsolete language with new sections dealing with the same subject matter. The repealed sections are replaced by new sections with similar requirements that allow more flexibility in combining college courses and National Fire Academy courses.

Alton Bostick, Standards and Licensing Division Director, 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. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be greater flexibility for core courses allowed by the new sections which replaced those repealed sections. There will be no increased cost to small or large businesses, or to persons required to comply with the repeals. The costs of compliance with the new sections are discussed in the preambles for those new sections published in this issue of the *Texas Register*.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel, is affected by these proposed repeals.

§423.205. Minimum Standards for Intermediate Aircraft Crash and Rescue Fire Protection Personnel Certification.

§423.207. Minimum Standards for Advanced Aircraft Crash and Rescue Fire Protection Personnel Certification.

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

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Jack Wood
General Counsel
Texas Commission on Fire
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The Texas Commission on Fire Protection proposes new §423.205 and §423.207, concerning training requirements for higher levels of aircraft rescue fire protection personnel of certification. The new sections replace repealed sections relating to the same subject matter.

The new sections for higher levels of certification create more flexibility to combine college courses and contact hour courses to meet core course requirements. The changes were requested by members of the fire service experiencing difficulty in course availability.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state government. For local governments there will likely be no increase in costs because of the additional flexibility, except for departments with personnel who have none of the core courses.

Mr. Bostick 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 greater flexibility for core courses will encourage fire fighters to obtain additional training for higher levels of certification resulting in a better educated fire service. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the sections as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to obtain core courses if they have none and their department does not pay for training costs.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022, which provides the commission with authority to establish minimum training standards for fire protection personnel, is affected by these proposed new sections.

§423.205. *Minimum Standards for Intermediate Aircraft Crash and Rescue Fire Protection Personnel Certification.* Applicants for Intermediate

Aircraft Crash and Rescue Fire Protection Personnel Certification must complete the following requirements:

(1) hold as a prerequisite a Basic Aircraft Crash and Rescue Fire Protection Personnel Certification, as defined in §423.203 of this title (relating to Minimum Standards for Basic Aircraft Crash and Rescue Fire Protection Personnel Certification).

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and the years of experience used to qualify for all lower levels of Aircraft Crash and Rescue Fire Protection Personnel Certification:

(A) 20 training points and at least eight years of service; or

(B) 20 training points which includes at least 15 college semester hours in fire science subjects and at least seven years of service; or

(C) 40 training points and at least six years of service; or

(D) 40 training points which includes at least 15 college semester hours in fire science subjects and at least five years of service; or

(E) an associate degree or 60 training points and at least four years of service; or

(F) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least three years of service; or

(G) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least two years of service;

(3) as part of the training specified in paragraph (2) of this section, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours of fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration I, or a course that meets the following course description—Organization and management of a fire department. Topics include budgeting, maintenance of records and reports, and management's of fire department

officers. Personnel administration, distribution of equipment and personnel, and relations of government agencies to fire protection areas. Fire Service Leadership as viewed from the company officer's position; or

(ii) Fire Fighting Tactics and Strategy, or a course that meets the following course description—Essential elements in analyzing the nature of fire and determining the requirements to fight a fire. Efficient and effective utilization of manpower, equipment, and apparatus. Preplanning, conflagration problems, fire ground organization problem-solving related to fire ground decision making and attack tactics and strategy. Use of mutual aid and large scale command problems; or

(iii) Hazardous Materials I, or a course that meets the following course description—Characteristics and behavior of various materials that burn or react violently are studied. Flammable liquids, combustible solids, and gases are included. Storage, transportation, and handling are covered. Emphasis is on emergency situations and methods of control;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses (NOTE: It is recommended, by the NFA, that the Managing Company Tactical Operations Series be taken in the sequence listed.):

(i) Incident Command System (ICS) (16 hours);

(ii) Initial Response to Hazardous Materials Incidents: Basic Concepts (12 hours) and Recognizing and Identifying Hazardous Materials (three hours);

(iii) Initial Response to Hazardous Materials incidents: Concept Implementation (16 hours);

(iv) Instructional Techniques for Company Officers (12 hours);

(v) Fire Supervision-Increasing Team Effectiveness (12 hours);

(vi) Fire Supervision-Increasing Personal Effectiveness (12 hours);

(vii) Pesticide Challenge (12 hours);

(viii) Conducting Basic Fire Prevention Inspections (12 hours);

(ix) Fire/Arson Detection (12 hours);

(x) Managing Company
Tactical Operations: Preparation (12 hours);

(xi) Managing Company
Tactical Operations: Command Decision
Making (12 hours);

(xii) Managing Company
Tactical Operations: Tactics (12 hours);

(D) Option #4—successfully
complete three semester hours of the
courses listed in Option #1 and 40 hours of
the courses listed in Option #3.

§423.207. Minimum Standards for Advanced Aircraft Crash and Rescue Fire Protection Personnel Certification.

(a) Applicants for Advanced Aircraft Crash and Rescue Fire Protection Personnel certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Aircraft Crash and Rescue Fire Protection certification, as defined in §423.205 of this title (relating to Minimum Standards for Intermediate Aircraft Crash and Rescue Fire Protection Personnel Certification) ;

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and years of experience used to qualify for all lower levels of certification:

(A) 40 training points and at least 12 years of service; or

(B) 40 training points which includes at least 15 college semester hours in fire science subjects and at least 10 years of service; or

(C) an associate degree or 60 training points and at least nine years of service; or

(D) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least six years of service; or

(E) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least four years of service; or

(F) a baccalaureate degree or 120 training points either of which includes at least 15 college semester hours in fire science subjects and at least three years of service.

(3) As a part of the training specified in paragraph (2) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours in fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration II, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies; design and construction of fire department buildings; or

(ii) Fire Safety Education, or a course that meets the following course description—Physical, chemical, and electrical hazards and their relationship to loss of property and life. Study of codes, laws, problems, and cases. Detailed examination of the physical and psychological variables related to the occurrence of casualties. Safe storage, transportation, and handling techniques are stressed to eliminate or control potential risks; or

(iii) Building Construction, or a course with the following course description—Fundamental consideration and exploration of building construction and design with emphasis on fire resistance of building materials and assemblies, exposures, and related data focused on fire protection concerns; elements of structural collapse and failure during a fire are included; or

(iv) Building Codes, or a course with the following course description—An in-depth study of the National Fire Protection Association's Life Safety Code. An introduction to other model codes and the fire codes as they relate to building design; or

(v) Building Codes and Construction, or a course with the following course description—The fire resistance of building construction is considered. Included are building materials, assemblies, and exposures. Both local and national laws and guidelines are reviewed. Model building codes and the life safety code are also studied;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses:

(i) Building Construction for Fire Suppression Forces—Principles, Wood and Ordinary Construction (12 hours);

(ii) Building Construction for Fire Suppression Forces—Principles, Non-Combustible and Fire Resistive Construction (12 hours) ;

(iii) Firefighter Safety and Survival: The Company Officer's Responsibility (16 hours);

(iv) Firefighter Health and Safety: Program Implementation and Management (16 hours);

(v) Fire Service Management (12 hours);

(vi) Leadership I: Strategies for Company Success (12 hours);

(vii) Leadership II: Strategies for Personal Success (12 hours);

(viii) Leadership III: Strategies for Supervisory Success (12 hours);

(ix) Public Fire Education Planning (12 hours);

(x) Infection Control for Emergency Response Personnel: The Supervisors Role and Responsibilities (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in Option #1 and 40 hours of the courses listed in Option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Aircraft Crash and Rescue Fire Protection Personnel Certification.

(c) National Fire Academy off campus courses that are discontinued and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

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

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Jack Wood
General Counsel
Texas Commission on Fire
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**Chapter 425. Fire Protection
Instructor**

**Subchapter A. Fire Service In-
structor Certification**

• 37 TAC §425.1

The Texas Commission on Fire Protection proposes an amendment §425.1, concerning fire service instructor certification. In subsection (b)(1) a typographical change is made to correct the reference from §425.5 to §421.5 (relating to Definitions). Also, in §425.1 the form numbers are deleted from the rules.

The justification for the changes is administrative convenience.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick 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 clarification of references. There are no additional costs of compliance for small or large businesses or for persons required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes, is affected by this proposed amendment.

§425.1. Minimum Standards for Basic Fire Service Instructor Certification.

(a) (No change.)

(b) In order to be certified as a Basic Fire Service Instructor the individual must:

(1) be a permanent, fully paid, full-time fire protection personnel as de-

finied in §421.5 [§425.5] of this title (relating to Definitions);

(2)-(7) (No change.)

(c) Approved areas of instruction shall include:

(1) (No change.)

(2) Individuals desiring to instruct in basic and advanced subjects, they have not previously been approved for, must have completed the course they are seeking to instruct or have completed comparable training in the same subject area. Proof of training shall be attached to and submitted with a Course/School Prior Approval Form [(CFP-T)] when making application for course approval by the commission. Proof of training in a subject need be submitted only once. The following items are acceptable for proof of training:

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

(d) (No change.)

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

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Jack Wood
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

◆ ◆ ◆
**Subchapter C. Fire Education
Specialist Certification**

• 37 TAC §425.301

The Texas Commission on Fire Protection proposes an amendment to §425.301, concerning fire service instructor certification. In §425.301 the form numbers are deleted from the rules.

The justification for the changes is administrative convenience.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick 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 clarification of references. There are no additional costs of compliance for small or large businesses or for persons required to comply with the section as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.028(b)(3), which provides the commission the authority to certify persons as qualified fire protection personnel instructors under conditions the commission prescribes, is affected by this proposed amendment.

§425.301. Minimum Standards for Basic Fire Education Specialist Certification.

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

(c) Approved Areas of Instruction Shall Include.

(1) (No change.)

(2) Individuals desiring to instruct in basic and advanced subjects, that have not previously been approved for, must meet the requirements of paragraph (i) of this subsection for acceptable proof of training. Proof of training shall be attached to and submitted with a Course/School Prior Approval Form [(CFP-T)] when making application for course approval by the commission.

(d) (No change.)

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

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General Counsel
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**Chapter 427. Certified Training
Facilities**

• 37 TAC §427.1

The Texas Commission on Fire Protection proposes an amendment to §427.1, concerning training facilities. The amendment to this section removes the form number for the prior approval submission form.

The justification for this change is administrative convenience.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Bostick 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 clarification of references. 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.028(b)(1), which provides the commission with authority to certify facilities operated for training fire protection personnel, is affected by this proposed amendment.

§427.1. Minimum Standards for Certified Training Facilities for Fire Protection Personnel.

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

(g) All training must be submitted to the commission for approval prior to the commencement of the training. A Course/School Prior Approval Submission Form, [CFP-T.] must be submitted to the commission at least 20 days prior to the proposed starting date of the training.

(h) (No change.)

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

Issued in Austin, Texas, on December 6, 1993.

TRD-9333122 Jack Woods
General Counsel
Texas Commission of Fire
Protection

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 873-1700

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Chapter 429. Minimum Standards for Fire Inspectors

- 37 TAC §§429.1, 429.5, 429.7, 429.9

The Texas Commission on Fire Protection proposes an amendment to §429.1 and new §§429.5, 429.7, and 429.9, concerning minimum standards for fire inspectors. The amendment to §429.1(c) deletes the fire fighter/fire inspector limited certification. The new §§429.5, 429.7, and 429.9 provides new course requirements for higher levels of inspector certification.

The new sections omit the "limited" certification for fire fighters assigned to limited inspection duties with its requirement for supervision by a full-time inspector in order to

address the needs of smaller communities that cannot afford full-time inspectors. The new rules allow fire protection personnel to hold certifications based on training. The new core course requirements for higher levels of certification allow a combination of college courses and National Fire Academy contact hour courses in response to fire service concerns about course availability. In addition, the new sections delete requirements for full-time assignment to inspection duties for higher levels of certification, consistent with other disciplines.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state government. For local governments there will likely be no increase in cost because of the additional flexibility, except for those departments with personnel who have no core courses.

Mr. Bostick 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 better qualified individuals doing inspections in smaller communities. The greater flexibility to obtain core courses will also encourage fire inspectors to obtain additional training for higher levels of certification resulting in more highly trained inspectors. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the sections as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to obtain core courses if they have none and their department does not pay for training cost.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment and new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for specialized fire protection personnel positions, is affected by the proposed amendment and new sections.

§429.1. Minimum Standards For Fire Inspection Personnel.

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

(c) All full-time, full-paid employees of a governmental entity who are assigned fire code enforcement duties, must be certified, as a minimum, as [either:]

[(1)] a Basic Fire Inspector as specified in §429.3 of this title.; or]

[(2)] a Fire Fighter/Fire Inspector Limited as specified in §429.11 of this title.]

(d) Individuals who currently hold an "A", "B", or "C" Inspector certification or Fire Fighter/Fire Inspector Limited certification on the effective date of this section, will upon renewal or reissue, be issued a Basic Fire Inspector Certification.

(e)-(f) (No change.)

§429.5. Minimum Standards for Intermediate Fire Inspector Certification.

(a) Applicants for Intermediate Fire Inspector Certification must complete the following requirements:

(1) hold as a prerequisite, basic fire inspector certification, as defined in §429.3 of this title (relating Minimum Standards for Basic Fire Inspector Certification);

(2) must acquire one of the following combinations of college education or training points and the listed years of fire protection experience, which may include training points and the years of experience used to qualify for Basic Inspector certification:

(A) 20 training points and at least eight years of service; or

(B) 20 training points which includes at least 15 college semester hours in fire science subjects and at least seven years of service; or

(C) 40 training points and at least six years of service; or

(D) 40 training points which includes 15 college semester hours in fire science subjects and at least five years of service; or

(E) an associate degree or 60 training points and at least four years of service; or

(F) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least three years of service; or

(G) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least two years of service;

(3) as part of the training specified in this paragraph, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours of fire science

from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration I, or a course that meets the following course description—Organization and management of a fire department. Topics include budgeting, maintenance of records and reports, and management of fire department officers. Personnel administration, distribution of equipment and personnel, and relations of government agencies to fire protection areas. Fire Service Leadership as viewed from the company officer's position; or

(ii) Fire Insurance Fundamentals, or a course that meets the following course description—The relationships among fire defense, fire losses, and insurance rates are studied. Basic insurance principles, fire loss experience, loss ratios, state regulations of fire insurance, Key Rate system, I.S.O. grading schedule, and other topics are stressed. Also covered are the relationship of insurance to modern business, principles of property and casualty insurance contracts, and the corporate structure of insurance companies; or

(iii) Fire Safety Education, or a course that meets the following course description—Physical, chemical, and electrical hazards and their relationship to loss of property and life. Study of codes, laws, problems, and cases. Detailed examination of the physical and psychological variables related to the occurrence of casualties. Safe storage, transportation, and handling techniques are stressed to eliminate or control potential risks;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses (NOTE: It is recommended, by the NFA, that the Managing Company Tactical Operations Series be taken in the sequence listed.):

(i) Incident Command System (ICS) (16 hours);

(ii) Initial Response to Hazardous Materials Incidents: Basic Concepts (12 hours) and Recognizing and Identifying Hazardous Materials (three hours);

(iii) Initial Response to Hazardous Materials incidents: Concept Implementation (16 hours);

(iv) Instructional Techniques for Company Officers (12 hours);

(v) Fire Supervision—Increasing Team Effectiveness (12 hours);

(vi) Fire Supervision—Increasing Personal Effectiveness (12 hours);

(vii) Pesticide Challenge (12 hours);

(viii) Conducting Basic Fire Prevention Inspections (12 hours);

(ix) Fire/Arson Detection (12 hours).

(x) Managing Company Tactical Operations: Preparation (12 hours);

(xi) Managing Company Tactical Operations: Command Decision Making (12 hours);

(xii) Managing Company Tactical Operations: Tactics (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in Option #1 and 40 hours of the courses listed in Option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Fire Inspector Certification.

(c) National Fire Academy off campus courses that are discontinued by the National Fire Academy and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§429.7. Minimum Standards for Advanced Fire Inspector Certification.

(a) Applicants for Advanced Fire Inspector certification must complete the following requirements:

(1) hold as a prerequisite an Intermediate Inspector certificate;

(2) acquire one of the following combinations of college education or training points, and the listed years of fire protection experience, which may include the training points and years of experience that were used to qualify for all lower levels of inspector certification:

(A) 40 training points and at least 12 years of service; or

(B) 40 training points which includes at least 15 college semester hours

in fire science subjects and at least ten years of service; or

(C) an associate degree or 60 training points and at least nine years of service; or

(D) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least six years of service; or

(E) a baccalaureate degree or an associate degree in Fire Science or 120 training points and at least four years of service; or

(F) a baccalaureate degree or 120 training points either of which includes at least 15 college semester hours in fire science subjects and at least three years of service;

(3) as a part of the training specified in paragraph (2) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours in fire science from an approved Fire Protection Degree Program from the following courses:

(i) Legal Aspects of Fire Protection, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies; design and construction of fire department buildings; or

(ii) Industrial Fire Protection I, or a course that meets the following course description—Specific concerns and safeguards related to business and industrial organizations. Industrial fire brigade organization and development, and plant lay-out, fire prevention programs, extinguishing factors and techniques, hazardous situations and prevention methods. Gaining cooperation between the public and private fire department organization. Elementary industrial fire hazards in manufacturing plants are also studied;

(iii) Urban Fire Problem Analysis, or a course that meets the following course description—Problems covered by lack of zoning and other land use laws.

Operation research techniques, and systems engineering as analysis procedures for the technical assessment of public fire protection; water supply, fire alarm and fire department traditional assessment methods and urban analysis. Socioeconomic and management factors in city planning. Environment problems are studied;

(iv) Fire Administration II, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies; design and construction of fire department buildings;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses:

(i) Building Construction for Fire Suppression Forces—Principles, Wood and Ordinary Construction (12 hours);

(ii) Building Construction for Fire Suppression Forces—Principles, Non-Combustible and Fire Resistive Construction (12 hours);

(iii) Firefighter Safety and Survival: The Company Officer's Responsibility (16 hours);

(iv) Firefighter Health and Safety: Program Implementation and Management (16 hours);

(v) Fire Service Management (12 hours);

(vi) Leadership I: Strategies for Company Success (12 hours);

(vii) Leadership II: Strategies for Personal Success (12 hours);

(viii) Leadership III: Strategies for Supervisory Success (12 hours);

(ix) Public Fire Education Planning (12 hours);

(x) Infection Control for Emergency Response Personnel: The Supervisors Role and Responsibilities (12 hours);

(D) Option #4—successfully complete three semester hours of the

courses listed in Option #1 and 40 hours of the courses listed in Option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Fire Inspector Certification.

(c) National Fire Academy off campus courses that are discontinued by the National Fire Academy and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§429.9. Minimum Standards for Master Inspector Certification.

(a) Applicants for Master Inspector Certification must complete the following requirements:

(1) hold as a prerequisite an Advanced Inspector certificate; and

(2) must acquire one of the following combinations of college education and the listed years of fire protection experience, which may include the college hours and years of experience used to qualify for all lower levels of inspector certification:

(A) an associate degree or 60 college semester hours and at least 12 years of service; or

(B) an associate degree or 60 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least nine years of service; or

(C) an Associate Degree in Fire Science in and at least six years of service; or

(D) a baccalaureate degree or 120 college semester hours and six years of service; or

(E) a baccalaureate degree or 120 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least four years of service; or

(F) a master's degree and at least four years of service.

(b) College level courses from both the upper and lower division may be used to satisfy the requirement for Master Inspector Certification.

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 December 6, 1993.

TRD-9333120

Jack Woods
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

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e 37 TAC §§429.5, 429.7, 429.9,
429.11

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

The Texas Commission on Fire Protection proposes the repeal of §§429.5, 429.7, 429.9, concerning higher levels of inspector certification and §429.11, concerning fire fighter/fire inspector limited certification. The repealed sections were scheduled to become effective January 1, 1994.

The repeals are justified by the need to replace obsolete language with new sections dealing with the same subject matter for higher levels of certification. The repeal of the inspector limited certification is justified by the need to provide smaller communities who cannot afford to hire full-time fire inspection personnel the ability to certify fire inspection personnel based on training and not full-time assignment to inspection duties.

Allan Bostick, standards and licensing division director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state government. For local governments there will likely be no increase in cost because of the additional flexibility, except for those departments with personnel who have no core courses.

Mr. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be better qualified individuals doing inspections in smaller communities. The greater flexibility to obtain core courses will also encourage fire inspectors to obtain additional training for higher levels of certification resulting in more highly trained inspectors. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the repeals as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to

obtain core courses if they have none and their department does not pay for training cost.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for specialized fire protection personnel positions, is affected by these proposed repeals.

§429.5. Minimum Standards for Intermediate Fire Inspector Certification.

§429.7. Minimum Standards for Advanced Fire Inspector Certification.

§429.9. Minimum Standards for Master Fire Inspector Certification.

§429.11. Minimum Standards for Fire Fighter/Fire Inspector Limited Certification.

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

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TRD-9333121 Jack Wood
General Counsel
Texas Commission on Fire
Protection

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For further information, please call. (512) 873-1700

Chapter 431. Minimum Standards for Fire and Arson Investigator

• 37 TAC §§431.1, 431.5, 431.7, 431.9, 431.11, 431.13

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

The Texas Commission on Fire Protection proposes the repeal of §§431.1, 431.5, 431.7, 431.9, 431.11, and 431.13 (scheduled to become effective January 1, 1994), concerning fire and arson investigator certification. The repealed sections are to be replaced by new

sections relating to the same subject matter published in this issue of the *Texas Register*.

The repeals are justified by the need to replace language deemed unnecessary in view of the current needs of the fire service.

Alton Bostick, standards and licensing division director, 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. The fiscal impact of the new sections dealing with same subject matter is discussed in the preamble to the proposed new sections.

Mr. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be better qualified individuals doing investigations in smaller communities. The greater flexibility to obtain core courses will also encourage fire investigators to obtain additional training for higher levels of certification resulting in more highly trained investigators. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the repeals as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to obtain core courses if they have none and their department does not pay for training cost.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for advanced or specialized fire protection personnel positions, is affected by these proposed repeals.

§431.1. Minimum Standards for Fire and Arson Investigation Personnel

§431.5. Minimum Standards for Intermediate Fire and Arson Investigator Certification

§431.7. Minimum Standards for Advanced Fire and Arson Investigator Certification

§431.9. Minimum Standards for Master Fire and Arson Investigator Certification

§431.11. Minimum Standards for Fire Fighter/Arson Investigator limited Certification

§431.13. Minimum Standards for Fire and Arson Investigator Certification for Law Enforcement Personnel.

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 December 6, 1993.

TRD-9333117 Jack Wood
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 873-1700

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• 37 TAC §§431.1, 431.5, 431.7, 431.9, 431.11

The Texas Commission on Fire Protection proposes new §§431.1, 431.5, 431.7, 431.9, and 431.11, concerning fire and arson investigators. New §431.1 discontinues the fire fighter/fire investigator limited certification. The new §431.5 requires a peace officer commission to be held with the employing entity, but does not require an intermediate peace officer certification. Section 431.5 and §431.7 provide a new course outline for the intermediate and Advanced Fire and Arson Investigator Certifications respectively. New §431.11 replaces a repealed section (formerly §431.13, scheduled for a January 1, 1994, effective date) dealing with the same subject matter and omits the requirement that a law enforcement fire and arson investigator is not eligible to apply for advanced fire and arson investigator certifications through the commission.

The new sections omit the "limited" certification for fire fighters assigned to limited fire investigation duties with its requirement of supervision by a full-time fire investigator (consistent with the changes to inspector certification) primarily to address the needs of smaller communities unable to afford full-time fire investigators. The new rules allow fire protection personnel to hold fire investigator certifications based on training. The new core course requirements for higher levels of certification allow combination of college courses and contact hour courses in response to fire service concerns about course availability. The omission of advanced peace officer certification requirements mitigate the adoption of core courses for intermediate and advanced investigator certification. In addition, the new sections delete requirements for full-time assignment to investigation duties for higher levels of certification, consistent with other disciplines. Finally, the new section for certification of law enforcement personnel as fire and arson investigators allows such persons to seek higher levels of certification in view of the changes to other sections which no longer require full-time assignment to fire investigation duties.

Alton Bostick, standards and licensing division director, has determined that there will be no fiscal implications for state government. For local governments there will likely be no increase in cost because of the additional

flexibility, except for those departments with personnel who have no core courses.

Mr. Bostick 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 better qualified individuals doing investigations in smaller communities. The greater flexibility to obtain core courses will also encourage fire investigators to obtain additional training for higher levels of certification resulting in more highly trained investigators. There will be no effect on small or large businesses. The possible economic cost to persons required to comply with the sections as proposed will be a small decrease in training cost because of greater flexibility with core courses. Other persons may experience a small increase in cost to obtain core courses if they have none and their department does not pay for training cost.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are adopted under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.022(a)(5), which provides the commission with authority to establish minimum standards for admission to employment as fire protection personnel and for advanced or specialized fire protection personnel positions, is affected by these proposed sections.

§431.1. Minimum Standards for Fire and Arson Investigation Personnel.

(a) The effective date of this chapter shall be January 1, 1994. All full-time, full-paid personnel employed by any local government entity in Texas who are assigned fire and arson investigation duties must be certified by the commission.

(b) Fire and Arson investigation personnel must complete all requirements for certification and be certified within one year from the date of initial appointment to such position.

(c) All full-time, full-paid employees of a local government entity in Texas who are assigned fire and arson investigation duties, must be certified, as a minimum, as a Basic Fire and Arson Investigator as specified in §431.3 of this title (relating to Fees—Certification).

(d) All individuals holding any level of fire and arson investigation certification shall be required to comply with the continuing education requirements in §441.13 of this title (relating to Continuing Education Requirements for Fire and Arson Investigators).

(e) Individuals who currently hold a Fire Fighter/Fire and Arson Investigator

Limited certification on the effective date of this section, will upon renewal or reissue, be issued a Basic Fire and Arson Investigator certification.

§431.5. Minimum Standards for Intermediate Fire and Arson Investigator Certification.

(a) Applicants for Intermediate Fire and Arson Investigator Certification must complete the following requirements:

(1) possess a current basic peace officer's certificate and license from the Commission on Law Enforcement Officers Standards and Education; and

(2) hold a current commission as a peace officer with the employing entity for which the fire and arson investigations will be done; and

(3) hold as a prerequisite a Basic Fire and Arson Investigator certificate as defined in §431.3 of this title (relating to Minimum Standards for Basic Fire and Arson Investigator Certification); and

(4) acquire one of the following combinations of college education or training points and the listed years of fire protection experience, which may include the training points used to qualify for Basic Fire and Arson Investigator and/or Intermediate Peace Officer certification and the years of experience used to qualify for Basic Fire and Arson Investigator:

(A) 20 training points and at least eight years of service; or

(B) 20 training points which includes at least 15 college semester hours in fire science subjects and at least seven years of service; or

(C) 40 training points and at least six years of service; or

(D) 40 training points which includes at least 15 college semester hours in fire science subjects and at least five years of service; or

(E) an associate degree or 60 training points and at least four years of service; or

(F) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least three years of service; or

(G) a baccalaureate degree or an Associate Degree in Fire Science or 120

training points and at least two years of service;

(5) as part of the training specified in paragraph (4) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours of fire science from an approved Fire Protection Degree Program from the following courses:

(i) Fire Administration I, or a course that meets the following course description—Organization and management of a fire department. Topics include budgeting, maintenance of records and reports, and management of fire department officers. Personnel administration, distribution of equipment and personnel, and relations of government agencies to fire protection areas. Fire Service Leadership as viewed from the company officer's position; or

(ii) Fire Insurance Fundamentals, or a course that meets the following course description—The relationships among fire defense, fire losses, and insurance rates are studied. Basic insurance principles, fire loss experience, loss ratios, state regulations of fire insurance, Key Rate system, I.S.O. grading schedule, and other topics are stressed. Also covered are the relationship of insurance to modern business, principles of property and casualty insurance contracts, and the corporate structure of insurance companies; or

(iii) Hazardous Materials I, or a course that meets the following course description—Characteristics and behavior of various materials that burn or react violently are studied. Flammable liquids, combustible solids, and gases are included. Storage, transportation, and handling are covered. Emphasis is on emergency situations and methods of control.

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses (NOTE: It is recommended, by the NFA, that the Managing Company Tactical Operations Series be taken in the sequence listed.):

(i) Incident Command System (ICS) (16 hours);

(ii) Initial Response to Hazardous Materials Incidents: Basic Concepts (12 hours) and Recognizing and Identifying Hazardous Materials (three hours);

(iii) Initial Response to Hazardous Materials incidents: Concept Implementation (16 hours);

(iv) Instructional Techniques for Company Officers (12 hours);

(v) Fire Supervision-Increasing Team Effectiveness (12 hours);

(vi) Fire Supervision-Increasing Personal Effectiveness (12 hours);

(vii) Pesticide Challenge (12 hours);

(viii) Conducting Basic Fire Prevention Inspections (12 hours);

(ix) Fire/Arson Detection (12 hours);

(x) Managing Company Tactical Operations: Preparation (12 hours);

(xi) Managing Company Tactical Operations: Command Decision Making (12 hours);

(xii) Tactical Operations: Tactics (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in Option #1 and 40 hours of the courses listed in Option #3.

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Intermediate Fire and Arson Investigator Certification.

(c) National Fire Academy off campus courses that are discontinued by the National Fire Academy and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit by experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§431.7. Minimum Standards for Advanced Fire and Arson Investigator Certification.

(a) Applicants for Advanced Fire and Arson Investigator certification must complete the following requirements:

(1) possess a current basic peace officer's certificate and license from the Commission on Law Enforcement Officers Standards and Education;

(2) hold a current commission as a peace officer with the employing entity

for which the fire and arson investigations will be done;

(3) hold as a prerequisite an Advanced Fire and Arson Investigator certificate;

(4) acquire one of the following combinations of college education or training points and listed years of fire protection experience, which may include the training points and years of experience that was used to qualify for all lower levels of Fire and Arson Investigator certification:

(A) 40 training points and at least 12 years of service; or

(B) 40 training points which includes at least 15 college semester hours in fire science subjects and at least 10 years of service; or

(C) an associate degree or 60 training points and at least nine years of service; or

(D) an associate degree or 60 training points, either of which includes at least 15 college semester hours in fire science subjects and at least six years of service; or

(E) a baccalaureate degree or an Associate Degree in Fire Science or 120 training points and at least four years of service; or

(F) A baccalaureate degree or 120 training points either of which includes at least 15 college semester hours in fire science subjects and at least three years of service;

(5) as a part of the training specified in paragraph (3) of this subsection, complete the courses listed in one of the following options:

(A) Option #1—successfully complete six semester hours of fire science from an approved Fire Protection Degree Program from the following courses:

(i) Advanced Fire Loss Statistical Systems, or a course that meets the following course description—The study of computerized systems used for storing and retrieving fire loss statistics. Techniques for programming records are covered. New systems of microfilming, including the modern technology of COM (computer output microfilm) and microfiche, are presented. Standards for uniform coding for fire protection are reviewed; or

(ii) Courts and Criminal Procedures, or a course that meets the following course description—The judiciary system; structure of the American court system; prosecution; right to counsel; pre-trial

release; grand juries; adjudication process; types and rules of evidence, sentencing; or

(iii) Criminal Investigation, or a course that meets the following course description—Investigative theory; collection and preservation of evidence; sources of information; interview and interrogation; uses of forensic sciences case and trial preparation.

(iv) Fire Administration II, or a course that meets the following course description—Insurance rates and ratings, preparation of budgets, administration and organization of training in the fire department; city water requirements, fire alarm and communication systems; importance of public relations, report writing and record keeping are stressed; measurements of results, use of records to improve procedures, and other related topics; legal aspects relating to fire prevention and fire protection with stress on municipal and state agencies; design and construction of fire department buildings;

(B) Option #2—complete a minimum of 80 hours of instruction in any National Fire Academy on-campus resident program;

(C) Option #3—complete a minimum of 80 hours in the following National Fire Academy off-campus courses:

(i) Building Construction for Fire Suppression Forces—Principles, Wood and Ordinary Construction (12 hours);

(ii) Building Construction for Fire Suppression Forces—Principles, Non-Combustible and Fire Resistive Construction (12 hours);

(iii) Firefighter Safety and Survival: The Company Officer's Responsibility (16 hours);

(iv) Firefighter Health and Safety: Program Implementation and Management (16 hours);

(v) Fire Service Management (12 hours);

(vi) Leadership I: Strategies for Company Success (12 hours);

(vii) Leadership II: Strategies for Personal Success (12 hours);

(viii) Leadership III: Strategies for Supervisory Success (12 hours);

(ix) Public Fire Education Planning (12 hours);

(x) Infection Control for Emergency Response Personnel: The Supervisors Role and Responsibilities (12 hours);

(D) Option #4—successfully complete three semester hours of the courses listed in Option #1 and 40 hours of the courses listed in Option #3;

(E) Option #5—Advanced Arson for Profit (Bureau of Alcohol, Tobacco, and Firearms resident or field course, 80 hours).

(b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Advanced Fire and Arson Investigator Certification.

(c) National Fire Academy off campus courses that are discontinued by the National Fire Academy and are replaced by new course, of equal or greater class hours, the new course may be used toward requirements for certification.

(d) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's document titled "Commission Certification Curriculum Manual" or for experience in the fire service, may not be counted toward higher levels of certification. Credit will not be given for repeating a course or courses of similar content.

§431.9. Minimum Standards for Master Fire and Arson Investigator Certification.

(a) Applicants for Master Fire and Arson Investigator certification must complete the following requirements:

(1) possess a current basic peace officer's certificate and license from the Commission on Law Enforcement Officers Standards and Education; and

(2) hold a current commission as a peace officer with the employing entity for which the fire and arson investigations will be done;

(3) hold as a prerequisite an Advanced Fire and Arson Investigator certificate; and

(4) acquire one of the following combinations of college education and the listed years of fire protection experience, which may include the college semester and years of experience that was used to qualify for all lower levels of Fire and Arson Investigator certification:

(A) an associate degree or 60 college semester hours and at least 12 years of service; or

(B) an associate degree or 60 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least nine years of service; or

(C) an associate degree in Fire Science in and at least six years of service; or

(D) a baccalaureate degree or 120 college semester hours and six years of service; or

(E) a baccalaureate degree or 120 college semester hours, either of which must include at least 15 college semester hours in fire science subjects and at least four years of service; or

(F) a master's degree and at least four years of service.

(b) College level courses from both the upper and lower division may be used to satisfy the educational requirement for Master Fire and Arson Investigator Certification.

§431.11. Minimum Standards for Fire and Arson Investigator Certification for Law Enforcement Personnel. A permanent, full-time, full-paid law enforcement officer designated as a fire and arson investigator by an "appropriate" local authority is eligible for certification by complying with this Chapter.

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 December 6, 1993.

TRD-9333118

Jack Wood
General Counsel
Texas Commission on Fire
Protection

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 873-1700

◆ ◆ ◆
Chapter 437. Fees

• 37 TAC §437.3

The Texas Commission on Fire Protection proposes an amendment to §437.3, concerning certification fees. The amendment changes from ten days to 14 calendar days in subsections (h) and (i) the time period required for notice of re-employment.

The amendment is justified by administrative convenience of standardized time periods for submission of information to the commission, consistent with rules in other chapters of this title.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local

government as a result of enforcing or administering the section.

Mr. Bostick 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 clearer understanding by regulated entities of time periods for reporting information. 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.026, which authorizes the commission to establish fees relating to certification and basic certification tests, is affected by this proposed amendment.

§437.3. Fees—Certification.

(a)-(g) (No change.)

(h) If a person who was placed on the Commission's inactive status list reenters the fire service, with a break in service of less than one year, the employing entity must:

(1) within 14 calendar [ten] days of employment, notify the Commission that the individual has been employed;

(2) (No change.)

(i) If a person who was placed on the Commission's inactive status list reenters the fire service, with a break in service of one year or longer, the employing entity must:

(1) within 14 calendar [ten] days of employment, notify the Commission that the individual has been employed;

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

(j)-(k) (No change.)

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

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Jack Woods
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

Chapter 439. Examinations for Certification

• 37 TAC §439.7, §439.15

The Texas Commission on Fire Protection proposes an amendment to §439.7, concerning examination procedures and new §439.15, concerning testing for certification status. The change to §439.7 streamlines and clarifies the examination application procedure; and the new §439.15 requires performance skills as part of the proficiency examination to re-enter the fire service unless a continuing education requirement is satisfied.

The changes to §439.7 are justified by administrative convenience. New §439.15 is justified by the need to conform the rule to statutory changes and the assumption that performance skills are maintained through continuing education.

Alton Bostick, standards and licensing division director, has determined that there will be fiscal implications for state and local government as a result of enforcing or administering the new §439.15. For the first five-year period the section is in effect there will be an approximate decrease in revenue for the commission of \$200 due to fewer proficiency examinations given to persons re-entering the fire service. For local governments that employ persons that meet the proficiency examination exemption provisions there will be an estimated cost savings of \$50 in examination fees.

Mr. Bostick 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 that it allows trained personnel to return to the fire service in Texas that might otherwise stay in another state or in private industry. There are no additional costs of compliance for small or large businesses, or to persons required to comply with the sections.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286

The amendment and new section are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.032(b), concerning basic certification examinations and continuing education programs and §419.034(d) and (e), concerning proficiency examinations, are affected by these proposed sections

§439.7. Procedures.

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

(d) To apply for a commission examination, the designated training officer or coordinator of the entity providing the training must have completed and submitted the Course/School Prior Approval Submission Form to the commission 20 calendar days prior to the proposed starting date of the course.

Upon commission approval of the course, the provider of training will receive a Notice of Course Approval, Application for Testing form, and Endorsement of Eligibility form. The provider of training shall complete the Application for Testing and return to the commission office within 14 calendar days of receipt of the application. The commission, upon receipt of the Application for Testing, will schedule a time and place for the examination. A reasonable attempt shall be made to schedule the examination as soon as possible after the completion of the applicable course and at a place agreeable to the provider of training. [To apply for a commission examination, the designated training officer or coordinator of the entity providing the training must complete that portion of the "Course/School Prior Approval Submission Form (CFT-T)" pertaining to commission examinations. The CFT-T form must be submitted to the commission 20 days prior to the proposed starting date of the course. The commission will set the time and place of the examination. A reasonable attempt shall be made to schedule the examination as soon as possible after the completion of the applicable course and at a place agreeable to the provider of training.]

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

(e)-(o) (No change.)

§439.15. Testing for Certification Status.

(a) An individual on inactive status, as defined in §421.5 of this title (relating to Definitions) for one year or longer may not renew the certificate or certificates that were previously held.

(b) The individual may obtain a new certificate or certificates in the discipline or disciplines which were previously held by becoming employed to a position as defined in §421.5 of this title (relating to Definitions) and:

(1) passing a commission proficiency examination pertaining to the discipline or disciplines which was previously held

(A) If performance skills are part of the proficiency examination, the individual must complete the proficiency performance skills part of examination unless proof is provided for compliance with the continuing education requirement for the discipline, as specified in Chapter 441 of this title (relating to Continuing Education), for each year up to and including three years prior to the examination

(B) The required hours of continuing education shall be from Track-A only One half of the required hours of

continuing education shall be performance skills related.

(C) The proficiency examination must be passed prior to assignment to fire suppression duties.

(2) completing the current requirements, set by the commission for the discipline or disciplines previously held, that would be applied to an individual that had not been certified by the commission; or

(3) apply for, and receive a new certification in a discipline that was previously held without taking the proficiency examination or repeating the requirements for certification in the discipline to which the individual was previously certificated if the individual has complied with the continuing education requirement, for the discipline that was previously held, as specified in Chapter 441 of this title (relating to Continuing Education); and

(A) has continuously held one or more of the following certifications:

(i) Structural Fire Protection Personnel;

(ii) Aircraft Fire Fighting and Rescue Fire Protection Personnel;

(iii) Marine Fire Protection Personnel;

(vi) Fire Prevention Personnel;

(v) Fire and Arson Investigator.

(vi) Fire Protection Personnel Instructor, or

(B) has been employed full-time as a fire protection employee, without a break in service of one year or longer, by a nongovernmental entity not regulated by the commission; or

(C) has been employed in a fire protection personnel position in another jurisdiction without a break in service of one year or longer.

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 December 6, 1993

TRD-9333115

Jack Wood
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

For further information, please call: (512) 873-1700

The Texas Government Code, §419.0321, which provides that the commission shall create a separate certification class for part-time fire protection employees, is affected by these proposed new sections.

◆ ◆ ◆
• 37 TAC §439.15

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

The Texas Commission on Fire Protection proposes the repeal of §439.15, concerning testing for certification status. The repealed section will be replaced by a new section relating to the same subject matter proposed in this issue of the *Texas Register*.

The repeal is justified by the need to conform the rules concerning proficiency examinations to statutory changes.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Bostick also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be that it allows new requirements, consistent with statutory changes, permitting otherwise trained personnel to return to the fire service in Texas that might otherwise stay out-of-state or in private industry. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeal is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.032(b), concerning basic certification examinations and continuing education programs; and §419.034(d) and (e), concerning proficiency examinations, are affected by this proposed repeal.

§439.15. *Testing for Certification Status.*

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

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Jack Woods
General Counsel
Texas Commission on Fire
Protection

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Chapter 447. Part-Time Fire Protection Employee

• 37 TAC §§447.1, 447.3, 447.5

The Texas Commission on Fire Protection proposes new chapter 447, concerning part-time fire protection employees. The new chapter includes §447.1, which establishes minimum standards for part-time fire protection employees, §447.3, which provides minimum standards for advanced levels of part-time certification, and §447.5, which outlines permissible hours of work for part-time fire protection employees.

The new sections are justified by statutory changes contained in Senate Bill 1110 requiring the commission to establish a certification classification for part-time fire protection employees.

Alton Bostick, standards and licensing division director, has determined that there will be fiscal implications for state and local governments as a result of administering and enforcing the sections. For the first five-year period the sections are in effect, the effect of state government will be an increase in revenue of \$20 per person in additional certification and renewal fees each year and \$15 to \$65 per person in examination fees for part-time fire protection employees. The number of new certifications is offset by increased annual inspection costs of approximately \$85 for each new department which was not previously subject to commission regulations. For local governmental entities there will be a decrease in costs from a reduction in overtime pay for some departments, while some smaller cities will experience an increased cost of \$20 per year per person in part-time certification fees, \$15 to \$65 in examination fees, and an increase in training cost in an undetermined amount.

Mr. Bostick 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 greater flexibility for small and moderate size cities in meeting fire protection needs. In cities with only part-time fire protection employees, the quality of fire protection will be improved as a result of enforcing certification requirements. There are no additional costs of compliance for small or large businesses. The possible economic cost to persons who are required to comply with the sections as proposed will be \$600 to \$1,200 per person in training costs where the employing entity does not pay for training.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

§447.1. *Minimum Standards for Part-Time Fire Protection Employee.*

(a) All part-time employees of a fire department or a local government who perform the duties of fire protection personnel must be certified by the commission. In order to be certified, part-time fire protection employees must be employed by a fire department or a local government and:

(1) complete the requirements as specified in §423.1 of this title (relating to Minimum Standards for Basic Structural Fire Protection Personnel); or

(2) complete the requirements as specified in §423.201 of this title (relating to Minimum Standards for Basic Aircraft Crash and Rescue Fire Protection Personnel); or

(3) complete the requirements as specified in §423.301 of this title (relating to Minimum Standards for Marine Fire Protection Personnel); or

(4) complete the requirements as specified in §429.1 of this title (relating to Minimum Standards for Fire Inspection Personnel); or

(5) complete the requirements as specified in §431.1 of this title (relating to Minimum Standards for Basic Fire and Arson Investigation Personnel); or

(6) complete the requirements as specified in Chapter 425 of this title (relating to Minimum Standards for Basic Fire Service Instructor)

(b) A certified part-time fire protection employee may possess one or more of the following certifications.

(1) Part-time Structural Firefighter;

(2) Part-Time Aircraft Crash and Rescue Firefighter;

(3) Part-Time Marine Firefighter;

(4) Part-Time Fire Inspection;

(5) Part-Time Fire and Arson Investigator; or

(6) Part-Time Fire Service Instructor.

(c) Certified part-time fire protection employees are subject to the same commission rules that apply to certified fire protection personnel.

(d) Fire departments or local governments that employ certified part-time fire protection employees are subject to the

same commission rules that apply to fire departments and local governmental entities that employ fire protection personnel.

(e) Prior to being assigned to fire suppression duties, an individual must have completed a commission-approved curriculum and successfully passed the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification).

§447.3. Minimum Standards For Advanced Levels of Part-Time Certification. Applicants for advanced levels of part-time certification, must complete the same requirements as fire protection personnel seeking higher levels of certification. Years of experience for advanced part-time certifications shall be calendar years.

§447.5. Permissible Hours of Work For Part-Time Fire Protection Employees.

(a) Part-time fire protection employees may not:

(1) work more than 24 hours a week or average more than approximately 24 hours a week during a work cycle for any one fire department; or

(2) work more than 500 hours in a calendar year in fire suppression duties for any one fire department.

(b) Part-time fire protection employees may work on a temporary (fill-in) basis for a fire protection personnel who is absent from work due to vacation, illness, injury, or administrative leave.

(1) The hours worked in a temporary position shall not be counted when computing the hours worked in subsection (a)(1) of this section.

(2) If the hours worked in a temporary position are in fire suppression related duties, the hours worked shall be counted when computing the hours worked in subsection (a)(2) of this section.

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

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TRD-9333113

Jack Woods
General Counsel
Texas Commission of Fire
Protection

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For further information, please call: (512) 873-1700



Chapter 449. Head of a Fire Department

• 37 TAC §449.1

The Texas Commission on Fire Protection proposes new §449.1, concerning the head of a fire department. The new chapter establishes minimum standards for the head of a fire department.

The new chapter is justified by a statutory change to the Texas Government Code, §419.032(f); and the need to insure that persons directing the activities of a fire department have a basic understanding of the duties of the persons under their supervision.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be an increase in revenue of \$20 per person in certification fees and \$15 to \$65 in examination fees for six to ten persons the first year and two to three persons each year thereafter. There will be a corresponding increase in cost for local governments if the fire department employs a department head that is not certified.

Mr. Bostick 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 that the head of a fire department must demonstrate a basic level of knowledge in the discipline in which he supervises fire protection personnel. There will be no additional costs of compliance for small or large businesses. The possible economic cost to persons required to comply with the section as proposed will be \$15 to \$65 in examination fees if not paid by the employer.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new section is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.032(f), which provides that the commission shall adopt rules for the purpose of this subsection relating to presentation of evidence that a person has been a volunteer fire fighter for the required period, is affected by this proposed new section.

§449.1. Minimum Standards for the Head of a Fire Department

(a) An individual who is employed as the head of a fire department, on or after September 1, 1993, must be certified by the commission, as a minimum, as a Basic Structural Fire Protection Personnel, Basic Aircraft Rescue and Fire Protection Personnel, Marine Fire Protection Personnel, Basic Fire Inspector, or Basic Fire and Arson Investigator within one year from the date

of appointment or within one year of September 1, 1993, whichever is later. In order to be certified the individual must:

(1) complete one of the following requirements:

(A) Basic Structural Fire Protection Personnel as specified in §423.1 of this title (relating to Minimum Standards for Basic Structural Fire Protection Personnel); or

(B) Basic Aircraft Rescue and Fire Protection Personnel as specified in §423.203 of this title (relating to Minimum Standards for Basic Aircraft Rescue and Fire Protection Personnel Certification); or

(C) Marine Fire Protection Personnel as specified in §423.301 of this title (relating to Minimum Standards for Marine Fire Protection Personnel); or

(D) Basic Fire Protection Instructor as specified in §425.1 of this title (relating to Minimum Standards for Basic Fire Service Instructor Certification); or

(E) Basic Fire Inspector as specified in §429.3 of this title (relating to Inspector Certification Level Based on Population); or

(F) Basic Fire and Arson Investigator as specified in §431.3 of this title (relating to Minimum Standards for Intermediate Fire and Arson Investigator Certification); or

(G) provide documentation in the form of a sworn affidavit of ten years experience as an active volunteer fire fighter in one or more volunteer fire departments that meet the requirements of subsection (b) of this section; and

(2) successfully pass the commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification); and

(3) comply with the continuing education requirement specified in Chapter 441 of this title (relating to Continuing Education) during the period of temporary appointment

(b) The ten years of volunteer service must be with a volunteer fire department or departments that meet the following requirements during the relevant period:

(1) an active membership of 20 or more members; and

(2) a minimum of two drills (not meetings) each month, each lasting a minimum of two hours and each having been attended by a majority of all active members.

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

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Jack Wood
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

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**Chapter 491. Voluntary
Regulation of State Agencies
and State Agency
Employees**

• 37 TAC §491.3

The Texas Commission on Fire Protection proposes an amendment to §491.3, concerning documentation required for voluntary regulation of state agencies and state agency employees. The amendment permits voluntary certification of state agency employees in the field of fire instruction and fire training evaluation.

The amendment is justified by changes to the Texas Government Code, §419.083, which permits voluntary certification as fire protection personnel of persons employed by state agencies in the field of fire instruction or fire training evaluation, provided the training and experience requirements for fire protection personnel are met.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government will be in effect will be an increase in cost of \$20 per person certified, if the agency pays the certification fees, and a corresponding increase in revenue to the commission from certification and renewal fees each year. There will be no effect on local government.

Mr. Bostick 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 that the section as amended allows qualified state employees in the field of fire training and training evaluation to demonstrate the same level of competency as those persons who are trained and evaluated. There will be no additional costs of compliance for small or large businesses, and no economic costs for persons due to the voluntary nature of certification of state employees, and the fact that most agencies pay for the certification of qualified employees.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendment is proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.083, which provides for voluntary regulation of certain state agencies and state agency employees under one or more discrete components of the commission's regulatory authority under Subsection B, as defined by commission rule, is affected by this proposed amendment.

§491.3. Documentation.

(a) The state agency or state agency employee seeking regulation or certification under this chapter must provide written documentation from the administrative head of the department providing fire protection[, or] fire prevention, fire instruction, or fire training evaluation describing the duties, responsibilities, and work schedule of the state agency or state employee seeking regulation.

(b) State agency employees who are employed in the field of fire instruction or fire training evaluation who receive certification under this chapter must be full-time employees.

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

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Jack Woods
General Counsel
Texas Commission on Fire
Protection

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For further information, please call: (512) 873-1700

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**Chapter 493. Voluntary
Regulation of Federal
Agencies and Federal
Agency Employees**

• 37 TAC §§493.1, 493.3, 493.5,
493.7

The Texas Commission on Fire Protection proposes amendments to §§493.1, 493.3, 493.5, and 493.7, concerning voluntary regulation of federal agencies and federal agency employees. The amendments to Chapter 493 reflect a change in terminology from "federal employee" to "federal fire fighter" and a requirement for a description of federal property protected.

The amendments are justified by changes to Texas Government Code, §419.084, which changed the provisions for voluntary regula-

tions of federal agency employees to allow certification of employees of an entity that contracts with the federal government to protect federal property.

Alton Bostick, standards and licensing division director, has determined that for the first five-year period the sections are in effect there will be fiscal implication as a result of administrative and enforcement of the sections. The effect on state government will be an increase in revenue each year of \$20 per person for certification fees; and \$15 to \$65 in examination fees for each person employed to protect federal property who chooses to be certified. There will be no effect on local government.

Mr. Bostick 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 that the federal government can be assured that persons that provide fire protection to federal property are properly trained. The cost of compliance for small businesses, although voluntary, will be \$20 per person in certification and annual renewal fees, \$15 to \$65 per person in examination fees, and the cost of providing training, estimated at \$600 to \$1,200 depending on the source. The cost for small and large businesses are the same. The possible economic cost to persons would be the same as discussed for businesses if the fees and training costs are not paid by the employer.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The amendments are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.084, which provides for voluntary regulation of certain federal agencies and federal agency employees under one or more discrete components of the commission's regulatory authority under Subsection B, as defined by commission rule, is affected by these proposed amendments.

§493.1. Election of Components for Voluntary Regulation. A federal agency or federal fire fighter [employee] eligible for regulation under the Texas Government Code, §419.084, may apply to the commission for regulation. The agency or individual must submit an application that elects regulation under one or more of the following components:

(1)-(11) (No change.)

§493.3. Documentation. The federal agency or federal fire fighter [agency employee] seeking regulation or certification under this chapter must provide written documentation from the administrative head of the department providing fire protection or prevention describing the duties, responsibilities, description or nature of federal

property protected, and work schedule of the federal agency or federal fire fighter [employee] seeking regulation.

§493.5. Notification. If the applicant meets the requirements of the Texas Government Code, §419.084, the commission shall notify in writing the applying agency or federal fire fighter [agency employee] of its decision. The applicant has one year from the date of notification to comply with all regulations applicable to the components elected by the applicant.

§493.7. Certification. A federal fire fighter [agency employee] must meet the minimum training and experience requirements applicable to fire protection personnel in order to be certified under this chapter.

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

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TRD-8333110 Jack Woods
General Counsel
Texas Commission of Fire
Protection

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For further information, please call: (512) 873-1700

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**Chapter 495. Voluntary
Regulation of
Nongovernmental
Departments**

• 37 TAC §§495.1, 495.3, 495.5

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

The Texas Commission on Fire Protection proposes the repeal of §§495.1, 495.3, and 495.5, concerning voluntary regulation of certain nongovernmental departments. The repealed sections are replaced by new sections with the same text organized in a new subchapter A.

The repeals are justified by administrative convenience and the need to reorganize Chapter 495 into two subchapters as a result of the addition of a new §419.087 in the Texas Government Code pertaining to mandatory regulation of "for profit" fire departments.

Alton Bostick, standard and licensing division director, 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. Bostick also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be that standards applicable to nongovernmental organizations as personnel are arranged in an easily understood and logical manner. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The repeals are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.085, which provides the commission with authority to provide rules and procedures for voluntary regulation of certain nongovernmental departments, and §419.087, which provides the commission with authority to provide rules and procedures for mandatory regulation of nongovernmental organizations and personnel, are affected by these proposed repeals.

§495.1. Application Procedures.

§495.3. Notification.

§495.5. Nongovernmental Fire Protection Employees.

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 December 6, 1993.

TRD-8333109 Jack Woods
General Counsel
Texas Commission of Fire
Protection

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 873-1700

◆ ◆ ◆
**Chapter 495. Regulation of
Nongovernmental
Departments**

**Subchapter A. Voluntary Regu-
lation of Nongovernmental
Departments**

• 37 TAC §§495.1, 495.3, 495.5

The Texas Commission on Fire Protection proposes a new Chapter 495, concerning regulation of nongovernmental departments,

comprised of a new subchapter A concerning voluntary regulation of certain departments and a new subchapter B concerning mandatory regulation of nongovernmental departments providing fire protection for profit. Subchapter A includes new §§495.1, 495.3, and 495.5 which replace repealed sections with the same subject matter and text, but are organized in the new subchapter A.

The new sections are justified by administrative convenience.

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

Mr. Bostick 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 that citizens are assured of the same level of competency of fire protection personnel whether the services are provided by public or private employees. 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 Jim Fiero, Chairman, Fire Protection Personnel Advisory Committee, P.O. Box 2286, Austin, Texas 78768-2286.

The new sections are proposed under the Texas Government Code, §419.008, which provides the Texas Commission on Fire Protection with authority to adopt rules for the administration of its powers and duties.

The Texas Government Code, §419.085, which provides the commission with authority to provide rules and procedures for voluntary regulation of certain nongovernmental departments, is affected by these proposed sections.

§495.1. Application Procedures. A nongovernmental entity may apply to the Commission for voluntary regulation pursuant to the Texas Government Code, §419.085. A nongovernmental entity seeking voluntary regulation shall inform the commission in writing of its request and must provide the following documentation:

(1) a letter from the Texas Department of Insurance verifying that the area protected constitutes a rating territory with a protected key rate assigned by the Texas Department of Insurance;

(2) documentation from the United States Census Bureau verifying the population of the protected area;

(3) written verification from the administrative head of the department that the entity provides fire protection to an unincorporated area; and

(4) written documentation of the duties, responsibilities, and work schedules of the fire protection personnel employed by the entity.

TITLE 43. TRANSPORTATION

Part I. Texas Department of Transportation

Chapter 9. [Division of Construction and] Contract Management

• 43 TAC §9.21

Editor's Note: The Texas Department of Transportation 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 Texas Department of Transportation proposes an amendment to §9.21, concerning Definitions, of the department's Emergency Contract Procedures. Section 9.21 is amended to revise the definition of deputy executive director. The department presently has rules for emergency contracting procedures, codified at 43 TAC §§9.20-9.22, which provide that the executive director or his designee not below the level of deputy executive director must certify the fact and nature of the emergency giving rise to the award of a contract under these sections, and that the executive director or his designee not below the level of deputy executive director may authorize the waiving of bonds or insurance requirements.

At the time the current rules were adopted the position of deputy executive director was the

only second-tier management position in the department. Due to the reorganization of the department which established six second-tier management positions, with all six on an equivalent level of authority, it is necessary to amend §9.21 to include all six second-tier management positions. The amendment will assure that the emergency contracting procedures continue without interruption, thereby protecting the vital interests, safety, and welfare of the taxpayers and the travelling public.

Mr. Lawrence J. Zatopek, director, General 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. Zatopek has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section.

Mr. Zatopek 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 the assurance that the emergency contracting procedures continue without interruption, thereby protecting the vital interests, safety, and welfare of the taxpayers and the travelling public. 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 Lawrence J. Zatopek, Director, General Services Division, 125 East 11th Street, Austin, Texas 78701.

The proposed amendment is adopted under Texas Civil Statutes, Article 6666, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically by Texas Civil Statutes, Article 6674h-2, which authorize the department to establish rules for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws. Texas Civil Statutes, Article 6674h-2, which authorize the department to adopt rules to provide alternate procedures for the expedited award of highway improvement contracts to meet emergency conditions is the statute affected by this amendment.

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 December 7, 1993.

TRD-9333219

Diane L. Northam
Legal Administrative
Assistant
Texas Department of
Transportation

Earliest possible date of adoption: January 14, 1994

For further information, please call: (512) 463-8630



Withdrawn Sections

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

TITLE 7. BANKING AND SECURITIES

Part II. Banking Department of Texas

Chapter 26. Perpetual Care Cemeteries

• 7 TAC §26.1

The Banking Department of Texas has withdrawn from consideration for permanent adoption a proposed new §26.1 which appeared in the July 20, 1993, issue of the *Texas Register* (18 TexReg 4724). The effective date of this withdrawal is December 14, 1993.

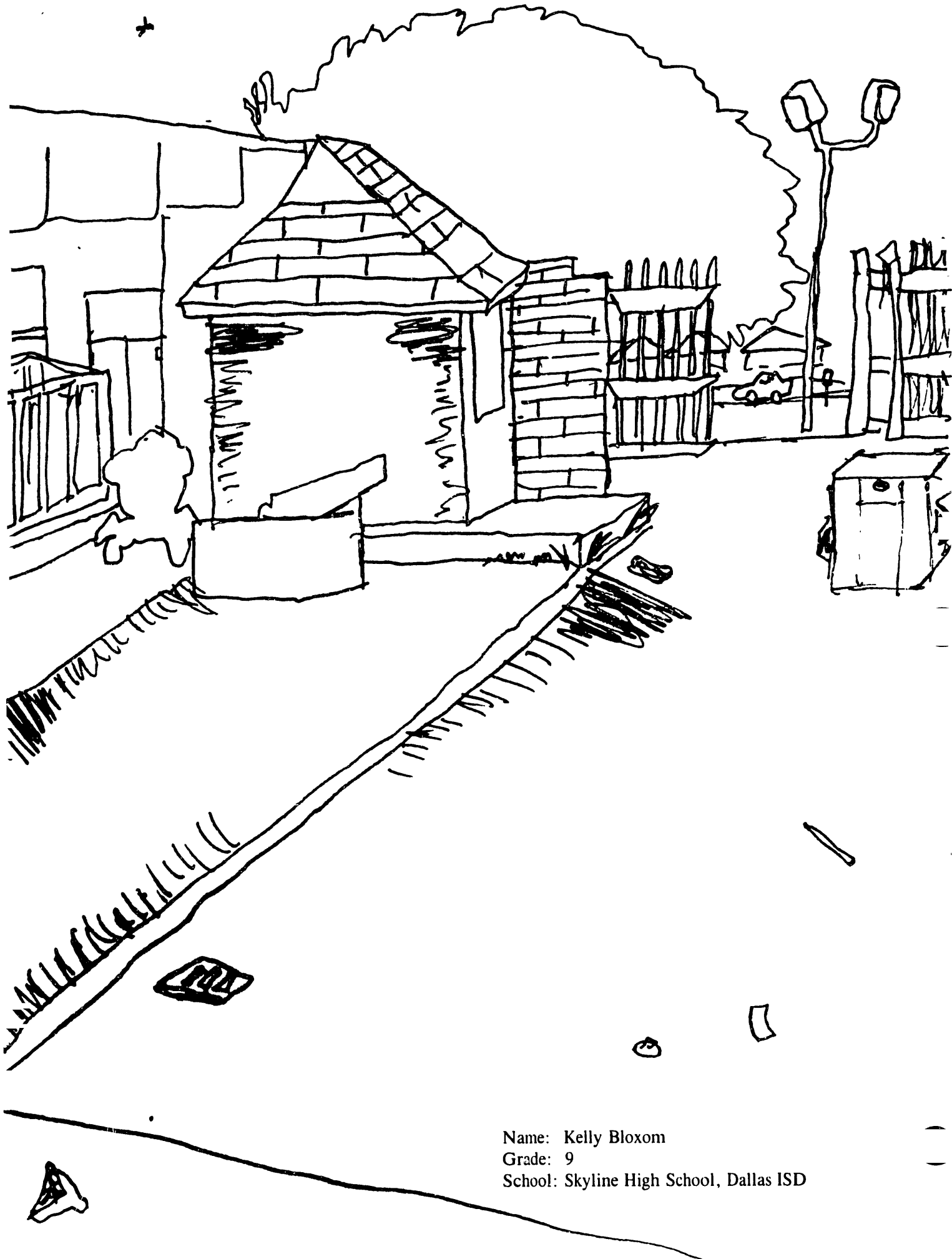
Issued in Austin, Texas, on December 8, 1993.

TRD-9333247 Everette D. Jobe
 General Counsel
 Banking Department of
 Texas

Effective date: December 14, 1993

For further information, please call: (512)
475-1300





Name: Kelly Bloxom
Grade: 9
School: Skyline High School, Dallas ISD

Adopted Sections

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

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

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 21. Seed Certification Standards

General Requirements

- 4 TAC §§21.1, 21.6, 21.8, 21.9, 21.11, 21.14

The Texas Department of Agriculture (the department) adopts amendments to §§21.1, 21.6, 21.8, 21.9, 21.11, and 21.14, concerning general requirements for seed certification, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5643).

The amendments are adopted in order to clarify the sections and make them more consistent with current practices.

The amendments to §§21.1, 21.8, 21.9, and 21.14 change some terms to be consistent with industry terminology and with the department's designation of field offices. The amendment to §21.6 adds a requirement that applicants provide scale maps of field locations and that fields be identified at a point of entry. The amendment to §21.11 changes the fee amounts for certification labels to be consistent with those currently charged.

The President of Seedco Corporation commented on the proposed amendment to §21.6 stating that he supported the provision of scale maps but was opposed to the use of stakes with field identification due to the possibility of the stakes being plowed out or removed prior to field inspection. The department disagrees with these comments because field inspection stakes are used in corn seed and sorghum seed production fields without any problem and their use saves time and money in accurately locating the fields.

The amendments are adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of the Code; the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board; and the Code, §62.008, which provides the department with the authority to fix and collect a fee for issuance of certification labels.

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 December 7, 1993.

TRD-9333203

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Field Inspection Chart

- 4 TAC §21.21

The Texas Department of Agriculture (the department) adopts an amendment to §21.21, concerning the number and time of field inspections, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5643).

The amendment is adopted to provide updated information on the department's field inspection chart.

The amendment provides the title of the chart, the most recent amendment date of the chart, and the current address and phone number for obtaining copies of the chart.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333204

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Acreage Inspection Fees for Certification

- 4 TAC §21.31

The Texas Department of Agriculture (the department) adopts an amendment to §21.31, concerning inspection fees for certification, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5644).

The amendment is adopted to update information regarding the department's inspection fee chart and to make the chart more consistent with current practice.

The amendment adds existing preplant inspection fees to the acreage inspection fees for certification chart; provides the current address and phone number for obtaining copies of the certification chart; and provides the most recent date of amendment of the chart.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993

TRD-9333205

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Laboratory Analysis Chart

• 4 TAC §21.41

The Texas Department of Agriculture (the department) adopts an amendment to §21.41, concerning the minimum amount of seed required for laboratory analysis, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5646).

The amendment is adopted in order to update information regarding the department's laboratory analysis chart.

The amendment provides the current address and phone number for obtaining copies of the laboratory analysis chart.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333206
Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Genetic Seed Chart

• 4 TAC §21.51

The Texas Department of Agriculture (the department) adopts an amendment to §21.51, concerning genetic seed certification standards, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5646).

The amendment is adopted to update information regarding the department's genetic seed chart and to clarify existing procedures in order to comply with State Seed and Plant Board standards.

The amendment changes the date the genetic seed chart was amended; corrects the program title; changes the tolerances for nutgrass in certified peanut fields; and adds bahiagrass and guineagrass to place cultivars in the correct category.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules as necessary for the administration of the Code; the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board; and the Code, §62.008, which provides the department with the authority to fix and collect a fee for issuance of certification labels.

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 December 7, 1993.

TRD-9333207
Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Additional Requirements for the Certification of Certain Crops

• 4 TAC §§21.61, 21.64, 21.66

The Texas Department of Agriculture (the department) adopts amendments to §§21.61, 21.64, and 21.66, concerning additional requirements for the certification of certain crops, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5649).

The amendments are adopted in order to make these sections consistent with current practice and to clarify the sections.

The amendment to §21.61 adds four grasses to be covered by the length of stand requirements, as adopted by the State Seed and Plant Board. The amendment to §21.64 clarifies language regarding destruction of plants that are shedding pollen. The amendment to §21.66 corrects a typographical error.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to adopt rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333208

Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Vegetatively Propagated Pasture Grass and Turf Grass (Bermudagrass, St. Augustine, Zoysiagrass, Buffalograss)

• 4 TAC §§21.81, 21.83, 21.85, 21.86

The Texas Department of Agriculture (the department) adopts amendments to §§21.81, 21.83, 21.85, and 21.86, concerning vegetatively propagated pasture grass and turf grass (Bermudagrass, St. Augustinegrass, Zoysiagrass, Buffalograss), without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5650).

The amendments are adopted in order to clarify existing procedures and comply with State Seed and Plant Board standards.

The amendments add the word Buffalograss to the undesignated head; provide an address change and a new date for filing of applications; and correct the classification of St. Augustinegrass.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333209
Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Sugar Cane-Vegetatively Propagated

• 4 TAC §21.101, §21.103

The Texas Department of Agriculture (the department) adopts amendments to §21.101 and §21.103, concerning sugar cane-vegetatively propagated, without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5650).

The amendments are adopted in order to clarify the sections and provide for more efficient filing procedures.

The amendments correct a typographical error and provide an address change for filing applications with the department for inspection of sugar cane acreages.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture with the authority to make rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333210 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

Forest Reproductive Material

• 4 TAC §21.122, §21.123

The Texas Department of Agriculture (the department) adopts amendments to §21.122 and §21.123, concerning seed production and seedling production, certified (blue label), and certified selected (green label), without changes to the proposed text as published in the August 24, 1993, issue of the *Texas Register* (18 TexReg 5650).

The amendments are made to provide for more efficient filing procedures.

The amendments change the location for filing applications for inspection; and change the time for subsequent inspections.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Texas Agriculture Code (the Code), §12.016, which provides the Texas Department of Agriculture

with the authority to make rules necessary to carry out provisions of the Code; and the Code, Chapter 62, which provides for seed and plant certification in accordance with standards established by the State Seed and Plant Board.

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 December 7, 1993.

TRD-9333211 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: December 28, 1993

Proposal publication date: August 24, 1993

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

TITLE 16. ECONOMIC REGULATION

Part II. Public Utility Commission of Texas

Chapter 23. Substantive Rules

Rates

• 16 TAC §23.22

The Public Utility Commission of Texas adopts an amendment to §23.22, concerning Energy Efficiency Plans, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7249). Under existing rules, the commission requires certain utilities to file an energy efficiency plan. The commission is consolidating the energy efficiency plan with the load and resource forecast report that is required under §23.13(c) of the Commission's rules.

The purpose of the change in the filing requirements for the energy efficiency plan is to integrate the load and resources forecast report and energy efficiency plan, which are related to each other, into a single filing, in order to reduce the effort required by utilities in complying with these filing requirements. The commission is developing a rule that would require utilities to file integrated resource plans, which the commission believes will improve the resource planning and licensing processes. The change described above will permit the Staff to concentrate its efforts on the development of such a rule. In addition, any new rule on integrated resource planning will probably incorporate into a single filing many of the requirements in the current rules relating to energy efficiency plans, load and capacity resource forecast filings, and standard avoided-cost calculations. The consolidation of the load and resources forecast report and energy efficiency plan will facilitate the transition to a more integrated regulatory approach

Seven parties filed comments on the proposed rule. All of the commenters either supported the adoption of the rule or stated that they did not oppose its adoption.

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

The statute affected by the rule is Texas Civil Statutes, Article 1446c, §16 and §54.

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 December 6, 1993.

TRD-9333155 John M. Renfrow
Secretary of the
Commission
Public Utility Commission
of Texas

Effective date: December 27, 1993

Proposal publication date: October 19, 1993

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

Quality of Service

• 16 TAC §23.66

The Public Utility Commission of Texas adopts an amendment to §23.66, concerning Arrangements Between Qualifying Facilities and Electric Utilities, without changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7250). Under existing rules, the commission requires certain utilities to file a calculation of the cost of a generating unit that could be avoided or deferred, if power from a qualifying facility were purchased instead. The commission is deferring the filing of calculations of Standard Avoided Costs for one year.

The purpose of the change in the filing requirements for the standard avoided cost calculation is to reduce the effort required by the Staff of the commission in reviewing these filings and participating in docketed avoided-cost proceedings. The commission is developing a rule that would require utilities to file integrated resource plans, which the commission believes will improve the resource planning and licensing processes. The change described above will permit the Staff to concentrate its efforts on the development of such a rule. In addition, any new rule on integrated resource planning will probably incorporate into a single filing many of the requirements in the current rules relating to energy efficiency plans, load and capacity resource forecast filings, and calculation of marginal costs of a utility.

One of the issues that is likely to be addressed in a commission rule on integrated resource planning is whether there is a need for administrative proceedings to determine a utility's avoided-cost. The delay in the filing of

avoided-cost calculations is not intended to resolve this question one way or the other. If the commission concludes that administratively determined avoided costs are essential, it is likely that some utilities will be required to file a resource plan and avoided cost calculation for commission approval in late 1994 or early 1995. The commission might also conclude that administratively determined avoided costs are not essential and eliminate the filing of an avoided cost as a separate filing requirement.

Six parties filed comments on the proposed rule. All of the commenters either supported the adoption of the rule or stated that they did not oppose its adoption.

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

The statute affected by the rule is Texas Civil Statutes, Article 1446c, §16 and §54.

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 December 6, 1993.

TRD-9333156

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

Effective date: December 27, 1993

Proposal publication date: October 19, 1993

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

TITLE 22. EXAMINING BOARDS

Part IX. Texas State Board of Medical Examiners

Chapter 188. Complaint Procedure Notification

• 22 TAC §188.1

The Texas State Board of Medical Examiners adopts new §188.1, with changes to the proposed text as published in the October 19, 1993, issue of the *Texas Register* (18 TexReg 7279).

The new section was mandated by Senate Bill 1062, 73rd Legislature.

The section will function by requiring physicians to post the board's address and phone number in their office, on letterhead, or on billing statements to enable consumers to know to whom they should direct complaints regarding physicians, physician assistants, and acupuncturists, as well as other licensees and registrants of the Texas State Board of Medical Examiners.

One written comment was made by Texas Osteopathic Medical Association, but later withdrawn during the public hearing.

The new section is adopted under Texas Civil Statutes, Article 4495b, which provide the Texas State Board of Medical Examiners with the authority to make rules, regulations, and bylaws not inconsistent with this act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this act.

The adopted new section implements Texas Civil Statutes, Article 4495b, §2.09(s)(2).

§188.1. Complaint Procedure Notification.

(a) **Methods of Notification.** Pursuant to the Medical Practice Act ("the Act"), Article 4495b, §2.09(s)(2), for the purpose of directing complaints to the board, the board and its licensees shall provide notification to the public of the name, mailing address, and telephone number of the board by one or more of the following methods:

(1) displaying in a prominent location at their place of business, signs in English and Spanish of no less than 8-1/2 by 11 inches in size with the board-approved notification statement printed in black on a white background in type no smaller than standard 24-point Times Roman print; or

(2) placing the board-approved notification statement printed in English and Spanish in black type no smaller than standard 10-point, 12-pitch typewriter print on each bill for services; or

(3) placing the board-approved notification statement printed in English and Spanish in black type no smaller than standard 10-point, 12-pitch typewriter print on each registration form, application, or written contract for services.

(b) **Approved English Notification Statement.** The following notification statement in English is approved by the board for purposes of these rules and the Act, §2.09(s)(2):

NOTICE CONCERNING COMPLAINTS

Complaints about physicians, as well as other licensees and registrants of the Texas State Board of Medical Examiners, including physician assistants and acupuncturists, may be reported for investigation at the following address:

Texas State Board of Medical Examiners

Attention: Investigations

1812 Centre Creek Drive, Suite 300

P.O. Box 149134

Austin, Texas 78714-9134

Assistance in filing a complaint is available by calling the following telephone number:

1-800-201-9353

(c) Approved Spanish Notification Statement. The following notification statement in Spanish is approved by the board for purposes of these rules and the Act, §2.09(s)(2).

AVISO SOBRE QUEJAS

Se pueden presentar quejas acerca de médicos, así también como de otras personas autorizadas y registradas por la Junta de Examinadores Médicos del Estado de Texas (Texas State Board of Medical Examiners), incluyendo a ayudantes médicos y acupunturistas, para su investigación, en la siguiente dirección:

Texas State Board of Medical Examiners
Attention: Investigations
1812 Centre Creek Drive, Suite 300
P.O. Box 149134
Austin, Texas 78714-9134

Se puede obtener ayuda para presentar una queja llamando al siguiente número telefónico:

1-800-201-9353

(d) Following are samples of the type print references in subsection (a) of this section.

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 December 3, 1993.

TRD-8333047

Bruce A. Levy, M.D., J.D.
Executive Director
Texas State Board of
Medical Examiners

Effective date: December 24, 1993

Proposal publication date: October 19, 1993

For further information, please call: (512) 834-7728, Ext. 402

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 7. Corporate and Financial Regulation

Subchapter B. Insurance Holding Company System Regulatory Act

§ 28 TAC §§7.201, 7.202, 7.205, 7.210

The Texas Department of Insurance adopts amendments to §§7.201, 7.202, 7.205, and 7.210, concerning administrative regulation under the Insurance Code, Article 21.49-1, the Insurance Holding Company System Regulatory Act (the Act). The amendment to §7.202 is adopted with changes to subsection (a) (7)(A) and (B) to the proposed text as published in the October 29, 1993, issue of the *Texas Register* (18 TexReg 7522). Amendments to §§7.201, 7.205, and 7.210 are adopted without changes and will not be republished.

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

As defined in the rule, controlling producers are essentially what would commonly be denominated "brokers" who control an insurer. Brokers by definition are out-of-state entities, because brokers represent insureds, and such representation within Texas is not permitted under the Insurance Code. The term "controlling producer" in the amendments is not intended to include an agent or any independent agent acting on behalf of the con-

trolled insurer, pursuant to the Insurance Code, Chapter 21, Subchapter A, or any sub-agent or representative of the agent, who acts as such in the solicitation of, negotiation for, or procurement or making of an insurance contract, if the agent is not also acting in the capacity of an insurance broker in the transaction in question. The term "controlling producer" in the amendments is not intended to include an attorney in fact acting on behalf of a licensed Lloyd's association or licensed reciprocal or interinsurance exchange.

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

Section 7.202(a)(7)(A) as published in the October 29, 1993 issue of the *Texas Register* (18 TexReg 7522) has been changed to correct an inadvertent error to read paragraph "(4)" instead of "(5)." The term "control" as intended in the context of (A) is defined in paragraph "(4)."

Section 7.202(a)(7)(B) as published in the October 29, 1993 issue of the *Texas Register* (18 TexReg 7522) has been changed by adding "or interinsurance" to the last sentence between "reciprocal" and "exchange." This change is made to conform with the term used in the Insurance Code, Chapter 19, and clarifies that the term "producer" or "controlling producer" is not intended to include a licensed reciprocal or interinsurance exchange.

The newly adopted amendments to §7.201 make necessary technical corrections by changing the title of the Holding Company Division to the Holding Company Activity and by changing the mail code for the Holding Company Activity. The newly adopted amendments to §7.202 redefine Commissioner in §7.202(a)(3) and provide a definition for controlling producer in §7.202(a) (7). The newly adopted amendments to §7.205 provide that an acquisition of control of a property and casualty insurer by a controlling producer is subject to the Act, §5; set forth certain requirements for controlling producers; and make conforming changes to the sanction provision set forth in an amendment to Article 21.49-1, §5(k), enacted by passage of House Bill 1461, 73rd Legislature, 1993. The amendment to §7.210 provides for certain additional disclosure requirements.

Comment: Three commenters favored adoption of the amendments to §§7. 201-7.202, 7.205, and 7.210 as proposed. There were no comments against adoption of the amendments as proposed.

One commenter stated that an "arms-length" relationship allows for maximum protection to policyholders as the truly "independent" agent is allowed to fulfill his fiduciary duty to insureds of obtaining quality insurance coverage at competitive prices. In addition, the commenter pointed out that requiring producer controlled insurers to operate on an arms-length basis with controlling broker affiliates allows for competitive market dynamics to operate freely and without distortion. The commenter stated that the elimination of unreasonably low pricing and ultimate prevention of insolvency caused by distorted pricing protects insurers and policyholders alike and helps to support the required qualities of a healthy insurance market, reasonably priced competitive insurance premiums, predictable and reliable insurance capacity and reduced guaranty fund costs.

One commenter expressed agreement with and support for the amendments as proposed.

One commenter stated that adoption of the amendments to the rules supports solvency regulation and indicates a proactive approach by the Texas Department of Insurance to solvency monitoring.

Response: The Department agrees with the comments.

During the comment period, comments were received by three sources, all in favor of the amendments to the rules as proposed.

The Texas Department of Insurance received a written comment from Millers Group, representing the Millers Mutual Fire Insurance Company of Texas, the Millers Casualty Insurance Company of Texas, and the Millers Life Insurance Company of Texas.

The Texas Department of Insurance received a request for a public hearing from the Texas Legal Reserve Officials Association, a trade association composed of Texas domiciled life, health and accident insurance companies. The Texas Legal Reserve Officials Association notified the Texas Department of Insurance that it would submit comments concerning the proposed rules by subsequent letter. The Texas Legal Reserve Officials Association made no comments by subsequent letter but appeared and spoke at the public hearing through its representative.

The American General Group, through its representative, appeared and spoke at the public hearing on behalf of its affiliated companies.

The amendments are adopted pursuant to the Insurance Code, Articles 21.49-1, 1.03A, and 1.04C; and the Government Code, §§2001.004-2001.038. The Insurance Code, Article 21.49-1, constitutes the Insurance Holding Company System Regulatory Act (the Act). The Insurance Code, Article 21.49-1 §11, authorizes the Commissioner to issue such rules, regulations, and orders as shall be consistent with and shall carry out

the provisions of the Act and to govern the conduct of its business and proceedings under the Act. The Insurance Code, Article 1.03A, authorizes the Commissioner to adopt rules for the conduct and execution of the duties and functions of the department only as authorized by statute for general and uniform application. The Insurance Code, Article 1.04C, provides that the Commissioner shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Commissioner and to speak on any issue under the jurisdiction of the Commissioner. The Government Code, §§2001.004-2001.038, authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirements of available procedures and to prescribe the procedures for adoption of rules by a state administrative agency.

§7.202. Definitions.

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

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

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

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

that effect, where a person exercises directly or indirectly either alone or pursuant to an agreement with one or more other persons such a controlling influence over the management or policies of an authorized insurer as to make it necessary or appropriate in the public interest or for the protection of the policyholders of the insurer that the person be deemed to control the insurer.

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

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

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

(A) controls or seeks to control a property and casualty insurer as the term control is defined in paragraph (4) of this subsection; and

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

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

(b) Exemption. Certain insurance holding company systems of the type speci-

fied in the Act, §2(r), may be exempted or partially exempted from the Act and these sections in the manner provided in the Act, §2(r).

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 December 3, 1993.

TRD-9333064

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

Effective date: December 24, 1993

Proposal publication date: October 29, 1993

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

Title 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration Subchapter O. State Sales and Use Tax

• 34 TAC §3.285

The Comptroller of Public Accounts adopts an amendment to §3.285, concerning resale certificate; sales for resale, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6926).

The Tax Code, §151.707, was amended effective September 1, 1993, setting out specific penalties for intentionally or knowingly issuing invalid resale certificates. The amendment states those penalties.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333191

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

Effective date: December 28, 1993

Proposal publication date: October 8, 1993

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

• 34 TAC §3.287

The Comptroller of Public Accounts adopts an amendment to §3.287, concerning exemption certificates, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6930).

The Tax Code, §151.707, was amended effective September 1, 1993, setting out specific penalties for intentionally or knowingly issuing invalid exemption certificates. The amendment states those penalties.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333190 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: December 28, 1993

Proposal publication date: October 8, 1993
For further information, please call: (512) 463-4028

• 34 TAC §3.296

The Comptroller of Public Accounts adopts an amendment to §3.296, concerning agriculture, animal life, feed, seed, plants, and fertilizer, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6934).

The amendment provides an exemption for tangible personal property installed as a part of an underground irrigation system on farms and ranches. The amendment is the result of a change in the Tax Code, Chapter 151, that is effective September 1, 1993.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333189 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: December 28, 1993

Proposal publication date: October 8, 1993
For further information, please call: (512) 463-4028

• 34 TAC §3.297

The Comptroller of Public Accounts adopts an amendment to §3.297, concerning carriers, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6936). Nonsubstantive changes were made to the Texas Aircraft Exemption Certificate, which the rule adopts by reference.

A change to the Tax Code, §151.328, provides a new procedure for claiming a sales tax exemption when purchasing an aircraft for registration and use outside Texas. The amendment sets out the new procedure and exemption certificate for claiming the exemption. The Tax Code changes are effective October 1, 1993.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333188 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: December 28, 1993

Proposal publication date: October 8, 1993
For further information, please call: (512) 463-4028

Subchapter P. Municipal Sales and Use Tax

• 34 TAC §3.379

The Comptroller of Public Accounts adopts an amendment to §3.379, concerning contractors, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6937).

The amendment incorporates changes made to the Tax Code, Chapter 151, regarding items that may be purchased tax free and items upon which tax is due when improving realty for exempt organizations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comp-

troller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333186 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: December 28, 1993

Proposal publication date: October 8, 1993
For further information, please call: (512) 463-4028

Subchapter R. Transit Sales and Use Tax

• 34 TAC §3.429

The Comptroller of Public Accounts adopts an amendment to §3.429, concerning contractors, without changes to the proposed text as published in the October 8, 1993, issue of the *Texas Register* (18 TexReg 6938).

The amendment incorporates changes made to Tax Code, Chapter 151, regarding items that may be purchased tax free and items upon which tax is due when improving realty for exempt organizations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

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 December 6, 1993.

TRD-9333185 Martin E. Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: December 28, 1993

Proposal publication date: October 8, 1993
For further information, please call: (512) 463-4028

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VII. Texas Commission on Law Enforcement Officer Standards and Education

Chapter 211. Administrative Division

• 37 TAC §211.77

The Texas Commission on Law Enforcement Officer Standards and Education adopts an amendment to §211.77, concerning the establishment and maintenance of minimum training standards for peace officers, with changes to the proposed text as published in the October 26, 1993, issue of the *Texas Register* (18 TexReg 7467).

The amendment provides for a standards-based curriculum program for peace officers. The amendment was adopted at the December 2, 1993, regular quarterly Commission meeting as Final Order 93-1. The changes are the addition of verbiage to subsection (c) to clarify the type of exam to be administered, and a change of the effective date for subsection (c) as amended to January 1, 1994.

The following are comments received regarding adoption of the proposal.

A written comment was received from Leon Charpentier, Senior Instructor, Reserve Police Academy, Central Texas College, Killeen, requesting that the Commission continue the practice of breaking the curriculum into three parts at the same time that the Commission approves the 560-hour new Basic Peace Officer Curriculum so the courses can be run in a very feasible and economical manner.

An oral comment was received from Frank Knapp, Assistant Attorney General, General Council Division, recommending that the Commission clarify the type of exam to be administered for applicants trained out-of-state.

The amendment is adopted under the Texas Government Code, Chapter 415, §415.010(1) and (9), which provides the Texas Commission on Law Enforcement Officer Standards and Education with the authority to pass rules for the administration of Chapter 415, and under the Texas Government Code, Chapters 2001 and 2002, which taken together establish the procedures for the rulemaking requirements for the Commission.

§211.77. Minimum Training Standards for Peace Officers.

(a) The minimum training standards for permanent licensing as a peace officer on and after September 1, 1994, shall be either:

(1) completion of the 560-hour basic peace officer course;

(2) successful completion of the college-level law enforcement courses, which are known as the criminal justice transfer curriculum with law enforcement emphasis and the Texas peace officer sequence;

(3) completion of any specifically required supplementary or remedial training; or

(4) credit for any sufficient previous training which is equivalent to the Basic Course.

(b) The commission may, through its executive director, review documentation of previous training submitted by a potential license applicant or an appointing agency and may then either:

(1) accept that training as equivalent to any training required under the current commission standards; or

(2) require specific supplementary or remedial training necessary to equate the previous training to those current standards.

(c) If the previous training is out-of-state, the applicant may challenge the state license exam referred to in §211.74 of this title (relating to State Examinations) once. If challenged and passed, the license will be issued. If failed, the applicant may not be retested until successful completion of a supplementary peace officer training course in addition to any out-of-state training which may have been credited. If after the supplemental training the state license exam is failed three times, the applicant may not be retested until successful completion of the entire current basic course for a peace officer.

(d) The basic peace officer course shall consist of a minimum of 560 hours of instruction, covering the subjects and taught in accordance with the current instructor guides provided by the commission.

(e) To be acceptable under this section, the transfer curriculum courses and the Texas peace officer sequence courses shall be taught in accordance with the current guidelines and illustrative transfer course outlines provided by the Texas Higher Education Coordinating Board, and the requirements of the Basic Course of the commission. For purposes of this section, the term, "successful completion" shall, when applied to an academic course, mean a passing grade from an academic institution of either:

(1) C or better, unless the course is only offered pass/fail; or

(2) Pass, in a course only offered pass/fail by the institution.

(f) The college-level law enforcement courses shall be the transfer curricu-

lum courses and the Texas peace officer sequence courses which complete the topics and objectives of the Basic Course not credited to the transfer curriculum.

(g) On and after January 1, 1989, an applicant for a permanent peace officer license who has met the minimum training standards for peace officers must pass the required state licensing examination before two years have elapsed after meeting those standards. An individual upon successful completion of the Basic Course or who has otherwise met the requirements of this section shall be issued an endorsement of eligibility and be allowed to sit for the state licensing exam.

(h) The effective date of this section shall be January 1, 1989; the effective date of subsection (c) of this section is January 1, 1994; the effective date of subsections (a), and (d)-(h) of this section is September 1, 1994.

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 December 6, 1993.

TRD-9333105

Fred Toler
Interim Executive Director
Texas Commission on Law
Enforcement Officer
Standards and
Education

Effective date: January 1, 1994

Proposal publication date: October 26, 1993

For further information, please call: (512) 406-3613

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 12. Special Nutrition Programs

Child and Adult Care Food Program

• 40 TAC §§12.14, 12.15, 12.26

The Texas Department of Human Services (DHS) adopts amendments to §§12.14, 12.15, 12.26, 12.115, 12.123, 12.204, 12.304, and 12.404, without changes to the proposed text as published in the October 29, 1993, issue of the *Texas Register* (18 TexReg 7526).

The justification for the amendments is to establish a duration of two hours for breakfasts served in day care homes that are eligible to participate in the CACFP. The amendments also provide contractors in the

CACFP, the SFSP, the SMP, the SBP, and the NSLP the option of requesting an exception to the regulation that prohibits payment of a claim submitted more than 60 days after the end of a claim month, once every 36 months.

The amendment will function by simplifying program administration with no reduction in program integrity.

No comments were received regarding adoption of the amendment.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendments implement the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

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 December 8, 1993.

TRD-9333261 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: January 1, 1994

Proposal publication date: October 29, 1993

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

Summer Food Service Program • 40 TAC §12.115, §12.123

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendments implement the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

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 December 8, 1993.

TRD-9333262 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: January 1, 1994

Proposal publication date: October 29, 1993

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

Special Milk Program • 40 TAC §12.204

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment imple-

ments the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

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 December 8, 1993.

TRD-9333263 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: January 1, 1994

Proposal publication date: October 29, 1993

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

School Breakfast Program • 40 TAC §12.304

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

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 December 8, 1993.

TRD-9333264 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: January 1, 1994

Proposal publication date: October 29, 1993

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

National School Lunch Program • 40 TAC §12.404

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 33, which provides the department with the authority to administer public and nutritional assistance programs. The amendment implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

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 December 8, 1993.

TRD-9333265 Nancy Murphy
Section Manager, Policy
and Document Support
Texas Department of
Human Services

Effective date: January 1, 1994

Proposal publication date: October 29, 1993

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

Part II. Texas Rehabilitation Commission Chapter 102. Texas Rehabilitation Advisory Council

• 40 TAC §§102.1-102.5

The Texas Rehabilitation Commission (TRC) adopts new §§102.1-102.5, concerning Texas Rehabilitation Advisory Council. The new rules are adopted without changes to the proposed text as published in the October 26, 1993, issue of the *Texas Register* (18 TexReg 7468).

The justification for the new rule is that it has been mandated by §105 of the Rehabilitation Council of 1973, as amended, which requires to review, analyze, and advise the Commission regarding performance, particularly with respect eligibility; the extent, scope, and effectiveness of services; and the functions of the Texas Rehabilitation Commission.

The new rule will function by providing for the composition and appointment of the Council, its functions, and resources.

No comments were received regarding adoption of the new rules.

The new rules are adopted under the Human Resources Code, Title 7, §111.018, 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.

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 December 6, 1993.

TRD-9333119 Charles W. Schlessor
Associate Commissioner
for Legal Services
Division
Texas Rehabilitation
Commission

Effective date: December 27, 1993

Proposal publication date: October 26, 1993

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

Chapter 103. Vocational Rehabilitation Services Program

• 40 TAC §103.7

The Texas Rehabilitation Commission (TRC) adopts an amendment to §103.7, concerning Mental Restoration Services, without changes to the proposed text as published in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7918).

The justification for the amendment is to conform to the Health and Human Services Commission Coordinated Strategic Plan by providing quality services to clients.

The amendment will function by emphasizing the Texas Rehabilitation Commission's com-

mitment to provide quality services to clients of the agency.

No comments were received regarding adoption of the amendment.

The amendment is adopted 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.

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 December 7, 1993.

TRD-9333197

Charles W. Schlessler
Associate Commissioner
for Legal Services
Texas Rehabilitation
Commission

Effective date: December 28, 1993

Proposal publication date: November 2, 1993.

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

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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 notices of actions taken by the Department of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure Act.

These actions become effective 15 days after the date of publication or on a later specified date.

The text of the material being adopted will not be published, but may be examined in the offices of the Department of Insurance, 333 Guadalupe, Austin.)

The State Board of Insurance of the Texas Department of Insurance, at a public hearing held at 9:00 a.m., on November 17, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street, Austin, Texas, in Docket Number 2069, adopted an amendment to the Texas Automobile Insurance Plan of Operation. The Insurance Code, Article 21.81 (new article established by House Bill 1461) mandates the creation of a competitive limited assignment distribution (LAD) to be in place not later than December 31, 1993. House Bill 1461, §14.09(b), directs the Texas Automobile Insurance Plan (TAIP) to continue to operate in accordance with Texas Civil Statutes, Article 6701h, §35, the Texas Motor Vehicle Safety-Responsibility Act, as it existed immediately before the effective date of the Act until the Texas Automobile Insurance Plan Association established in the Act is operational. Because Article 6701h, prior to September 1, 1993, required Board approval of the Plan amendments, TAIP sought the Board's approval of this amendment. However, because House Bill 1461, §1.23, provides that on September 1, 1993, the effective date of the Act, the Commissioner of Insurance shall assume authority over all areas of activity of the Texas Department of Insurance except rate and policy form authority, TAIP also sought approval of the Commissioner. Notice of the petition (Reference Number A-0993-22) was pub-

lished in the October 8, 1993 issue of the *Texas Register* (18 TexReg 6948).

Under the amendment, in return for the payment of a fee, a LAD Servicing Carrier assumes all automobile assigned-risk responsibility for another company, called the Excused Company. The amended LAD program permits the Excused Company and LAD Servicing Carrier to negotiate the LAD fee and other contractual matters, subject to minimum contract requirements established by TAIP's Governing Committee. The amendment covers the eligibility requirements for a servicing carrier, the LAD agreement, assignments and quotas, renewal and non-renewal provisions, and assessments.

The State Board of Insurance has jurisdiction over this matter pursuant to the Insurance Code, Articles 5.96, 5.98, and 21.81.

The amendment as adopted by the State Board of Insurance is shown in the exhibit which is filed with the Chief Clerk under Reference Number A-0993-22, and is incorporated by reference by Board Order Number 60583

Consistent with the Insurance Code, Article 5.96(h), prior to the effective date of this action, the Board will notify all insurers writing automobile insurance.

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 December 8, 1993.

TRD-9333268

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

Effective date: December 31, 1993

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

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The State Board of Insurance of the Texas Department of Insurance at a public hearing at 9:00 a.m., December 2, 1993, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted the proposal filed by the staff of the Workers' Compensation Division of the Texas Department of Insurance concerning a new Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance, 1994 Edition. The revisions were proposed in a petition (Reference Number W-1093-26-1) filed by the staff on October 27, 1993, and summarized in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7920).

The adopted version combines 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 Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance, 1994 Edition.

The 1994 manual revisions include but are not limited to editorial changes necessary because the State Board of Insurance no longer sets Workers' Compensation rates; retains interstate rating and allows for downward negotiation of an interstate modifier as it applies to the Texas exposure of a multistate insured; amends various classification footnotes due to changes adopted to the classification system; limits the application of initial and renewal experience modifiers when calculated during the applicable policy period; allows for calculation of a contingent modifier based on experience available at the time of calculation of the experience modifier; eliminates short rate cancellation; amends of definition and application of anniversary rate date; editorial changes due to House Bill 1461 (maintenance tax) and House Bill 456 (employee leasing); elimination of loss constant; elimination of three year fixed rate policy; amends

various minimum premium charges for additional coverages to optional charges subject to maximum amounts; amends ownership rules to allow certain asset purchases to be considered change in ownership; and amends various miscellaneous values and payroll limitations.

The State Board of Insurance has adopted this matter pursuant to the Insurance Code, Articles 5.98 and 5.60.

The Board adopted the Texas Basic Manual of Rules, Classifications and Experience Rat-

ing Plan for Workers' Compensation and Employers' Liability Insurance, 1994 Edition, attached hereto and incorporated by reference, by Board Order Number 60584.

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 December 8, 1993.

TRD-9333269

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

Effective date: January 1, 1994

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

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Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board at the main office of the Secretary of State in lobby of the James Earl Rudder Building, 1019 Brazos, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have an equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

Texas Appraiser Licensing and Certification Board

Thursday, December 16, 1993, 1:00 p.m.

1101 Camino La Costa, Executive Conference Room 235-A

Austin

Education Committee

According to the complete agenda, the Education Committee will call to order; consideration of the minutes of the August 26, 1993, Education Committee meeting; update regarding contract testing; discussion and possible recommendation to the Texas Appraiser Licensing and Certification Board concerning educational requirements for certified and licensed appraiser and for appraisers trainees; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board concerning approval of courses for meeting educational requirements; discussion and possible recommendations to the Texas Appraiser Licensing and Certification Board on other educational matters; and adjourn.

Contact: Renil C. Liner, P. O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: December 8, 1993, 2:57 p.m.

TRD-9333294

Friday, December 17, 1993, 9:00 a.m.

1101 Camino La Costa, Executive Conference Room 235

Austin

According to the agenda summary, the Texas Appraiser Licensing and Certification Board will call to order; consideration of the October 15, 1993, Texas Appraiser Licensing and Certification Board meeting; comments and presentations from visitors;

discussion and possible action to adopt proposed amendment to rule 22 TAC §153.13(e) relating to the educational requirements for the state certified residential real estate appraiser classification; discussion and possible action concerning the application, certification/licensing or other board procedures, policies and interpretations; discussion and possible response to AQB, ASB or Appraisal Subcommittee exposure drafts and statements; review and possible action concerning certain application and renewals; discussion and possible action concerning filed complaints; report from Education Committee; discussion and possible action concerning the operating budget and other fiscal matters; staff reports; selection of date of subsequent meetings; and adjourn.

Contact: Renil C. Liner, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3950.

Filed: December 8, 1993, 2:53 p.m.

TRD-9333293

The State Bar of Texas

Friday, December 10, 1993, 9:15 a.m.

The Texas Law Center, Room 206, 1414 Colorado

Austin

Emergency Revised Agenda

According to the complete agenda, the Commission for Lawyer Discipline met to add the case of Jerome Horowitz to the list of pending litigation cases to be considered under items 14 and 17 on Exhibit #1.

Reason for Emergency: The emergency meeting was necessary due to this case required action prior to the next meeting of the commission.

Contact: Anne Dorris, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222

Filed: December 8, 1993, 4:04 p.m.

TRD-9333314

Council on Competitive Government

Friday, December 17, 1993, 10:00 a.m.

Capitol Extension Building, Room E206

Austin

According to the complete agenda, the Council on Competitive Government will discuss the approval of minutes of November 1, 1993 meeting; consideration of staff recommendations relating to the study required by Section 66 of House Bill 2626, and of additional issues to be reviewed in connection with that study; consideration of bids submitted in response to the request for bids issued by the council relating to the Comptroller's office print shop; briefing on issues relating to state employees and the activities of the council; and public comment.

Contact: Judith M. Porras, 1711 San Jacinto, Austin, Texas 78701, (512) 463-3446.

Filed: December 8, 1993, 1:53 p.m.

TRD-9333284

Interagency Council on Early Childhood Intervention

Friday, December 17, 1993, 9:00 a.m.

Texas Department of Health, 4412 Spicewood Springs, Room 201

Austin

According to the complete agenda, the Interagency Council on Early Childhood Intervention will receive public comments; discuss and possibly act on; the minutes from the meeting of November 17, 1993; presentation of advisory committee and director's forum report; procedures for selecting chairperson and vice-chairperson for fiscal year (FY) 1994 and implementation of procedure; administrative/operating procedures; proposed amendments to 25 Texas Administrative Code §621.3 and §621.4 of the Early Childhood Intervention (ECI) rules related to compensatory per diem and council procedures; funding for intervention programs for FY 1994; new provider of intervention services in Montgomery, Walker and Liberty counties; staff work plan for classification/compensation study of ECI staff; merit raises/bonus award plan for FY 1994; becoming a Medicaid operating agency and funding of a contract for a Medicaid consultant; a plan to certify state funding for Medicaid match for local providers; policy issues related to establishing a system of information and referral in communities served by more than one ECI approved provider; and work plans related to the development of competency based for credentialing early intervention specialists.

Contact: Mary Elder, 1100 West 49th Street, Austin, Texas 78756, (512) 502-4900. 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: December 8, 1993, 4:31 p.m.

TRD-9333319

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**Advisory Commission on
State Emergency Commu-
nications**

Friday, December 10, 1993, 1:00 p.m.

Embassy Suites Northwest, 7750 Briaridge
San Antonio

Emergency Meeting

According to the agenda summary, the Poison Control Center Coordinating Committee called to order and recognize guest; heard public comment; discussed and considered addressing issues; and adjourned.

Reason for Emergency: The emergency meeting was necessary due to timely input from public and affected entities on addressing issues affecting scheduled meeting in January.

Contact: Jim Goerke, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: December 7, 1993, 1:08 p.m.

TRD-9333195

Tuesday, December 14, 1993, 10:00 a.m.

1101 Capital of Texas Highway, Suite B-100

Austin

According to the agenda summary, the Poison Control Center Coordinating Committee will call to order and recognize guests; hear public comment; discussion and consideration of committee organization; update of advisory commission on State Emergency Communications and Texas Department of Health Rules and grant/contract application and process; report on Advisory Commission on State Emergency Communications telecommunications network design and implementation; and adjourn.

Contact: Jim Goerke, ACSEC, 1101 Capital of Texas Highway South, B-100, Austin, Texas 78746, (512) 327-1911.

Filed: December 7, 1993, 10:41 a.m.

TRD-9333183

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Texas Department of Health

Thursday, December 16, 1993, 2:00 p.m.

Texas Department of Health, 1100 West 49th Street, Room M-652

Austin

According to the complete agenda, the Texas Board of Health Regulatory Committee will discuss and possibly act on proposed amendments to rules concerning the memorandum of understanding (MOU) detailing the in service training requirement for identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct by or in general and special hospitals; proposed amendments to rules concerning the MOU detailing the in service training requirement for identifying patient abuse or neglect and illegal unprofessional, or unethical conduct by or in private mental hospitals and mental health facilities; petition for rulemaking by Syncor International Corporation; emergency medical services certification orientation; proposed amendments to rules concerning medical physicists; proposed rules concerning the certification of radiologic technologists; and comments and announcements not requiring committee action.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: December 8, 1993, 4:32 p.m.

TRD-9333320

Thursday, December 16, 1993, 1:00 p.m.

Texas Department of Health, 1100 West 49th Street, Room M-741

Austin

According to the complete agenda, the Texas Board of Health, Board Briefing Committee will discuss and possibly act on: items of procedures for the December 17, 1993 meeting of the Texas Board of Health; and final adoption of rules concerning policies and procedures of the Board of Health.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: December 8, 1993, 4:34 p.m.

TRD-9333321

Thursday, December 16, 1993, 3:00 p.m.

Texas Department of Health, 1100 West 49th Street, Room M-721

Austin

According to the complete agenda, the Texas Board of Health, Health and Clinical Services will discuss and possibly act on: proposed rules to establish criteria for awarding funds to regional poison centers; proposed new rules concerning screening and treatment for tuberculosis of employees, volunteers and inmates in county jails and other correctional facilities; update on task force to increase the immunization work force of immunization steering committee; and appointments to the HIV Medication Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D., (512) 478-7708 at least two days prior to the meeting.

Filed: December 8, 1993, 4:34 p.m.

TRD-9333322

Thursday, December 16, 1993, 4:00 p.m.

Texas Department of Health, 1100 West 49th Street, Room M-652

Austin

According to the complete agenda, the Texas Board of Health, Health Financing Committee will discuss and possibly act on: the final adoption of rule concerning Medicaid's right to recovery from third parties; and discussion with the state Medicaid director.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: December 8, 1993, 4:34 p.m.

TRD-9333323

Friday, December 17, 1993, 8:30 a.m.

Texas Department of Health, 1100 West 49th Street, Room M-721

Austin

According to the complete agenda, the Texas Board of Health, Human Resources Committee will discuss and possibly act on appointments to HIV Medication Advisory Committee; appointments to the Medical Radiologic Technologist Certification Program briefing on Sunset Review of advisory committees; and update on Texas VISTA Health Corps.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. For ADA assistance, call Richard Butler (512) 458-7695 or T.D. D. (512) 458-7708 at least two days prior to the meeting.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: December 8, 1993, 4:35 p.m.

TRD-9333325

Friday, December 17, 1993, 9:30 a.m.

Texas Department of Health, 1100 West 49th Street

Austin

According to the complete agenda, the Texas Board of Health, Strategic Management Committee will discuss and possibly act on: 1994 health care financing operating budget; strategic planning overview; organization meeting concerning health care reform issues; monthly update on the department's budget; update on North America Free Trade Agreement (impact on environmental laboratory demands; and border health field staff); tuberculosis among the homeless; and Medicaid operational services.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. 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: December 8, 1993, 4:34 p.m.

TRD-9333324

Friday, December 17, 1993, 1:30 p.m.

Texas Department of Health, 1100 West 49th Street

Austin

According to the agenda summary, the Texas Board of Health will discuss approval of the minutes of the November 19, 1993 meeting; hear the Commissioner of Health's report; Board of Health resolutions; and discuss and possibly act on; 1994 health care financing operating budget; rules (policies and procedures of the Board of Health; Medicaid's right to recovery from third parties; memorandum of understanding (MOU) detailing the inservice training requirement for identifying patient abuse or neglect and illegal, unprofessional; or unethical conduct by or in general and special hospitals; MOU detailing the inservice training requirement for identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct by or in private mental hospitals and mental health facilities); committee reports (strategic management; health financing; health and clinical services; human resources; and regulatory); appointments (HIV Medication Advisory Committee); petition for rulemaking by Syncor International Corporation; announcements and comments not requiring board action; and meeting dates for January, 1994.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 458-7484. 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: December 8, 1993, 4:35 p.m.

TRD-9333326

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Department of Information Resources

Friday, December 17, 1993, 9:30 a.m.

1821 Rutherford Lane, Suite 200, Room 217

Austin

According to the agenda summary, the Department of Information Resources will adopt October 15, 1993 meeting minutes; executive director's report; division summaries; financial statements; parity report; discussion and emergency adoption 1 TAC 201.5(g) quality assurance process for major information resource projects; discussion of continuing education program for information resources managers; discussion and action on issues related to proposed transfer of functions between the department and the General Services Commission.

Contact: John Hawkins, 300 West 15th Street, Austin, Texas (512) 475-4714.

Filed: December 8, 1993, 12:41 p.m.

TRD-9333277

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Texas Department of Insurance

Wednesday, December 15, 1993, 9:00 a.m.

333 Guadalupe Street, Room 100

Austin

According to the complete agenda, the State Board of Insurance and commissioner of insurance will hold a meeting to consider the following: personnel; litigation; solvency; commissioner's orders; staff reports; consideration of final adoption of amendment to 28 TAC Subchapter W, §3.3602, relating to minimum standards for notice of conversion or group continuation privilege under group accident and health policies, and final adoption of new 28 TAC Subchapter W, §3.601, et. seq., relating to plain language requirements for health benefit policies, both pursuant to House Bill 2055, Small Employers Health Availability Act; consideration of approval of: a filing by the Texas Department of Banking of a new surety bond form entitled "Currency Exchange Bond, Form Number 092293, CEX," pursuant to Article 5.96, Insurance Code, and Article 350, Vernon's Texas Civil Statutes (TDI Reference Number 0.1093.28); a filing by the Texas Department of Transportation of a surety bond form entitled "Motor Vehicle Dealer's Surety Bond," form number D12-150 (Revised September 1993), pursuant to Article 5.96, Insurance Code, and House Bill 1932, Effective June 19, 1993 (TDI Reference Number 0-1093-29); and a filing by the Texas Parks and Wildlife Department for a new surety bond form entitled "Public Official Bond" for Boat Agent, pursuant to Article 5.96, Insurance Code, and Senate Bill 901, amending Section 31.003, Texas Parks and Wildlife Code, effective September 1, 1993 (TDI Reference Number 0-1093-27).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6332.

Filed: December 7, 1993, 4:51 p.m.

TRD-9333227

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Texas State Board of Licensure for Professional Medical Physicists

Monday, December 20, 1993, 10:00 a.m.

Room 422-A, University of Texas Health Science Center, 7703 Floyd Curl Drive

San Antonio

According to the complete agenda, the Credentials Committee will discuss and possibly act on applications under Title 22, Texas Administrative Code, §601.6.

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. 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: December 9, 1993, 9:04 a.m.

TRD-9333333

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Texas Natural Resource Conservation Commission

Wednesday, December 15, 1993, 9:00 a.m.

1700 North Congress Avenue, Room 118, Stephen F. Austin Building

Austin

Revised Agenda

According to the revised agenda summary, the Texas Natural Resource Conservation Commission will determine whether emergency order number 93-8E issued to Gibraltar Chemical Resources, Inc., on September 23, 1993 should be affirmed, modified or set aside.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: December 7, 1993, 1:08 p.m.

TRD-9333193

Wednesday, December 15, 1993, 9:00 a.m.

1700 North Congress Avenue, Stephen F. Austin Building, Room 118

Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission will discuss notice of application by Greens Parkway Municipal Utility District for authorization to proceed in Federal Bankruptcy.

Contact: Gloria A. Vasquez, 1700 North Congress Avenue, Austin, Texas 78701, (512) 463-7898.

Filed: December 7, 1993, 5:11 p.m.

TRD-9333228

Wednesday, December 15, 1993, 9:00 a.m.

1700 North Congress Avenue, Room 118, Stephen F. Austin Building

Austin

According to the agenda summary, the Texas Natural Resource Conservation Commission discuss notice of application by Rankin Road West Municipal Utility District for authorization to proceeding federal bankruptcy.

Contact: Gloria Vasquez, 1700 North Congress Avenue, Austin, Texas 78701

Filed: December 7, 1993, 4:37 p.m.

TRD-9333226

Wednesday, December 15, 1993, 9:00 a.m.

1700 North Congress Avenue, Room 118, Stephen F. Austin Building

Austin

Revised agenda

According to the revised agenda summary, the Texas Natural Resource Commission will consider an item concerning water utility, and enforcement settlement guidelines, enforcement philosophy.

Contact: Doug Kitts, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7905.

Filed: December 7, 1993, 4:18 p.m.

TRD-9333223

Thursday, January 6, 1994, 9:00 a.m.

Denton County Courthouse-Commissioners Courtroom, 110 West Hickory

Denton

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on application made by Safety-Kleen Corporation for proposed permit number HW50163 to authorize the continued operation of existing hazardous waste tank and container storage areas and to construct and operate new units at its facility in the City of Denton, Denton County.

Contact: Mike Rogan, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: December 8, 1993, 3:49 p.m.

TRD-9333311

Wednesday, January 12, 1994, 9:00 a.m.

St. Joseph's Parish Hall, 800 North Comal Street

Eagle Pass

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on application made by Dos Republicas Resource Company, Incorporated, for proposed permit number 03511 to authorize an intermittent flow variable discharge of alkaline mine drainage from area retention ponds. The effluent is discharged into a series of unnamed ditches, thence to Elm Creek, thence to the Rio Grande River in Segment Number 2304 of the Rio Grande River Basin.

Contact: Leslie Craven, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: December 8, 1993, 3:47 p.m.

TRD-9333307

Wednesday, January 19, 1994, 9:00 a.m.

Southwest Center, 3222 West Seventh (Highway 67)

Texarkana

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on application made by Texana Tank Car and Manufacturing, Incorporated, for proposed permit number 03609 to authorize intermittent flow variable discharges of stormwater runoff from a landfill located approximately 2.3 miles west of the City of Nash, Bowie County. The effluent is discharged from the site into a man-made ditch, thence to a tributary of Aiken Creek, thence to Aiken Creek and thence into the Sulfur River, Downstream of the Wright-Patman Dam, Segment Number 0301 of the Sulfur River Basin.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: December 8, 1993, 3:49 p.m.

TRD-9333310

Thursday, January 20, 1994, 10:00 a.m.

Erath County Courthouse-Second Floor Courtroom, On the Square

Stephenville

According to the agenda summary, the Office of Hearings Examiners 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: December 8, 1993, 3:47 p.m.

TRD-9333308

Tuesday, January 25, 1994, 11:00 a.m.

Erath County Courthouse-Second Floor Courtroom, On the Square

Stephenville

According to the agenda summary, the Office of Hearings Examiners will hold a public hearing on application made by F/R Cattle Company, Incorporated, for an amendment to permit number 03308 to authorize an increase in the capacity at the calf raising operation from a maximum of 5,000 head to a maximum of 6,000 head. In consolidation with the application is a petition to revoke permit number 03308 due to failure to comply with the conditions of the permit. The operation is in Erath County; and its site is in the drainage area of Upper North Bosque River in Segment Number 1255 of the Brazos River Basin.

Contact: Carol Wood, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

Filed: December 8, 1993, 3:48 p.m.

TRD-9333309

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Public Utility Commission of Texas

Thursday, December 16, 1993, 9:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the agenda summary, the commission will consider the following dockets: P-11289, P-12195, P12196, 12364, 11769, 11643, 11292, 12462, P-11203, 12368, 11520, 12206, and 12138.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 8, 1993, 1:53 p.m.

TRD-9333283

Thursday, December 16, 1993, 9:05 a.m.
7800 Shoal Creek Boulevard
Austin

According to the agenda summary, the Administrative will discuss adjournment for executive session to consider litigation; 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: December 8, 1993, 1:52 p.m.

TRD-9333282

Monday, December 20, 1993, 9:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the agenda summary, the Hearings Division prehearing conference will be held at the above date and time in Docket Number 12536, application of Central Telephone Company of Texas for authority to maintain certain books and records at a different location outside the State of Texas.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 7, 1993, 4:01 p.m.

TRD-9333220

Tuesday, December 21, 1993, 10:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the complete agenda, the Hearings Division will hold a prehearing conference in Docket Number 12495-

Complaint of absolute refrigerate mechanical service against United Telephone Company of Texas.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 8, 1993, 4:31 p.m.

TRD-9333318

Monday, March 28, 1994, 10:00 a.m.
7800 Shoal Creek Boulevard
Austin

According to the complete agenda, the Hearings Division will hold a hearing on the merits in Docket Number 12176-petition of Southwestern Bell Telephone Company for waiver of certain requirements of substantive rule 23.12.

Contact: John M. Renfrow, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: December 8, 1993, 3:23 p.m.

TRD-9333297

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Structural Pest Control Board

Tuesday, December 21, 1993, 10:00 a.m.
Thompson Conference Center, 2405 East Campus Drive, Room 1.122
Austin

According to the agenda summary, the Termite Task Force Committee will hear public comment; update from Larry Foster regarding new real estate regulations; discuss definition of "full treatment, spot treatment, partial treatment and retreatment."

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: December 7, 1993, 3:00 p.m.

TRD-9333218

Tuesday, December 21, 1993, 10:00 a.m.
Thompson Conference Center, 2405 East Campus Drive, Room 1.126
Austin

According to the agenda summary, the Termite Task Force will hear public comment; the update from Larry Foster regarding new real estate regulations; discuss definition of "full treatment, spot treatment, partial treatment and retreatment."

Contact: Benny M. Mathis, Jr., 9101 Burnet Road, Suite 201, Austin, Texas 78758, (512) 835-4066.

Filed: December 8, 1993, 2:29 p.m.

TRD-9333289

Texas Department of Transportation

Thursday, December 16, 1993, 9:00 a.m.
125 East 11th Street, DeWitt C. Greer Building, Big Hearing Room
Austin

According to the agenda summary, the Motor Vehicle Board will call to order; roll call; approval of minutes of Motor Vehicle Board meeting on December 16, 1993; executive session, consideration of motion for rehearing consumer complaints; agreed orders; orders of dismissal; other: recognition of employees; review of litigation status report; review of consumer complaint recap report including decision made by examiners, division director and board members; review of procedures to use in enforcing Article 6686 per Texas Motor Vehicle Commission Code §101 et seq and §103 et seq of the Board's rules; set 1994 Board meeting dates; and adjourn.

Contact: Betty Bray, 815 Brazos, #300, Austin, Texas 78701, (512) 476-3587.

Filed: December 8, 1993, 8:18 a.m.

TRD-9333229

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Texas Turnpike Authority

Thursday, December 16, 1993
Dallas Marriott Quorum, 14901 Dallas Parkway
Dallas

According to the agenda summary, the Board of Director's agenda includes consideration of the following approval of minutes of prior board and committee meetings; presentations from public officials on proposed turnpike projects; executive session; final approval of 1994 operating budgets; with respect to the Dallas North Tollway project award of contracts and approval of supplemental agreements to contracts and refinancing of DNT series 1989 bonds; proposed sale of Houston ship channel bridge; retention of an executive search firm; approval of contract FSF-40 and policy on local government funding of feasibility studies; approval of supplemental agreement to contract MLB-17; funding and guidelines for TTA revolving fund; amendment to authorized signature resolution; acceptance of negotiated settlement on law suit; authorization for executing terms of reference on international turnpike projects; reports from committee chairmen and other board members and executive director's report.

Contact: Harry Kabler, P.O. Box 190369, Dallas, Texas 75219, (214) 522-6200.

Filed: December 8, 1993, 4:31 p.m.

TRD-9333315

The University of Texas at Austin

Monday, December 13, 1993, Noon.

Ex-Students' Association, Schmidt Room, 21st and San Jacinto Streets, University of Texas

Austin

According to the agenda summary, the Council for Intercollegiate Athletics for Women called the meeting to order; joint discussion of NCAA Legislation; approved minutes of the previous meeting; discussed new business; announcements/information reports; and adjournment.

Contact: Jody Conrard, UT Austin, 33800 BEL 718, Austin, Texas 78712, (512) 471-7693.

Filed: December 9, 1993, 9:06 a.m.

TRD-9333336

Texas Workers' Compensation Insurance Fund

Wednesday, December 15, 1993, 7:00 p.m.

Camelos Restaurant, 504 East Fifth Street Austin

According to the agenda summary, the Board of Director's will have a board dinner with no formal agenda.

Contact: Beth Naylor, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3886

Filed: December 8, 1993, 4:37 p.m.

TRD-9333327

Wednesday, December 15, 1993, 10:00 a.m.

100 Congress Avenue, Suite 600

Austin

According to the agenda summary, the Board of Director's will call to order and call roll; review and approval of the minutes of the November 17, 1993. Board Meeting; public participation; executive session; action items resulting from executive session deliberations; election of the organization effectiveness committee; executive report; financial report; report of in house printing cost/benefit analysis; consideration of START program additions and modifications; update on stakeholders meeting; discussion of the 1994 Board schedule; announcements; and adjourn.

Contact: Beth Naylor, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3886.

Filed: December 8, 1993, 4:45 p.m.

TRD-9333332

Texas Council on Workforce and Economic Competitiveness

Thursday, December 16, 1993, 10:00 a.m.

816 Congress Avenue, 11th Floor Board Room (next door to Suite 1100)

Austin

According to the agenda summary, the Five-Region Task Force will call to order; opening remarks; public comment; organizational discussion and discussion of function and duties of task force, presentation and discussion of options for remaining workforce development area designations, adjournment. Notice to persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, or persons who need assistance in having English translated into Spanish, should contact Alexa Ray, (512) 305-7007 (or Relay Texas 800-735-2988), at least two days before this meeting so that appropriate arrangements can be made.

Contact: Alexa Ray, TCWEC, P.O. Box 2241, Austin, Texas 78768, (512) 305-7007.

Filed: December 7, 1993, 4:37 p.m.

TRD-9333225

Regional Meetings

Meeting Filed December 7, 1993

The Bexar-Medina-Atascosa Counties Water Control and Improvement District Number One Board of Directors met at 226 Highway 132, Natalia, December 13, 1993, at 8:00 a.m. Information may be obtained from John W. Ward III, P.O. Box 170, Natalia, Texas 78059, (210) 663-2132. TRD-9333201.

The Colorado County CAD Board of Directors will meet at the Colorado County Courthouse, 400 Spring, Columbus, (County Courtroom), December 14, 1993, at 1:30 p.m. Information may be obtained from Billy Youens, P.O. Box 10, Columbus, Texas 78934, (409) 732-8222. TRD-9333200.

The Dallas Area Rapid Transit Committee-of-the-Whole met at 1401 Elm Street, Dallas, Commerce Club of Dallas, Brazos Room, 48th Floor, December 10,

1993, at 6:00 p.m. Information may be obtained from Nancy McKethan, 1401 Pacific, Dallas, Texas 75202, (214) 749-3347. TRD-9333199.

The Education Service Center, Region XIII Board of Directors met at ESC, Region XIII, ESC Conference Rooms 202/203, 5701 Springdale Road, Austin, December 13, 1993, at 12:45 p.m. Information may be obtained from Dr. Roy C. Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 929-1300. TRD-9333198.

The Hood County Appraisal District Appraisal Review Board will meet at 1902 West Pearl, District Office, Granbury, December 16, 1993, at 9:00 a.m. Information may be obtained from Harold Chesnut, P.O. Box 819, Granbury, Texas 76048, (817) 573-2471. TRD-9333192.

The Hunt County Appraisal District Board of Directors will meet at the Hunt County Appraisal District Boardroom, 4801 King Street, Greenville, December 14, 1993, at Noon. Information may be obtained from Shirley Smith, 4801 King Street, Greenville, Texas 75401, (903) 454-3510. TRD-9333194.

The Wise County Appraisal District Board of Directors will meet at 206 South State Street, Decatur, December 14, 1993, at 7:30 p.m. Information may be obtained from Brenda Jones, 206 South State Street, Decatur, Texas 76234, (817) 627-3087, Ext. 4. TRD-9333224.

Meeting Filed December 8, 1993

The Appraisal District of Jones County Board of Directors will meet at the District's office, 1137 East Court Plaza, Anson, December 16, 1993, at 8:30 a.m. Information may be obtained from Susan Holloway, 1137 East Court Plaza, Anson, Texas 79501, (915) 823-2422. TRD-9333302.

The Ark-Tex Council of Governments Board Meeting will meet at Naples Motor Inn, Naples, December 16, 1993, at 5:30 p.m. Information may be obtained from Pam Koelling, P.O. Box 5307, Texarkana, Texas 75505-5307, (903) 832-8636. TRD-9333312.

The Atascosa County Appraisal District Board of Directors will meet at Fourth and Avenue J, Poteet, December 14, 1993, at 1:30 p.m. Information may be obtained from Vernon A. Warren, P.O. Box 139, Poteet, Texas 78065-0139, (210) 742-3591. TRD-9333317.

The Cass County Appraisal District Board of Directors met at Cass County Appraisal District Office, 502 North Main Street, Linden, December 13, 1993, at 7:00

p.m. Information may be obtained from Janelle Clements, P.O. Box 1150, Linden, Texas 75563, (903) 756-7545. TRD-9333316.

The Central Counties Center for MHMR Services Board of Trustees will meet at 304 South 22nd Street, Temple, December 16, 1993, at 7:45 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9333272.

The Central Texas Council of Governments Executive Committee Meeting-Annual Membership will meet at the Bell County Expo Center, Belton, December 16, 1993, at 11:00 a.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9333279.

The Colorado River Municipal Water District Board of Directors Meeting met at 400 East 24th Street, Big Spring, December 14, 1993, at 9:00 a.m. Information may be obtained from O. H. Ivie, Box 869, Big Spring, Texas 79720, (915) 267-6341. TRD-9333299.

The Concho Valley Quality Work Force Planning Committee will meet at the COG Regional Training Center, 5014 Knickerbocker, San Angelo, December 15, 1993, at 4:00 p.m. Information may be obtained from Joan Allen, 5002 Knickerbocker, San Angelo, Texas 76904, (915) 944-9666. TRD-9333278.

The Deep East Texas Council of Governments Grants Application Review Committee will meet at First United Methodist Church, 329 North Bowie Street, Jasper, December 16, 1993, at 11:00 a.m. Information may be obtained from Rusty Phillips, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9333313.

The Dewitt County Appraisal District Board of Directors will meet at 103 Bailey Street, Cuero, December 14, 1993, at 7:30 p.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9333271.

The Dewitt County Appraisal District Appraisal Review Board will meet at 103 Bailey Street, Cuero, December 15, 1993, at 9:00 a.m. Information may be obtained from Kay Rath, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9333273.

The Eastland County Appraisal District Appraisal Review Board will meet at the Commissioners' Courtroom, Eastland County Courthouse, Eastland, December 21, 1993, at 10:00 a.m. Information may be obtained from Steven Thomas, P.O. Box 914, Eastland, Texas 76448, (817) 629-8597. TRD-9333252.

The Guadalupe-Blanco River Authority Audit Committee will meet at 933 East

Court Street, Seguin, December 15, 1993, at 4:00 p.m. Information may be obtained from James E. Arnst, P.O. Box 271, Seguin, Texas 78155, (210) 379-5822. TRD-9333288.

The Guadalupe-Blanco River Authority Board of Directors will meet at 933 East Court Street, Seguin, December 16, 1993, at 10:00 a.m. Information may be obtained from James E. Arnst, P.O. Box 271, Seguin, Texas 78156-0271, (210) 379-5822. TRD-9333301.

The High Plains Underground Water Conservation District Number One Board of Directors will meet in the Conference Room, 2930 Avenue Q, Lubbock, December 14, 1993, at 10:00 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9333244.

The Houston Galveston Area Council Project Review Committee will meet at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, December 14, 1993, at 8:45 a.m. Information may be obtained from Rowena Ballas, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9333259.

The Houston Galveston Area Council Board of Directors Meeting will meet at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, December 14, 1993, at 10:00 a.m. Information may be obtained from Cynthia Marquez, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9333258.

The Kempner Water Supply Corporation Board of Directors will meet at the Kempner Water Supply Corporation Office, Highway 190, Kempner, December 15, 1993, at 7:00 p.m. Information may be obtained from Doug Lavender, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9333300.

The Limestone County Appraisal District Board of Directors will meet in the Board Room, Ground Floor, Limestone County Courthouse, Groesbeck, December 14, 1993, at 1:00 p.m. Information may be obtained from Clydene Hyden, P.O. Drawer 831, Groesbeck, Texas 76642, (817) 729-3009. TRD-9333304.

The Middle Rio Grande Development Council Search Committee will meet at the MRGDC Central Office, Conference Room, 1904 North First, Carrizo Springs, December 14, 1993, at 1:30 p.m. Information may be obtained from Paul Edwards, P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9333331.

The Texas Municipal Asset Pool Board of Directors will meet at the Riverway Bank, Board Room, Second Floor, Five Riverway, Houston, December 15, 1993, at 8:00 a.m. Information may be obtained from Kristin

Radford, P.O. Box 56572, Houston, Texas 77256, (713) 552-2618. TRD-9333274.

The Rio Grande Council of Governments Board of Directors' Meeting will meet at 1100 North Stanton, Main Conference Room, El Paso, December 17, 1993, at 9:30 a.m. Information may be obtained from Lidia Flynn, 1100 North Stanton, Suite 610, El Paso, Texas 79902, (915) 533-0998. TRD-9333275.

The Scurry County Appraisal District Board of Directors will meet at the Willow Park Inn Restaurant, Highway 84 and 180, Snyder, December 16, 1993, at 8:00 a.m. Information may be obtained from L. R. Peveler, 2612 College Avenue, Snyder, Texas 79549, (915) 573-8549. TRD-9333305.

The South Franklin Water Supply Corporation Board of Directors will meet at the Office of South Franklin Water Supply Corporation, Highway 115, South of Mount Vernon, December 14, 1993, at 7:00 p.m. Information may be obtained from Richard Zachary, P.O. Box 591, Mount Vernon, Texas 75457, (903) 860-3400. TRD-9333276.

The Successor-Interest Jones-Stonewall County Education District Number 28 Board of Trustees will meet at the Appraisal Office, 1137 East Court Plaza, Anson, December 16, 1993, at 9:30 a.m. Information may be obtained from Susan Holloway, 1137 East Court Plaza, Anson, (913) 823-2422. TRD-9333303.

The Surplus Lines Stamping Office of Texas Board of Directors will meet at the Capital Marriott, 11th and IH-35, Austin, December 14, 1993, at 10:00 a.m. Information may be obtained from Charles L. Tea, Jr., P.O. Box 9906, Austin, Texas 78766, (512) 346-3274. TRD-9333329.

The Wood County Appraisal District Board of Directors will meet at 217 North Main, Conference Room, Wood County, Appraisal District, Quitman, December 16, 1993, at 7:00 p.m. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 78783-0518, (903) 763-4891. TRD-9333306.

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**Meetings Filed December 9,
1993**

The Deep East Council of Governments Board of Directors will meet at 329 North Bowie, First United Methodist Church, Jasper, December 16, 1993, at 1:30 p.m. Information may be obtained from Walter G. Diggles, 274 East Lamar Street, Jasper, Texas 75951, (409) 384-5704. TRD-9333337.

The Harris County Appraisal District Board of Directors will meet at 2800 North Loop West, Eighth Floor, Houston, December 15, 1993, at 9: 00 a.m. Information may be obtained from Margie Hilliard, P.O. Box

920975, Houston, Texas 77292, (713) 957-5291. TRD-9333334.

The North Central Texas Council of Governments Executive Board will meet at Centerpoint Two, 616 Six Flags Drive, Sec-

ond Floor, Arlington, December 16, 1993, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9333335.



In Addition

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

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

Texas Commission on Alcohol and Drug Abuse

Consultant Proposal Request

Pursuant to Texas Civil Statutes, Article 6252-11c, the Texas Commission on Alcohol and Drug Abuse (TCADA) invites proposals from qualified consultants to assist in the evaluation of the effectiveness of the In-Prison Therapeutic Community (ITC). Senate Bill 532 passed by the 73rd Legislature requires the Criminal Justice Policy Council (CJPC) to evaluate the In-prison Therapeutic Community. The CJPC evaluation will include studies of both treatment process and outcomes. These studies, however, by virtue of their mandate, will be oriented toward criminal justice concerns and will not include face-to-face follow-up interviews with clients. Under §461.012(2) of the Texas Health and Safety Code, TCADA has a mandate to evaluate substance abuse treatment programs. It will be the role of TCADA's consultant to supplement the CJPC evaluation with more focused studies of treatment issues, primarily by means of self-reported outcomes.

The first goal of this evaluation is to determine the short- and long-term effectiveness of In-prison Therapeutic Community substance abuse treatment and transitional care for the drug offender population. The consultant will conduct follow-up interviews of both cohorts of ITC participants and the CJPC comparison groups. This evaluation will be conducted in conjunction with the evaluation conducted by the Criminal Justice Policy Council.

A second goal of this evaluation is an examination of the treatment process of the In-prison Therapeutic Community and transitional care. The process evaluation should adequately describe the treatment goals and operations, including the type, intensity, and duration of treatment services. The process component of the evaluation study should also inform the outcome study by providing for an analysis of process measures as predictors of self-reported outcomes. Based on the findings of the process evaluation, the consultant will then advise TCADA on program modifications and changes which will improve the quality of treatment.

To obtain a complete copy of this RFP, contact Kelly Reichenbach, Texas Commission on Alcohol and Drug Abuse, 710 Brazos, Austin, Texas, 78701 (512) 867-8735.

All proposals in response to the RFP must be received by 5:00 p.m. on January 14, 1994.

A panel of program and administrative staff from TCADA will score and rank proposals based on criteria described in the Request for Proposed (RFP) Consultant Contract. The initial award period for this work will be February 1, 1994-August 31, 1994, with TCADA having the option of awarding funds for September 1, 1994-August 31, 1995

for the follow-up of additional groups of cohorts, based on satisfactory performance during the first year of the contract.

Issued in Austin, Texas, on December 7, 1993.

TRD-9333222 David P. Gatum
Interim Executive Director
Texas Commission on Alcohol and Drug Abuse

Filed: December 7, 1993

State Banking Board Notice of Hearing

The Hearing Officer of the State Banking Board will conduct a hearing on January 13, 1994, at 9:30 a.m., 2601 North Lamar Boulevard, Austin, on the change of domicile application for Advent Trust Company, Houston, Texas.

Additional information may be obtained from Lynda A. Drake, Director of Corporate Activities, Texas Department of Banking, 2601 North Lamar Boulevard, Austin, Texas 78705, (512) 475-1322.

Issued in Austin, Texas, on December 2, 1993.

TRD-9333146 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: December 6, 1993

Notice of Hearing Cancellation

As no opposition has been noted in the application for the First National of Anna, Anna, to convert to a state charter under the name of First Bank of Anna, L.B.A., the hearing previously scheduled for Monday, December 13, 1993, has been cancelled.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333202 Lynda A. Drake
Director of Corporate Activities
Texas Department of Banking

Filed: December 7, 1993

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, 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)	12/13/93-12/19/93	18.00%	18.00%

⁽¹⁾Credit for personal, family or household use. ⁽²⁾Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333257 Al Endsley
Consumer Credit Commissioner

Filed: December 8, 1993

Texas Education Agency

RFA #701-94-001

RFA #701-94-001. This request for application is filed under the Texas Education Code, §14.0451.

Eligible Applicants. The Texas Education Agency (TEA) in requesting applications (RFA #701-94-001) from school districts is collaboration with the private sector, regional education service centers, state and federal agencies, junior colleges and other institutions of higher education, and postsecondary institutions to develop planning applications for pilot or model sites to test the effectiveness and feasibility of educational technologies in Texas schools to promote systemic changes in education.

Description. Districts or campuses must submit applications outlining a planning process that addresses methods for creating partnerships and development strategies with those partnerships to explore changes in the school environment through the innovative, creative, and alternative uses of technology. Applicants should promote systemic change in the educational environment. This may include changes in the school organization and/or changes in the methods of the delivery of instruction.

Dates of the Project. Applicants should plan for a starting date of no earlier than April 2, 1994, and an ending date of no later than March 31, 1995.

Project Amount. A total of \$300,000 is available for planning grants. The TEA will fund as may projects as possible. It is anticipated that each planning grant will amount to approximately \$10,000. Depending on needs and extenuating circumstances, an individual grant may amount to as much as \$25,000. However, it is anticipated that no planning grant shall exceed \$25,000. Applications for projects for educational technology are competitive. In the spring of 1994, the TEA will issue a request for application for implementation. Preference will be given to districts that applied for planning grants.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the request for application. Special consideration will be given to applicants who request waivers, involve multiple entities, and whose planning activities reflect a thorough systematic planning process that promises to promote systemic change in the educational environment. The TEA reserves the right to select from the

highest ranking applications those that address all requirements in the request for application.

Requesting the Application. A copy of the request for application (RFA #701-94-001) may be obtained by writing the: Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by calling (512) 463-9304. Please refer to the RFA number in your request.

Further information. For clarifying information about the request for application, contact Delia R. Duffey, Division of Technology Services, Texas Education Agency, (512) 463-9400.

Deadline for Receipt of Applications. The deadline for receiving an application in the Document Control Center of the Texas Education Agency is 5:00 p.m., Tuesday, March 15, 1994.

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

TRD-9333270 Lionel R. Meno
Commissioner of Education
Texas Education Agency

Filed: December 8, 1993

Employees Retirement System of Texas Fiscal Report

The Government Code, Title 8, Subtitle B, §815.108, requires that the Employees Retirement System of Texas publish a report in the *Texas Register* containing the following information:

- (1) the retirement system's fiscal transactions of the preceding fiscal year;
- (2) the amount of the system's accumulated cash and securities; and
- (3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

The schedules in this report are presented by fund within fund type. They present more detailed information than would be required by Generally Accepted Accounting Principles (GAAP) and they do not include the note disclosures required by GAAP. They are presented in the following order, preceded by an explanation of the Fund Structure:

Pension Trust Funds

Schedule 1: Combining Balance Sheet

Schedule 2: Combining Statement of Revenues, Expenses and Changes in Fund Balances

Expendable Trust Funds

Schedule 3: Combining Balance Sheet
Schedule 4: Combining Statement of Revenues,
Expenditures and Changes in Fund Balances
Special Revenue Funds
Schedule 5: Combining Balance Sheet
Schedule 6: Combining Statement of Revenues,
Expenditures and Changes in Fund Balances
Agency Funds
Schedule 7: Combining Balance Sheet
Investment Summaries
Schedule 8: Employees Retirement Fund

Schedule 9: Law Enforcement and Custodial Officer
Supplemental Retirement Fund
Schedule 10: Judicial Retirement System Plan Two Fund
Schedule 11: All Pension Funds
Schedule 12: Employees Life, Accident and Health
Insurance and Benefits Fund
Schedule 13: State Employees Cafeteria Plan Trust Fund

Questions about the reports should be directed to Darrell J.
Leslie, Director of Accounting; Employees Retirement
System of Texas; P.O. Box 13207; Austin, Texas 78711;
(512) 867-3224; WATS number 1 (800) 252-3645.

Employees Retirement System of Texas

FUND STRUCTURE

The financial statements are organized on the basis of funds, each of which is considered to be a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts. These accounts are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with applicable statutory guidelines or restrictions. The System's accounts fall under two basic fund types: Governmental Funds and Fiduciary Funds. The following is a brief description of the primary activity of each fund.

1. Governmental Funds

Special Revenue Funds

Special Revenue Funds are used to account for the System's proceeds from specific revenue sources that are legally restricted to expenditures for specified purposes.

(i) Social Security Administration Fund

The Social Security Administration Fund is the operating fund from which the expenditures of administration and maintenance of the Social Security Program are paid.

(ii) Death Benefits Program for Commissioned Peace Officers, Firemen, etc. Fund (General Revenue Fund)

The Death Benefits Program for Commissioned Peace Officers, Firemen, etc., Fund is used to account for payments of death benefits and administrative fees funded by appropriations from the State's General Revenue Fund.

(iii) Judicial Return to Work Fund (General Revenue Fund)

The Judicial Return to Work Fund is used to account for salaries and salary related costs for retired judges and justices called to service which are funded by an appropriation from the State's General Revenue Fund.

2. Fiduciary Funds

(a) Pension Trust Funds

Pension Trust Funds are used to account for public employee retirement system funds.

(i) Employees Retirement Fund and Judicial Retirement System Plan Two Fund

The following accounts of the Employees Retirement Fund and the Judicial Retirement System Plan Two Fund hold the reserves for future and current benefit payments. These reserves are included in the fund balance reserved for retirement trust funds.

o Employees Savings Account

The Employees Savings Account is the account in which members' contributions and interest credited to those contributions are accumulated.

o State Accumulation Account

The State Accumulation Account is the account in which retirement and death benefits contributions made by the State are accumulated.

Employees Retirement System of Texas

FUND STRUCTURE *(continued)*

o Retirement Annuity Reserve Account

The Retirement Annuity Reserve Account is the account in which reserves for annuities granted and in force are held as determined by the System's actuarial consultants, and from which annuities are paid.

o Interest Account

The Interest Account is the account in which interest, dividends, and gains and losses derived from investments of the System's funds are accumulated. At the close of each fiscal year, the investment revenues are transferred to the other accounts as provided by statute.

o Investment Account

The Investment Account is the account through which available assets and monies of the Retirement Systems are invested.

o Benefit Increase Reserve Account

The Benefit Increase Reserve Account is the account in which appropriated reserves are held for post-retirement increases in annuities for elected and employee class members and their survivors for benefit increases authorized in 1977, 1979, February 1981 and September 1981.

o Expense Account

The Expense Account is the account from which the expenses of administration and maintenance of the Retirement System Programs are paid.

(ii) Law Enforcement and Custodial Officer Supplemental Retirement Fund

The Law Enforcement and Custodial Officer Supplemental Retirement Fund was created for the purpose of receiving funds collected as part of the motor vehicle inspection fee and facilitating the payment of benefits as provided by the Commissioned Law Enforcement and Custodial Officer Supplemental Retirement Benefit Act. Available assets and monies of the fund are invested, and revenues accruing from the investments are deposited to the fund.

An annuity reserve fund balance account has been established to reserve the benefits payable for annuities granted and currently in force as determined by the System's actuarial consultants.

(iii) Judicial Retirement System Plan One Fund

The Judicial Retirement System Plan One Fund receives appropriations from the State's General Revenue Fund for annuity and refund payments to judges who are members of this program.

(iv) Deferred Compensation Administrative Trust Fund

The Deferred Compensation Administrative Trust Fund includes an operating expense account from which administrative expenses are paid. The tax-deferred contributions are accounted for as an Agency Fund.

(v) TexaSaver Administrative Trust Fund

The TexaSaver Administrative Trust Fund includes an operating expense account from which administrative expenses are paid. The tax-deferred contributions are accounted for as an Agency Fund.

Employees Retirement System of Texas

FUND STRUCTURE
(continued)

(b) Expendable Trust Funds

Expendable Trust Funds are used to account for trust funds whose principle and interest may be expended in the course of their designated operations.

(i) Employees Life, Accident and Health Insurance and Benefits Fund (Group Insurance Fund)

This fund is used to account for contributions received by participating employees, annuitants, and the State of Texas; for claim payments to the indemnity plan insurance carrier; and for premium payments to Health Maintenance Organizations. This fund also accounts for the operational expenditures incurred to maintain the program and for investment income realized from the cash received from premiums pending disbursement to the carriers.

This fund is composed of two sub-accounts:

o Group Insurance Benefits Account

This account receives contributions of participating employees, participating annuitants and the State of Texas; and makes payments to insurance carriers under the Group Insurance Program.

o Group Insurance Administration Account

This account functions as an operating account from which the expenditures for administration and maintenance of the Group Insurance Program and supplemental payments for employee insurance premiums are paid.

(ii) State Employees Cafeteria Plan Trust Fund (Flexible Benefits Fund)

This fund is used to account for the before-tax salary reduction contributions from state employees and employees of Texas Higher Education Institutions, and reimbursements for health care and dependent care. This fund also accounts for the operational expenditures incurred to maintain the program.

This fund is composed of two sub-accounts:

o Cafeteria Plan Benefits Account

This account receives before-tax salary reduction payments for benefits included in the Cafeteria Plan. This account also makes benefit reimbursement payments.

o Cafeteria Plan Administration Account

This account functions as an operating account from which the expenditures for administration of the Program are paid.

Employees Retirement System of Texas

FUND STRUCTURE
(concluded)

(c) Agency Funds

Agency Funds are used to account for assets held by a governmental unit in an agency capacity for individuals, other governmental entities, other funds, etc. Agency Funds are custodial in nature (assets equal liabilities) and do not measure results of operations.

(i) Unappropriated Receipts (General Revenue Fund)

This fund accounts for member contributions received from Judicial Retirement System Plan One members. The member contributions are deposited directly into the General Revenue Fund as unappropriated receipts.

(ii) Employees Savings Bond Fund

The Employees Savings Bond Fund is used to accumulate payroll deductions for U. S. Savings Bonds. Bonds are purchased for each participating employee when the employee's account balance equals the purchase price of the specified bond.

(iii) Deferred Compensation Trust Fund

The Deferred Compensation Trust Fund accounts for tax-deferred portions of salaries of State employees in accordance with the provisions of Internal Revenue Code Section 457. The assets in the plan are the property of the State of Texas, and are recorded at market value.

(iv) TexaSaver Trust Fund

The TexaSaver Trust Fund accounts for tax-deferred portions of salaries of State employees in accordance with the provisions of Internal Revenue Code Section 401(k). The assets in the plan are solely the property of the employee.

(v) Higher Education Group Insurance Fund

The Higher Education Group Insurance Fund accounts for the legislative appropriation for group insurance benefits provided to the employees and retirees of Texas Higher Education Institutions.

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 1

COMBINING BALANCE SHEET - PENSION TRUST FUNDS
August 31, 1993

	<u>Employees Retirement Fund (955)</u>	<u>Law Enforcement and Custodial Officer Supplemental Retirement Fund (977)</u>	<u>Judicial Retirement System Plan One (001)</u>	<u>Judicial Retirement System Plan Two (993)</u>	<u>Deferred Compensation Administrative Trust Fund (945)</u>	<u>Tea Server Administrative Trust Fund (946)</u>	<u>Totals August 31, 1993</u>
ASSETS							
Current Assets							
Cash and Temporary Investments:							
Cash on Hand	820,940						820,940
Cash in Bank	10,000						10,000
Cash in State Treasury	861,255,479	45,888,032	728,573	2,612,800	831,165	18,648	911,334,697
Short-Term Investments	436,923,252	29,978,062					466,901,314
Receivables:							
Accounts Receivable	27,831,689	3,111,529	1,677	240,468	3,342	75	31,185,363
Interest and Dividends Receivable	77,932,707	4,689,026		10,573	3,571		82,634,723
Due From Other Funds	1,302,996	482	3,128	910		13,638	1,324,725
Prepaid Expenses	112,379				146		112,525
Total Current Assets	<u>1,406,189,442</u>	<u>83,666,131</u>	<u>733,378</u>	<u>2,864,751</u>	<u>838,224</u>	<u>32,361</u>	<u>1,494,324,287</u>
Long-Term Investments							
At Cost (Total Market, 1993 \$8,632,412,527;							
1993 \$8,632,412,527;	<u>7,046,847,672</u>	<u>287,869,068</u>		<u>9,949,409</u>			<u>7,344,666,149</u>
Fixed Assets							
Motor Vehicle	20,123						20,123
Land and Land Improvements	874,889						874,889
Building	7,295,346						7,295,346
Office Furniture and Equipment	4,741,428						4,741,428
Subtotal Fixed Assets	12,931,786				15,377		12,947,163
Less Accumulated Depreciation	(4,844,655)				(4,339)		(4,849,094)
Net Fixed Assets	<u>8,087,131</u>				<u>10,938</u>		<u>8,098,069</u>
Total Assets	<u>8,461,124,245</u>	<u>371,535,199</u>	<u>733,378</u>	<u>12,814,160</u>	<u>849,162</u>	<u>32,361</u>	<u>8,847,088,902</u>

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 1

COMBINING BALANCE SHEET - PENSION TRUST FUNDS
August 31, 1993
(concluded)

	Employees Retirement Fund (955)	Law Enforcement and Custodial Officer Supplemental Retirement Fund (977)	Judicial Retirement System Plan One (001)	Judicial Retirement System Plan Two (993)	Deferred Compensation Administrative Trust Fund (945)	TeraSaver Administrative Trust Fund (946)	Totals August 31, 1993
LIABILITIES AND FUND BALANCES							
Current Liabilities Payables:							
Accounts Payable	13,790,088	2,044	733,378	131,497	21,711		14,678,718
Deferred Revenue	29,613			204			29,817
Due To Other Funds	109,272	5,684		528	3,205	3,571	122,260
Compensable Leave Payable	439,992				10,455		450,447
Total Current Liabilities	14,368,965	7,728	733,378	132,229	35,371	3,571	15,281,242
Total Liabilities	14,368,965	7,728	733,378	132,229	35,371	3,571	15,281,242
Fund Balances Reserved:							
For Encumbrances	2,266,854				6,051		2,272,905
For Annuity Reserves	2,572,490,688	21,772,477		129,909			2,594,393,074
For Retirement Trust Funds	5,871,997,738	349,754,994		12,522,022	807,740	28,790	6,233,141,284
Total Fund Balances	8,446,755,280	371,527,471	-	12,651,931	813,791	28,790	8,831,807,263
Total Liabilities and Fund Balances	8,461,124,245	371,535,199	733,378	12,814,160	849,162	32,361	8,847,088,505

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 2

COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCES - PENSION TRUST FUNDS
Year Ended August 31, 1993

	Employees Retirement Fund (955)	Law Enforcement and Custodial Officer Supplemental Retirement Fund (977)	Judicial Retirement System Plan One (001)	Judicial Retirement System Plan Two (993)	Deferred Compensation Administrative Trust Fund (945)	TexasSaver Administrative Trust Fund (946)	Totals August 31, 1993
Operating Revenues							
Contributions to Retirement System:							
Member Contributions	208,940,952			1,136,404			210,077,356
State Retirement Contributions	222,157,539			1,778,473			223,936,012
Membership Fees	340,708			2,500			343,208
Penalty Interest	2,598,097						2,598,097
Death Benefits	4,571,822						4,571,822
Motor Vehicle Inspection Fees		27,242,918					27,242,918
Legislative Appropriations:							
For Judges' Retirement Annuity Payments			13,051,480				13,051,480
For Refund of Judges' Contributions			27,444				27,444
For Administrative Expenses			107,057				107,057
Investment Income:							
Interest	410,507,020	26,745,047		76,110	42,879	1,672	437,372,728
Dividends	96,866,993			456,830			97,323,823
Gain on Sale of Securities (Net)	257,550,650	3,712,722		125,852			261,389,224
Rent - Office Space	77,028						77,028
Miscellaneous	59,905						59,905
Total Operating Revenues	1,203,670,714	57,700,687	13,185,981	3,576,169	42,879	1,672	1,278,178,102
Operating Expenses							
Retirement System Benefits Paid:							
Retirement Benefits	295,671,929	2,916,215	13,051,480	10,829			311,650,453
Death Benefits:							
Active Members	1,082,433						1,082,433
Retirees	4,987,712						4,987,712
Member Contributions Withdrawn	46,979,810		27,444	40,400			47,047,654
Administrative Expenses	12,979,541	433,944		113,848	289,919	42,515	13,859,767
Miscellaneous	149,648						149,648
Total Operating Expenses	361,851,073	3,350,159	13,078,924	165,077	289,919	42,515	378,777,667

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 2

**COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND BALANCES - PENSION TRUST FUNDS**
Year Ended August 31, 1993
(concluded)

	<u>Employees Retirement Fund (955)</u>	<u>Law Enforcement and Custodial Officer Supplemental Retirement Fund (977)</u>	<u>Judicial Retirement System Plan One (001)</u>	<u>Judicial Retirement System Plan Two (993)</u>	<u>Deferred Compensation Administrative Trust Fund (945)</u>	<u>Tax Saver Administrative Trust Fund (946)</u>	<u>Totals August 31, 1993</u>
Income Before Non-Operating Expenses and Operating Transfers	841,819,641	54,350,528	107,057	3,411,092	(247,040)	(40,843)	899,400,435
Non-Operating Revenues (Expenses)							
Donated Fixed Assets	10,550						10,550
Loss on Disposal of Fixed Assets	(39,289)						(39,289)
Total Non-Operating Expenses	<u>(28,739)</u>						<u>(28,739)</u>
Income Before Operating Transfers	841,790,902	54,350,528	107,057	3,411,092	(247,040)	(40,843)	899,371,696
Operating Transfers In (Out)							
Fee for Administering Programs	128,170						128,170
Transfer for Higher Education Administrative Expenses	992,487				295,268	26,186	992,487
Membership Fees	(321,454)						
Net Operating Transfers	<u>799,203</u>		<u>(107,057)</u>		<u>295,268</u>	<u>26,186</u>	<u>1,013,600</u>
Net Income	842,590,105	54,350,528		3,411,092	48,228	(14,657)	900,355,296
Fund Balances - Beginning	7,604,165,175	317,176,943		9,270,839	765,563	43,447	7,931,421,967
Fund Balances - Ending	<u>8,446,755,260</u>	<u>371,527,471</u>		<u>12,681,931</u>	<u>813,791</u>	<u>28,790</u>	<u>8,831,607,263</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 3

COMBINING BALANCE SHEET - EXPENDABLE TRUST FUNDS

August 31, 1993

	<i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i>	<i>State Employees Cafeteria Plan Trust Fund (943)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$
ASSETS			
Current Assets			
Cash and Temporary Investments:			
Cash on Hand	367,232		367,232
Cash in State Treasury	266,522,462	3,459,440	269,981,902
Receivables:			
Accounts Receivable	41,150,709	1,174,139	42,324,848
Interest Receivable	1,186,301	15,132	1,201,433
Due From Other Funds	61,851	175,027	236,878
Consumable Inventories	19,759	5	19,764
Total Assets	<u>309,308,314</u>	<u>4,823,743</u>	<u>314,132,057</u>
LIABILITIES AND FUND BALANCES			
Current Liabilities			
Payables:			
Accounts Payable	156,482,833	2,936,635	159,419,468
Deferred Revenue	244,106		244,106
Due To Other Funds	1,436,377	2,885	1,439,262
Total Liabilities	<u>158,163,316</u>	<u>2,939,520</u>	<u>161,102,836</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 3

COMBINING BALANCE SHEET - EXPENDABLE TRUST FUNDS

August 31, 1993
(concluded)

	<i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i>	<i>State Employees Cafeteria Plan Trust Fund (943)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$
Fund Balances			
Reserved:			
For Encumbrances	117,875		117,875
For Consumable Inventories	19,759	5	19,764
For Contingency Reserves	61,266,964		61,266,964
For Statutory Premium Payment	72,000,000		72,000,000
Unreserved, Designated:			
For Premium Rate Supplementation	10,623,000		10,623,000
For Group Insurance Administration	7,117,400		7,117,400
For Cafeteria Plan Administration		1,884,218	1,884,218
Total Fund Balances	<u>151,144,998</u>	<u>1,884,223</u>	<u>153,029,221</u>
Total Liabilities and Fund Balances	<u>309,308,314</u>	<u>4,823,743</u>	<u>314,132,057</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 4

**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES – EXPENDABLE TRUST FUNDS
Year Ended August 31, 1993**

	<i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i>	<i>State Employees Cafeteria Plan Trust Fund (943)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$
Revenues			
Investment Income:			
Interest	13,816,428	175,184	13,991,612
Insurance Premium Contributions from:			
State of Texas	558,344,002		558,344,002
Employees and Retirees	206,433,267		206,433,267
Cobra Participants	3,890,132		3,890,132
Cafeteria Plan:			
Contributions		16,374,368	16,374,368
Fees		484,380	484,380
Higher Education Fee Assessment	1,874,545		1,874,545
Miscellaneous	84,337	28	84,365
Total Revenues	784,442,711	17,033,960	801,476,671
Expenditures			
Current:			
Claims and Premium Payments to Insurance Carriers	643,240,264		643,240,264
Claims Reimbursements – Cafeteria Plan		15,237,015	15,237,015
Estimated Claims Incurred by Employees and/or Retirees	80,569,063	1,030,189	81,599,252
Administrative Expenditures	6,693,304	562,430	7,255,734
Capital Outlay	36,348	7,335	43,683
Total Expenditures	730,538,979	16,836,969	747,375,948

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 4

**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN
FUND BALANCES - EXPENDABLE TRUST FUNDS**

Year Ended August 31, 1993

(concluded)

	<i>Employees Life, Accident and Health Insurance and Benefits Fund (973)</i>	<i>State Employees Cafeteria Plan Trust Fund (943)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$
Excess (Deficit) of Revenues over Expenditures Before Other Sources (Uses) of Funds	53,903,732	196,991	54,100,723
Other Sources (Uses) of Funds			
Transfer In (Out) for Higher Education			
Administrative Expenses	<u>(1,162,404)</u>	<u>169,917</u>	<u>(992,487)</u>
Excess (Deficit) of Revenues over Expenditures and Other Sources (Uses) of Funds	52,741,328	366,908	53,108,236
Fund Balances - Beginning	98,409,713	1,517,759	99,927,472
Increase (Decrease) in Consumable Inventories	<u>(6,043)</u>	<u>(444)</u>	<u>(6,487)</u>
Fund Balances - Ending	<u>151,144,998</u>	<u>1,884,223</u>	<u>153,029,221</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 5

COMBINING BALANCE SHEET – SPECIAL REVENUE FUNDS

August 31, 1993

	<i>Social Security Administration Fund (929)</i>	<i>Death Benefits Program for Commissioned Peace Officers, Firemen, etc.(001)</i>	<i>Judicial Return To Work Fund (001)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$	\$
ASSETS				
Current Assets				
Cash and Temporary Investments:				
Cash in State Treasury	187,926			187,926
Legislative Appropriations		9,911	406,064	415,975
Receivables:				
Accounts Receivable		100,600	522,662	623,262
Due From Other Funds		483		483
Total Assets	<u><u>187,926</u></u>	<u><u>110,994</u></u>	<u><u>928,726</u></u>	<u><u>1,227,646</u></u>
LIABILITIES AND FUND BALANCES				
Current Liabilities				
Payables:				
Accounts Payable	4,432	40,000	587,233	631,665
Due To Other Funds	104			104
Total Liabilities	<u><u>4,536</u></u>	<u><u>40,000</u></u>	<u><u>587,233</u></u>	<u><u>631,769</u></u>
Fund Balances				
Reserved:				
For Lapsing–Unencumbered General Revenue Fund Appropriations		70,994	341,493	412,487
Unreserved:				
Undesignated:				
Available for Subsequent Years' Expenditures	183,390			183,390
Total Fund Balances	<u><u>183,390</u></u>	<u><u>70,994</u></u>	<u><u>341,493</u></u>	<u><u>595,877</u></u>
Total Liabilities and Fund Balances	<u><u>187,926</u></u>	<u><u>110,994</u></u>	<u><u>928,726</u></u>	<u><u>1,227,646</u></u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 6

COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES
IN FUND BALANCES - SPECIAL REVENUE FUNDS
Year Ended August 31, 1993

	Social Security Administration Fund (929)	Death Benefits Program for Commissioned Peace Officers, Firemen, etc.(001)	Judicial Returns To Work Fund (001)	Totals August 31, 1993
Revenues	\$	\$	\$	\$
Legislative Appropriations Out of the State's General Revenue Fund:				
For Administrative Expenditures		10,580		10,580
For Death Benefits		797,936		797,936
For Salaries of Retired Judges Called to Service			4,100,834	4,100,834
For Salaries of Retired Justices Called to Service			427,685	427,685
For Social Security Matching Contributions			438,960	438,960
For Social Security Payments Made by the State			57,012	57,012
Total Revenues		806,516	5,024,491	5,833,007
Expenditures				
Current:				
Death Benefits:				
Lump Sum Payments for Surviving Spouses		460,000		460,000
Monthly Payments on Behalf of Minor Children		396,494		396,494
Salaries of Retired Judges Called to Service			4,157,831	4,157,831
Salaries of Retired Justices Called to Service			415,251	415,251
Payroll Related Costs of Judges/Justices Called to Service:				
Social Security Matching Contribution			328,916	328,916
Social Security Payments by the State	14,624		113,938	113,938
Administrative Expenditures				14,624
Total Expenditures	14,624	856,494	5,015,936	5,887,054
Excess (Deficit) of Revenues Over Expenditures	(14,624)	(47,978)	8,555	(54,047)

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EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 6

**COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES
IN FUND BALANCES - SPECIAL REVENUE FUNDS
Year Ended August 31, 1993
(concluded)**

	<i>Social Security Administration Fund (929)</i>	<i>Death Benefits Program for Commissioned Peace Officers, Firemen, etc.(001)</i>	<i>Judicial Return To Work Fund (001)</i>	<i>Totals August 31, 1993</i>
	\$	\$	\$	\$
Other Financing Sources (Uses)		(21,112)		(21,112)
Fee for Administering Programs				
Excess (Deficit) of Revenues Over Expenditures and Other Uses	(14,624)	(69,090)	8,555	(75,159)
Fund Balances - Beginning	198,014	140,084	332,938	671,036
Fund Balances - Ending	<u>183,390</u>	<u>70,994</u>	<u>341,493</u>	<u>595,877</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 7

COMBINING BALANCE SHEET - AGENCY FUNDS

August 31, 1993

	Unappropriated Receipts General Revenue Fund (001)	Employee Savings Bond Fund (901)	Deferred Compensation Trust Fund (945)	Texasaver Trust Fund (946)	Higher Education Group Insurance Fund (973)	Totals August 31, 1993
ASSETS						
Current Assets						
Cash in Bank				15,192		15,192
Cash in State Treasury	13,735	125				13,860
Investments - Deferred Compensation Plan 457 At Market Value			217,093,069			217,093,069
Accounts Receivable	115,887					115,887
Total Assets	<u>129,622</u>	<u>125</u>	<u>217,093,069</u>	<u>15,192</u>	<u>-</u>	<u>217,238,008</u>
LIABILITIES						
Current Liabilities						
Accounts Payable	129,162	125		15,192		144,479
Due To Other Funds	460					460
Deferred Compensation Benefits Payable			217,093,069			217,093,069
Total Liabilities	<u>129,622</u>	<u>125</u>	<u>217,093,069</u>	<u>15,192</u>	<u>-</u>	<u>217,238,008</u>

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 8

INVESTMENT SUMMARY - EMPLOYEES RETIREMENT FUND

Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993				Yield at Market	
	Book Value	Market Value	Purchases	Redemptions and Maturities	Other Transactions & Amortizations	Book Value		Market Value
Fixed Income:								
U. S. Government Securities	3,321,520,541	3,806,593,631	480,422,635	735,022,395	1,746,445	3,068,667,226	3,569,362,324	37.15
Corporate Bonds	263,675,117	290,624,434	496,123,985	38,439,254	213,346	721,573,194	763,316,050	7.94
Total Fixed Income	3,585,195,658	4,097,218,065	976,546,620	773,461,649	1,959,791	3,790,240,420	4,332,678,374	45.09
Equities:								
Passive	1,014,655,006	1,233,810,074	420,857,545	29,119,515	10,635,858	1,417,028,894	1,777,680,270	18.50
Active	1,459,826,484	1,824,664,028	753,791,832	783,173,173	(12,812,260)	1,417,632,883	1,675,271,758	17.44
International Passive	197,773,692	202,169,826	248,746,275	26,498,743	1,924,251	421,945,475	519,543,745	5.41
Total Equities	2,672,255,182	3,260,643,928	1,423,395,652	838,791,431	(252,151)	3,256,607,252	3,972,495,773	41.35
Cash Equivalents:								
Cash in State Treasury	1,115,076,602	1,115,076,602	-	-	(253,821,123)	861,255,479	861,255,479	8.96
Short-Term U.S. Government Securities	95,665,678	96,323,275	207,433,299	41,904,105	(1,117,307)	260,077,565	263,451,645	2.74
Medium-Term Notes and Short-Term Corporate Bonds	59,747,665	60,411,999	150,848,050	33,488,777	(261,250)	176,845,688	178,496,038	1.86
Total Cash Equivalents	1,270,489,945	1,271,811,876	358,281,349	75,392,882	(255,199,680)	1,298,178,732	1,303,205,162	13.56
Total Investments	7,527,940,785	8,629,673,869	2,758,223,621	1,687,645,962	(753,492,040)	8,345,026,404	9,698,379,309	100.00

Note A Note A Note A Note A

Portfolio Rate of Return (Note B)	August 31, 1993	August 31, 1992
Cash Equivalents	5.11	5.81
U. S. Government Securities	10.21	10.11
Corporate Bonds	8.60	19.94
Equities	11.04	4.43
Composite Rate of Return	9.51	9.16

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS

Unaudited

SCHEDULE 9

INVESTMENT SUMMARY - LAW ENFORCEMENT AND CUSTODIAL OFFICER SUPPLEMENTAL RETIREMENT FUND
Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993					Yield at Market	
	Book Value	Market Value	Purchases	Sales, Maturities and Redemptions	Other Transactions & Amortizations	Book Value	Market Value	% Total Market	%
Fixed Income:									
U. S. Government Securities	241,773,534	271,366,725	40,165,156	89,366,415	446,767	193,019,042	219,460,470	55.90	7.69
Corporate Bonds	-	-	94,869,682	-	(19,656)	94,850,026	96,987,850	24.70	5.95
Total Fixed Income	241,773,534	271,366,725	135,034,838	89,366,415	427,111	287,869,068	316,448,320	80.60	7.15
Cash Equivalents:									
Cash in State Treasury	70,309,016	70,309,016	-	-	(24,420,984)	45,888,032	45,888,032	11.69	4.83
Short-Term U.S. Government Securities	-	-	9,917,188	-	7,049	9,924,237	10,034,400	2.56	4.23
Medium-Term Notes and Short-Term Corporate Bonds	-	-	20,064,140	-	(10,315)	20,053,825	20,229,688	5.15	4.96
Total Cash Equivalents	70,309,016	70,309,016	29,981,328	-	(24,424,250)	75,866,094	76,152,120	19.40	4.79
Total Investments	312,082,550	341,675,741	165,016,166	89,366,415	(23,997,139)	363,735,162	392,600,440	100.00	6.70

Note A Note A

Portfolio Rate of Return (Note B)	August 31, 1993		August 31, 1992	
	%	Note A	%	Note A
Cash Equivalents	5.12		5.85	
U. S. Government Securities	10.91		9.51	
Corporate Bonds	5.96		-	
Composite Rate of Return	9.07		9.09	

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 10

INVESTMENT SUMMARY -- JUDICIAL RETIREMENT SYSTEM PLAN TWO FUND
Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993				Yield at Market %	
	Book Value \$	Market Value \$	Purchases \$	Sales, Maturities and Redemptions \$	Other Transactions & Amortizations \$	Book Value \$		Market Value \$
Equities:								
Mutual Funds	8,345,694	8,446,403	1,603,715	-	-	9,949,409	10,790,060	80.51
Total Equities	8,345,694	8,446,403	1,603,715	-	-	9,949,409	10,790,060	80.51
Cash Equivalents:								
Cash in State Treasury	837,371	837,371	-	-	1,775,429	2,612,800	2,612,800	19.49
Total Cash Equivalents	837,371	837,371	-	-	1,775,429	2,612,800	2,612,800	19.49
Total Investments	9,183,065	9,283,774	1,603,715	-	1,775,429	12,562,209	13,402,860	100.00

Note A

Portfolio Rate of Return (Note B)	August 31, 1993		August 31, 1992	
	%	Average	%	Average
Cash Equivalents	5.03	6.84	6.17	4.32
Equities	6.01	5.63		

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 11

INVESTMENT SUMMARY - ALL PENSION FUNDS
Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993				Yield at Market %	
	Book Value \$	Market Value \$	Purchases \$	Sales, Maturities and Redemptions \$	Other Transactions & Amortizations \$	Book Value \$		Market Value \$
Fixed Income:								
U. S. Government Securities	3,563,294,075	4,077,960,356	520,587,791	824,388,810	2,193,212	3,261,686,268	3,788,822,794	37.83
Corporate Bonds	263,675,117	290,624,434	590,993,667	38,439,254	193,690	816,423,220	860,303,900	8.59
Total Fixed Income	3,826,969,192	4,368,584,790	1,111,581,458	862,828,064	2,386,902	4,078,109,488	4,649,126,694	46.42
Equities:								
Passive	1,014,655,006	1,233,810,074	420,857,545	29,119,515	10,635,858	1,417,028,894	1,777,680,270	17.75
Active	1,459,826,484	1,824,664,028	753,791,832	783,173,173	(12,812,260)	1,417,632,883	1,675,271,758	16.73
International Passive	197,773,692	202,169,826	248,746,275	26,498,743	1,924,251	421,945,475	519,543,745	5.19
Mutual Funds	8,345,694	8,446,403	1,603,715			9,949,409	10,790,060	0.11
Total Equities	2,680,600,876	3,269,090,331	1,424,999,367	838,791,431	(252,151)	3,266,556,661	3,983,285,833	39.77
Cash Equivalents:								
Cash in State Treasury	1,187,029,727	1,187,029,727	-	-	(276,423,603)	910,606,124	910,606,124	9.09
Short-Term U.S. Government Securities	95,665,678	96,323,275	217,350,487	41,904,105	(1,110,258)	270,001,802	273,486,045	2.73
Medium-Term Notes and Short-Term Corporate Bonds	59,747,665	60,411,999	170,912,190	33,488,777	(271,565)	196,899,513	198,727,726	1.98
Total Cash Equivalents	1,342,443,070	1,343,765,001	388,262,677	75,392,882	(277,805,426)	1,377,507,439	1,382,819,895	13.81
Total Investments	7,850,013,138	8,981,440,122	2,924,843,502	1,777,012,377	(275,670,675)	8,722,173,588	10,019,232,422	100.00

Note A

Note A

Note A

Note A

Portfolio Rate of Return (Note B)	August 31, 1993		August 31, 1992	
	%	Average Book Value	%	Average Book Value
Cash Equivalents	5.12		5.82	
U. S. Government Securities	10.26		10.07	
Corporate Bonds	8.46		19.94	
Equities	11.03		4.43	
Composite Rate of Return (Note C)	9.49		9.16	

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

Note C: Beginning in fiscal year 1991, the Cash Summary and Rate of Return includes the administrative portion of the Deferred Compensation Trust Fund and the Team-Saver Trust Fund.

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 12

INVESTMENT SUMMARY -- EMPLOYEES LIFE, ACCIDENT AND HEALTH INSURANCE AND BENEFITS FUND
Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993				Yield at Market %	
	Book Value \$	Market Value \$	Purchases \$	Sales, Maturities and Redemptions \$	Other Transactions & Amortizations \$	Book Value \$		Market Value \$
Cash Equivalents:								
Cash in State Treasury	184,694,813	184,694,813	-	-	81,827,649	266,522,462	266,522,462	100.00
Total Cash Equivalents	184,694,813	184,694,813	-	-	81,827,649	266,522,462	266,522,462	100.00
Total Investments	184,694,813	184,694,813	-	-	81,827,649	266,522,462	266,522,462	100.00

	August 31, 1993	August 31, 1992
Portfolio Rate of Return (Note B)	5.07 %	6.44 %
Cash Equivalents	5.07	6.44
Composite Rate of Return	5.07	6.44

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

EMPLOYEES RETIREMENT SYSTEM OF TEXAS
Unaudited

SCHEDULE 13

INVESTMENT SUMMARY - STATE EMPLOYEES CAFETERIA PLAN TRUST FUND
Year Ended August 31, 1993

Type of Investment	September 1, 1992		August 31, 1993			Yield at Market		
	Book Value	Market Value	Purchases	Sales, Maturities and Redemptions	Other Transactions & Amortizations		Book Value	Market Value
Cash Equivalents:								
Cash in State Treasury	2,141,286	2,141,286	-	-	1,318,154	3,459,440	3,459,440	100.00
Total Cash Equivalents	2,141,286	2,141,286	-	-	1,318,154	3,459,440	3,459,440	100.00
Total Investments	2,141,286	2,141,286	-	-	1,318,154	3,459,440	3,459,440	100.00
	Note A	Note A				Note A	Note A	
Portfolio Rate of Return (Note B)		August 31, 1993	August 31, 1992					
Cash Equivalents		5.06	6.34					
Composite Rate of Return		5.06	6.34					

Note A: The investment portfolio listing is available for review at the System's office or the listing will be mailed upon request.

Note B: Rate of Return = $\frac{\text{Net Interest or Dividends} + \text{Gain (Loss) on Sales}}{\text{Average Book Value}}$

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

TRD-9333248

Charles D. Travis
Executive Director
Employees Retirement System of Texas

Filed: December 8, 1993

Texas Department of Health Correction of Errors

The Texas Department of Health adopted on an emergency basis §§134.1-134. 3. The rules appeared in the November 2, 1993, issue of the *Texas Register* (18 TexReg 7990).

On page 7990, §134.2, definition for "Abuse", subparagraph (A)(iii), it appears in print as "(iii)", it should appear as "(iii)".

On page 8001, §134.52(e)(2), part of the sentence was separated from this paragraph. It should read "(2) Parking. Off-street parking shall be made available for visitors, employees, nursing staff, and medical staff as described in subsection (b) of this section.

On page 8003, §134.53(b)(4)(C)(iii), the word "the" before the word "every" in this sentence should be deleted.

On page 8009, §134.53(q)(2)(B), part of the sentence was separated from this subparagraph. It should read "(B) Insulation required in subparagraph (A) of this paragraph may be omitted from piping not subject to contact by patients when the heat loss from such piping without insulation does not increase the energy requirements of the system."

On page 8015, §134.53(q)(4)(B)(i)-(xii) should be renumbered as (i)-(xiii). Also, the clause which was printed as (xii) needs to be separated from the language in the clause printed as (xi).

On page 8018, §134.53(r)(11)(A), clause (iv) should be clause (iii).

On page 8020, §134.54(b)(3), subparagraphs (W), (X), and (Y) should be subparagraphs (V), (W), and (X).

On page 8021, §134.71(j)(3), delete the word "and" after the semicolon.

The Texas Department of Health submitted an Open Meeting Notice, which was published in the November 26, 1993, issue of the *Texas Register* (18 TexReg 8806). The notice was incorrect due to a publishing error. According to the notice, the Hospital Data Advisory Board Fee Committee will be meeting on Saturday, December 11, 1993, at 10:15 a.m. The correct notice should read the "Texas Radiation Advisory Board Fee Committee".

Notice of Certificates of Registration

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following certificates of registration: William H. Swilley, D.D.S., Bellaire, R07752, November 29, 1993; Lance A. Parker, D.D.S., Huntington, R14448, November 29, 1993; Cotton Houston Services, Inc., Houston, R15365, November 29, 1993; Command Repair, Inc.,

Grand Prairie, R17063, November 29, 1993; Texas East Entities, Inc., Houston, R18468, November 29, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9333249

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

Filed: December 8, 1993

Notice of Revocation of Radioactive Material Licenses

The Texas Department of Health, having duly filed complaints pursuant to Texas Regulations for Control of Radiation, Part 13 (25 Texas Administrative Code §289.112), has revoked the following radioactive material licenses: Veterinary Reference Laboratory, Dallas, G01337, November 29, 1993; Cotton Houston Services, Inc., Houston, L03920, November 29, 1993; Medlab, Houston, G01541, November 29, 1993.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

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

TRD-9333250

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

Filed: December 8, 1993

The Texas Health Benefits Purchasing Cooperative Consultant Proposal Requests

The Texas Health Benefits Purchasing Cooperative, doing business as the Texas Insurance Purchasing Alliance invites bids for two consulting contracts.

(1) It is soliciting bids for actuarial services. The actuary will analyze the appropriate parameters for premium rates for health insurance for small businesses. It will advise the alliance on these issues, on the relative cost components of various benefit plans, and other matters that may arise in selecting health carriers to provide coverage through the alliance. The actuary must be familiar with health insurance benefits and cost components, and with the small group health insurance market in Texas. The bids must be received by January 15, 1994.

(2) It is also soliciting bids for start-up consulting services. It has contracted with John Ramey for initial start-up consulting services. It may be necessary, however, to utilize additional start-up consulting services in the future which may exceed \$10,000; the cooperative invites persons with experience in creating purchasing alliances for small employers to submit bids. The bids must be received by December 15. The cooperative intends to award any future contracts that may be necessary for start-up consulting services to Mr. Ramey unless a better offer is submitted.

The board of trustees will evaluate the bids and make the final determination based on cost and the experience of the bidders.

For more information, contact Rebecca Lightsey at 1005 Congress Avenue, Suite 550, Austin, Texas 78701. (512) 472-3956.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333165 Rebecca Lightsey
Executive Director
The Texas Health Benefits Purchasing
Cooperative

Filed: December 6, 1993

Request for Proposal

The Texas Health Benefits Purchasing Cooperative, doing business as the Texas Insurance Purchasing Alliance, is inviting proposals for the administrator of the alliance. The administration will be conducted in compliance with the alliance's Rules of Participation.

The administrator's responsibilities will be to administer marketing, application, eligibility determinations, medical underwriting, premium collections, enrollment, premium disbursement, recordkeeping, general customer service functions, and regular reporting to the board of trustees.

The administrator must have experience in application processing, medical underwriting, and handling of premiums. It must also be able to demonstrate financial capacity by maintaining a fidelity bond or other security of at least \$5 million and a \$250,000 line of credit.

The proposals submitted will be the basis for contract negotiations. The contract will be awarded to the bidder whose proposal conforms to the request and is deemed most advantageous to the alliance, based on the competence and experience of the bidder in performing the requested services and reasonableness in overall cost.

The original and four copies of the full proposal must be submitted to the Alliance before 3:00 p.m., Monday, January 10, 1994.

For more information or to obtain the complete Request for Proposal for Administrator and the companion draft Rules of Participation contact Rebecca Lightsey, Texas Insurance Purchasing Alliance, 1005 Congress Avenue, Suite 550, Austin, Texas 78701, (512) 472-3956.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333166 Rebecca Lightsey
Executive Director
The Texas Health Benefits Purchasing
Cooperative

Filed: December 6, 1993

Texas Department of Human Services Invitation to Bid

The Texas Department of Human Services (TDHS) announces an Invitation to Bid (ITB) for purchased food stamp issuance services. TDHS uses a competitive procurement process to ensure and document that services are of the highest quality, lowest price, and best meet the needs of the clients served.

Description of Services: Over-the-counter food stamp issuance is the exchange of food coupon booklets for authorization to participate (ATP) forms. ATP forms will specify client name, case number, ID and issuance numbers, total benefit amount, number of each denomination booklets to be issued, and month valid. Food Stamp clients will present issuance agent with ATPs and ID cards. Issuance agent will check to see that the ID card serial number matches the corresponding number on the ATP form. If they match and the ATP is valid for the current month, the client will sign the ATP form in the presence of the issuance agent, who will then exchange the indicated number of each denomination of booklets for the signed ATP form. The issuance agent will write the issuance verification code (from the ID card) on the ATP form, date stamp the ATP form and later batch it for daily delivery to TDHS. To contract with TDHS the contractor must comply with: ALL insurance requirement specified in the ITB, including providing an all-risk insurance policy naming TDHS as the guaranteed loss payee. TDHS will procure over-the-counter food stamp issuance services in FOUR Texas Counties: BRAZORIA; BRAZOS; ELLIS; AND NAVARRO.

Terms of the Contract: Each contract will be for one twelve-month period. TDHS has the option to renew the contract on a non-competitive basis for a limited number of additional periods. Each contractor will be paid on a fee per transaction basis for every eligible ATP form processed.

Procedures for Awarding Contract: Only bids meeting the requirements of the procurement will be considered for contract award. A contract will be awarded to the lowest bidder whose bid meets the specified requirements for each county.

Contact Person: To request an ITB package or additional information, contact Margarette Kaylor at (512) 450-3467. SEALED BIDS FOR EACH COUNTY OF INTEREST must be received by Margarette Kaylor no later than 2:00 p. m., March 9, 1994, at: Issuance Services Unit (W-320), Client Self-support Services Division, Texas Department of Human Services, 701 West 51st Street, P. O. Box 149030, Austin, Texas 78714-9030.

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

TRD-9333266 Nancy Murphy
Section Manager, Policy and Document
Support
Texas Department of Human Services

Filed: December 8, 1993

Texas Department of Insurance Correction of Errors

The Texas Department of Insurance submitted a notification printed in the "In Addition Section". The notice was published in the September 21, 1993, *Texas Register* (18 TexReg 6483). Due to a typographical error by the Texas Department of Insurance, item #2 should read as follows: "FCE Health and Welfare Fund, Inc. (assumed name for Federal Contract Employees Health and Welfare Fund, Inc.), a foreign third party administrator. The home office is in Foster City, California."

The Texas Department of Insurance submitted two documents to be published under Adopted Exempt Notification. The documents were published in error under Title 40. The documents were published in the November 26, 1993, *Texas Register* (18 TexReg 8798). Due to a typographical error the exempt heading was omitted.

They should read as follows:

TRD #9332414-was published under Title 40, instead of Texas Department of Insurance Exempt Notification.

TRD #9332413-was also published under Title 40, instead of Texas Department of Insurance Exempt Notification. It contained the wrong effective date, should be effective "December 11, 1993" and the document had a typo on the form number that was referenced, it should be "Form Number 092893. WBF".



The Texas Department of Insurance submitted a notification printed in the "In Addition Section". The notice was published in the November 23, 1993, *Texas Register* (18 TexReg 8711). Due to a typographical error, item #5 should read as follows: "Application for Incorporation in Texas for Foundation Health, a Texas Health Plan, Inc., a domestic health maintenance organization. The home office is in Dallas, Texas."



The Texas Department of Insurance submitted a notification printed in the "In Addition Section". The notice was published in the September 21, 1993, *Texas Register* (18 TexReg 6483). Due to a typographical error by the Texas Department of Insurance, item #2 should read as follows: "FCE Health and Welfare Fund, Inc. (assumed name for Federal Contract Employees Health and Welfare Fund, Inc.), a foreign third party administrator. The home office is in Foster City, California."



Texas Lottery Commission

Game Procedures Instant Game Number 22

1.0 Name and Style of Game.

The name of Instant Game Number 22 is "HOLIDAY CASH." The play style of the game is "match three."

1.1 Price of Instant Ticket.

Tickets for Instant Game Number 22 shall be \$1.00 per ticket.

1.2 Definitions in Instant Game Number 22.

A. Bar Code-The unique bar-coded representation of the game Pack-Ticket Number and the Validation Number.

B. Display Printing-That area of the instant game ticket outside of the area where the Play Symbols appear.

C. Low-Tier Prize-A prize of \$1.00, \$2.00, \$4.00, \$5, \$10, or \$20.

D. Mid-Tier Prize-A prize of \$40 or \$500.

E. Number-Winning Ticket-A ticket which is no intended to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, Texas Civil Statutes, Article 179g (the Lottery Act), and applicable rules adopted by the Lottery pursuant to the Lottery Act and published in 34 TAC, Chapter 7.

F. Pack-A pack of fanfolded "HOLIDAY CASH" Instant Game tickets which are attached to each other by perforations the retailer tears when the retailer sells a ticket. Each pack contains 250 tickets, which are packed in plastic shrink-wrapping and fanfolded in pages of five. Tickets 000 to 004 are on the top page; tickets 005 to 009 are on the next page, etc.; and tickets 245 to 249 are on the last page. Tickets 000 and 249 are folded down to expose the pack-ticket number through the shrink-wrap.

G. Pack-Ticket Number-The 11-digit code printed on the back of each ticket located above the Bar Code which is printed vertically down the side of the back of the ticket in the form 00-000000-000. The first two digits are the game identification number followed by a six-digit pack number followed by a three-digit ticket number. Numbering begins with 22-000001-000 for this game.

H. Play Symbol-One of the symbols which appears under the six rub-off spots on the front of the ticket. Each Play Symbol is printed in Symbol font in black ink in positive. The possible Play Symbols are: \$1.00, \$2.00, \$4.00, \$5.00, \$10, \$20, \$40, and \$500.

I. Play Symbol Caption-The small printed material appearing below each Play Symbol which explains the Play Symbol. One and only one of these Play Symbol Captions appears under each Play Symbol and each is printed in Caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

PLAY SYMBOL	CAPTION
\$1.00	ONES
\$2.00	TWOS
\$4.00	FOURS
\$5.00	FIVES
\$10.00	TENS
\$20.00	TWENTY
\$40.00	FORTY
\$500	FIV HUND

J. Retailer Validation Code-Three small letters found under the removable rub-off covering over the Play Symbols on the front of the ticket, which the retailer uses to verify and validate instant winners.

K. Ticket or Instant Game Ticket, or Instant Ticket-A Texas Lottery "HOLIDAY CASH" Instant Game Number 22 ticket.

L. Validation Number-A unique 12-digit number applied to the front of each ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation

requirements set forth in §2.1 of rules adopted by the Lottery for this purpose, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "HOLIDAY CASH" Instant Game is determined when the latex on the ticket is rubbed off to expose the six Play Symbols on the front of the ticket. The holder of a ticket wins that like Play Symbol prize amount, if the same Play Symbol prize amount appears in three separate play spots on that ticket. Number portion of the display printing Numbeerr any extraneous matter whatever shall be usable or playable as a part of the Instant Game. The Play Symbol amounts have the following instant values:

\$1.00
\$2.00, or
\$4.00, or
\$5.00, or
\$10.00, or
\$20.00, or
\$40.00, or
\$500.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly one Play Symbol must appear under each of the six rub-off spots on the right front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each Play Symbol Caption must be present in its entirety and be fully legible;
5. Each of the Play Symbols and the Play Symbol Captions must be printed in black ink;
6. The ticket shall be intact,
7. The Validation Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
8. The Validation Number must correspond, using the Lottery's codes, to the Play Symbols on the ticket;
9. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
10. The ticket must Not be counterfeit in whole or in part;
11. The ticket must have been issued by the Lottery in an authorized manner;
12. The ticket must not have been stolen, nor appear on any list of omitted tickets or Non-activated tickets on file at the Lottery;

13. The Play Symbols, Play Symbol Captions, Validation Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

14. The ticket must be complete and not miscut, and have exactly one Play Symbol and exactly one Play Symbol Caption under each of the six rub-off spots on the front of the ticket, exactly one Validation Number, exactly one Retailer Validation Code and exactly one Pack-Ticket Number on the ticket;

15. The Validation Number of an apparent winning ticket shall appear on the Lottery's Official List of Validation Numbers of winning tickets, and a ticket with that Validation Number shall not have been paid previously;

16. The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error;

17. Each of the six Play Symbols must be exactly one of those described in §1.2.H, and each of the Play Symbol Captions to those Play Symbols must be exactly one of those described in §1.2.I;

18. Each of the six Play Symbols on the ticket must be printed in the Symbol Font and must correspond precisely to the artwork on file at the Lottery; the ticket Validation Numbers must be printed in the Validation Font and must correspond precisely to the artwork on file at the Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number Font and must correspond precisely to the artwork on file at the Lottery;

19. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Lottery; and

20. The ticket must have been received or recorded by the Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these game procedures, the Lottery's Rules

governing the award of prizes of the size to be validated, and any confidential validation and security tests of the Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket in that Instant Game (or ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket.

2.2 Procedure for Claiming Prizes

A. To claim a "HOLIDAY CASH" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5, \$10, \$20, \$40, or \$500, a player shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Lottery Retailer. The Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the player and physically void the ticket; provided that the Lottery Retailer may, but is not, in some cases, required to pay a \$40 or \$500 ticket. In the event the Lottery Retailer cannot verify the claim, the Lottery Retailer shall provide the player with a claim form and instruct the player on how to file a claim with the Lottery. If the claim is validated by the Lottery, a check shall be forwarded to the player in the amount due. In the event the claim is not validated, the claim shall be denied and the player shall be notified promptly. A player may also claim any of the above prizes under the procedure described in §2.2.B.

B. As an alternative method of claiming a "HOLIDAY CASH" Instant Game prize, the player must sign the winning ticket, thoroughly complete a claim form, and present both at any Lottery claim center. If the claim is validated by the Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. A player may also claim a prize by signing the winning ticket, thoroughly completing a claim form, and mailing both to Texas Lottery, Comptroller of Public Accounts, P.O. 16600, Austin, Texas 78752-6600. In the event that the claim is not validated by the Lottery, the claim shall be denied and the player shall be notified promptly.

C. Prior to payment by the Lottery of any prize, the Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, State Treasurer, or Texas Alcoholic Beverage Commission,

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. in default on a loan guaranteed under Texas Civil Statutes, Chapter 57, the Education Code. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.3 Allowance for Delay of Payment. The Lottery may delay payment of the prize pending a final determination by the director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment, or

D. if the claim is subject to any deduction from the payment otherwise due, as described in §2.2.D. Number liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.4 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a prize from the "HOLIDAY CASH" instant game, the Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.5 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game. Any prize not claimed within that period, and in the manner specified in these game procedures and on the back of each ticket, shall be forfeited.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated therefor, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated therefor, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the director shall make payment to the player whose signature appears on the back of the ticket in the space designated therefor. If more than one name appears on the back of the ticket, the Director will require that one of those players whose name appears thereon be designated to receive payment.

B. The Lottery shall not be responsible for lost or stolen Instant Game tickets

4.0 Number and Value of Instant Prizes. There will be approximately 70,000, 000 tickets in the Instant Game Number 22. The expected number and value of prizes in the game are as follows.

PRIZE	APPROXIMATE NUMBER OF WINNERS IN THE GAME	CHANCES OF WINNING
\$1	7,288,320	1:9.62
\$2	4,765,440	1:14.71
\$4	2,803,200	1:25.00
\$5	1,121,280	1:62.50
\$10	280,320	1:250.00
\$20	210,240	1:333.33
\$40	45,000	1:1,557.33
\$500	1,460	1:48,000.00

The actual number of tickets in the game may be increased or decreased at the sole discretion of the Lottery.

5.0 Termination of the Instant Game. The Director may, at any time, announce a termination date for the Instant Game Number 22 without advance notice, at which point Number further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these game procedures for Instant Game Number 22, the Lottery Act (Article 179g, Texas Civil Statutes), applicable Rules adopted by the Lottery pursuant to the Lottery Act and published in 16 TAC, Chapter 4, and all final decisions of the Director.

Issued in Austin, Texas, on December 6, 1993.

TRD-9333131 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission

Filed: December 6, 1993

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Texas Natural Resource Conservation Commission

Consultant Proposal Request

The Texas Natural Resource Conservation Commission (TNRCC) announces that it wishes to contractually retain the services of four analytical laboratories to perform five-day priority turnaround and 20-day normal turnaround chemical analyses for hazard assessments, waste characterization, and composition for emergency response to oil and hazardous substance incidents, and for Leaking Petroleum Storage Tank (LPST) sites and known or suspected RCRA or industrial waste facilities. These samples may contain potentially hazardous organic and/or inorganic ma-

terials at potentially high concentration levels. This agreement is expected to be funded in part by a grant from the United States Environmental Protection Agency (herein termed EPA) pursuant to the Clean Water Act, §106 (as Amended) and the Resource Conservation and Recovery Act, §3011 (as Amended). Neither the United States nor any of its departments, agencies or employees is a party to this agreement. This agreement is subject to the availability of funds from the EPA. This agreement is subject to and shall be in accordance with all terms and conditions of the Cooperative Agreements (I-006480-93-0 and D-006256-93-0) between the TNRCC and the EPA. This agreement is also subject to the federal regulations contained in 40 Code of Federal Regulations (CFR), Parts 30, 31, and 35, and applicable Texas State Purchasing Guidelines.

This agreement is pursuant to authority contained in the Texas Water Code, §5.229.

The contractor will be responsible for all services and equipment necessary to complete the project.

The bidding for this contract will consist of two steps.

(1) Submission of Statements of Qualifications (SOQ's) and prospective bidders shall submit their SOQ's according to the Request for Qualifications (RFQ) instructions.

A detailed evaluation process will be conducted, using criteria such as, but not limited to, demonstrated technical expertise; available facilities and equipment; related experience, and availability of trained, competent personnel to be assigned to the project; and the contractor's chain-of-custody and quality assurance/quality control plans. Facilities will also be subject to a quality assurance inspection by one or both of the TNRCC's Quality Assurance Officers.

Bidders interested in submitting qualifications must obtain a request for qualifications (RFQ) package from the TNRCC. In order to obtain a copy of the RFQ, the

TNRCC must receive a written request by mail or facsimile. The RFQ will be sent by certified mail, or, by private express mail service if the mailed request includes a prepaid self-addressed large envelope (pak). The request should be addressed to: Karen Bewley, Program Manager, Field Operations Division, TNRCC, 1700 North Congress Avenue, P.O. Box 13087, Austin, Texas 78711-3087, or FAX (512) 463-8310.

(2) Price bidding for only the bidders who were deemed "qualified" under step one procedures.

All bidders meeting the TNRCC's minimum qualifications will be sent an Invitation for Bid (IFB) for five-day and 20-day analysis of specific line items. All bids submitted by the bid opening deadline stated in the IFB will be opened and analyzed according to the criteria stated in the IFB. A contract will be awarded, subject to TNRCC approval, to the lowest responsive, responsible bidder.

Note to bidders. Period of contract will be from date of order through August 31, 1994. The TNRCC reserves the option to renew the order on a year per year basis, with a maximum escalation of 10% per contract period (upon written request by vendor and written approval by the TNRCC).

By signing the bid, a bidder affirms that he/she has not given, offered to give, nor intended to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid. Failure to sign the bid or signing it with a false statement, shall void the submitted bid or any resulting contracts and the bidder shall be removed from all bid lists (State Purchasing and General Services Commission, 1 Texas Administrative Code, §113.4 [0] [July 1, 1988]).

This contract is subject to cancellation without penalty, either in whole or in part, if funds are not appropriated by the Texas legislature, or otherwise made available to the using agency.

The contractor will comply with all applicable requirements of the Americans with Disabilities Act of 1990, Public Law 101-336, 101 Congress, Second Session, 104 Stat. 327 (July 26, 1990).

Successful vendor will agree to provide the TNRCC with access to all records of any analyses conducted for the TNRCC.

Invoices should be submitted monthly.

Agency reserves the right to cancel the entire contract upon written notice to the contractor by providing a ten-day written notice prior to cancellation date.

Three copies of the qualifications must be received at the following addresses before 3:00 p.m. local prevailing time on January 23, 1994. By mail: Charlie Willis, TNRCC, Purchasing, Room 539, 1700 North Congress Avenue, Austin.

Information submitted by a bidder in variance with the RFQ instructions will not be evaluated. All contracting procedures shall be conducted in accordance with all applicable state and federal rules.

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

TRD-9333231

Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 8, 1993

Notice of Application For Waste Disposal Permit

Attached are Notices of Applications for waste disposal permits. The notices were issued during the period of November 29-December 3, 1993.

The applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of notice concerning the application(s).

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiner where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in writing to Kerry Sullivan, Assistant Chief Hearings Examiner, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7908.

Allied Tube and Conduit Corporation; the Allied plant manufactures steel pipe and tubes by the electric seam welding process the plant site is approximately 100 feet south of FM Road 3361 in the City of Liberty, Liberty County; renewal; 02017.

City of Bardwell; the wastewater treatment facility is approximately 1,500 feet northeast of the intersection of FM Road 984 and State Highway 34, and approximately 1,000 feet northwest of State Highway 34 and FM Road 985 in Ellis County; new; 13675-01.

Camps and Conference Centers of Grace Presbytery, Inc.; the Briarwood Retreat Center Wastewater Treatment Facilities; the plant site is on Cooper Canyon Road at a point approximately one mile north of the intersection of FM Road 407 and Copper Canyon Road in Denton County; renewal; 12605-01.

Deer Park Refining Limited Partnership and Shell Oil Company; a petroleum refinery; the plant site is south of the Houston Ship Channel, west of Patrick Bayou, and

north of the City of Deer Park, Harris County; renewal; 00403.

The Groce Company, Inc.; a plant recovering oil and grease from grease trap wastes; the plant site is immediately west of the intersection of Lockwood Drive and Harvey Wilson Drive, 0.2 mile north of Buffalo Bayou in the City of Houston, Harris County; renewal; 02569.

Guadalupe-Blanco River Authority; the wastewater treatment facilities; approximately one mile east of FM Road 725 and 3.1 miles southeast of the intersection of Interstate Highway 35 and FM Road 725 in Guadalupe County; amendment; 11378-01.

Great Lakes Carbon Corporation; a petroleum coke calcining facility; the plant site is on the east side of Taylor Bayou at the West Turning Basin, approximately 0.5 mile upstream of the Intracoastal Waterway south of the City of Port Arthur, Jefferson County; renewal; 01994.

City of Houston; the wastewater treatment facilities; south of Aldine Bender Road and approximately 4,500 feet east of John F. Kennedy Boulevard in the City of Houston, Harris County; renewal; 10495-123.

ISP Technologies Inc.; a plant manufacturing industrial organic chemicals; the plant site is south of Industrial Avenue and west of State Highway 146, across from the Galveston County Industrial Water Reservoir and extending south to Moses Bayou in the City of Texas City, Galveston County; renewal; 01263.

Occidental Chemical Corporation; a facility which manufactures Caustic/Chlorine and Chlorinated Paraffins. Additionally, the plant disposes of treated waste generated by another adjacent company (Geon) which manufactures Polyvinyl Chloride; the plant site is adjacent to the south bank of the Houston Ship Channel adjacent to the east bank of Patrick Bayou, Harris County; renewal; 00305.

Tex-Sun Parks, L. C.; the Point West Subdivision Wastewater Treatment Facilities; the plant site is on the north side of Morton Road approximately one-half mile west of the intersection of Fry Road and Morton Road in Harris County; renewal; 12189-01.

Treetop, Inc. doing business as Coronar, Inc.; the wastewater treatment facilities; 15919 Jacintoport Boulevard, approximately 1,000 feet southeast of the intersection of Sheldon Road and Jacintoport Boulevard in Harris County; renewal; 23572-01.

H. L. Whitefield; a dairy; the dairy is on the north side of an unnamed county road located approximately one-half mile east of State Highway 108 and one mile north of the Community of Huckabay in Erath County; new; 13614.

Issued in Austin, Texas, on December 3, 1993.

TRD-8333147
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 6, 1993

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**Notice of Opportunity to Comment on
Permitting Actions**

The following applications are subject to a Commission resolution adopted August 18, 1993, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain permit

matters. The Executive Director will issue the permits unless one or more persons file written protests and/or requests for hearing within ten days of the date notice concerning the application(s) is published in the *Texas Register*.

If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Requests for a public hearing on this application should be submitted in written to the Chief Clerk's Office, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Application by Rosita Gravel, Inc., Application Number 23-68E to Amend Certificate of Adjudication Number 23-68, as amended. Application seeks to amend their recently three acre-foot portion of Certificate Number 23-68 by changing the purpose of use to mining, changing the place of use, and changing the diversion point to approximately seven northwest of Rio Grande City in Starr County located in the Rio Grande Basin.

Issued in Austin, Texas, on December 3, 1993.

TRD-8333148
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation
Commission

Filed: December 6, 1993

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Public Notices

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of assistance grants for the purpose of continuing and improving local municipal household hazardous waste collection programs. The deadline for applying for a grant under this Request for Proposals (RFP) is 5:00 p.m., Friday, January 28, 1994. Award recipients shall be limited to a single household hazardous waste grant during any contract performance period (generally 12 months).

In order to be considered for funding, applications must be prepared and submitted in accordance with the published RFP and other printed guidelines available from TNRCC as part of Grant Application Packet Number 94HHW. Please note that a sample contract will be included in the Grant Application Packet in an effort to expedite the negotiation of contracts. This contract represents the con-

ditions under which the TNRCC is willing to grant funds to the conditions under which the TNRCC is willing to grant funds to public agencies, for this household hazardous waste collection assistance program. Public Agency representatives desiring to receive this particular packet are encouraged to call the TNRCC Environmental and Recycling Center, toll free, at 1-(800) 458-9796, or write Ingrid Dierlam at the TNRCC Agriculture Division, Household Hazardous Waste, Community Support Programs at P.O. Box 13087, Austin, Texas 78711-3087, and request Grant Application Packet Number 94HHW. To obtain additional information concerning the RFP, contact the Community Hazardous Waste Management Unit at (512) 475-4610. The purpose of this grant program is to support local efforts to: establish and operate safe, effective and efficient household hazardous waste collection programs that will significantly reduce the amount of undesirable materials disposed of in municipal landfills or municipal waste incinerators; increase the public's awareness of the dangers inherent in the indiscriminate use, storage and/or disposal of various materials and products; and promote, to the maximum extent feasible, the recycling, and/or reclamation of such material and products.

Applicants eligible to receive funding include Texas cities and counties, public agencies, districts and authorities having legal authority to manage the collection and/or disposal of municipal solid waste. Eligible applicants must have authority to carry out activities described in either Article III, §52(b)(1) or (2), or Article XVI, §59, of the Texas Constitution.

A proposal writing guidance session will be held on January 7, 1993, at 10:00 a.m. in Room 1-101 of the Travis State Office Building, 1701 North Congress Avenue, Austin. The purpose of this meeting is to provide guidance on writing grant proposals to prospective applicants and to respond to questions applicants may have.

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

TRD-9333238
Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 8, 1993

There was an error made in the December 3, 1993, issue of the *Texas Register* (18 TexReg 9021). Two versions of the notice were published with different receiving dates (December 22, 1993 and January 21, 1994). The correct date that the Texas Natural Resource Conservation Commission must receive six copies of the Qualification is before 4:00 p.m. on January 21, 1994.

Inquiries concerning the Request for Qualification should be addressed to Mary Dunn, P.E., Superfund Engineering Section, Pollution Cleanup Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 908-2442.

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

TRD-9333239
Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 8, 1993

The Storage Tank Contracts Section of the Petroleum Storage Tank (PST) Division of the Texas Natural Resource Conservation Commission (TNRCC) will be seeking Statements of Qualifications (SOQs) from firms with expertise in various functions of the investigation and remediation of LPST sites. Five regional contracts will be awarded for each function under the authority granted to the TNRCC by the Government Code, Chapter 552, and the Texas Water Code. The contracts will be awarded using the two-step bid process. The first step is the Request for Qualifications (RFQ). Companies whose SOQ's pass the review process will receive the Invitation for Bids (IFB).

Bids will be received for unit costs of labor, equipment and materials. The contract will be a Unit Price Services Contract to provide services at sites in one of five regions.

In order to receive an RFQ package, prospective bidders must be listed in class 925 or class 926 on the General Services Commission's Bid List. In order to be listed contact the General Services Commission at: (512) 463-3416 or by mail at: General Services Commission, Attention: Bid List, P.O. Box 13047, Austin, Texas 78711.

Inquiries concerning this notice should be addressed to Jim Mosley, Project Manager, PST Contract Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2121.

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

TRD-9333240
Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 8, 1993

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of grant funding to be awarded to public entities to enable the establishment or enhancement of programs and activities designed to reduce and recycle waste materials generated from within facilities of the public entities.

The minimum award will be \$1,500 and the maximum award will be \$25,000. The projects are expected to begin March 1, 1994, and continue through December 31, 1994. The deadline for applying for a grant will be 5:00 p.m., Friday, January 28, 1994.

In order to be considered for funding, applications must be prepared and submitted in accordance with the printed guidelines which are available from TNRCC as part of Grant Application Packet Number 94WPR. Please note that a sample contract will be included in the Grant Application Packet in an effort to expedite the negotiation of contracts. Although the TNRCC recognizes particular needs of various public entities, major deviation from the sample contract should not be expected. Government or public entity representatives desiring to receive this particular packet are encouraged to call or write J. Roger Jay, Assistant Grants Coordinator at the Texas Natural Resource Conservation Commission (TNRCC), Municipal Solid Waste Division, at (512) 239-6698 or P.O. Box 13087, Austin, Texas 78711-3087, and request Grant Application Packet Number 94WPR. The specific purpose of this grant program, is to support the development and implementation of programs to reduce and recycle waste materials from within facilities of public entities.

Applicants eligible to receive funding include Texas governmental or public entities, to include municipal and county governments, districts, public schools, public institutions of higher education, and other public agencies and authorities.

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

TRD-9333241 Mary Ruth Holder
Director, Legal Division
Texas Natural Resource Conservation
Commission

Filed: December 8, 1993

Railroad Commission of Texas

Correction of Error

The Railroad Commission of Texas adopted amendments to 16 TAC §9.19, concerning insurance requirements, and 16 TAC §§13.62 and 13.63, concerning insurance requirements. The rules appeared in the November 16, 1993, *Texas Register* (18 TexReg 8453).

Due to a scanning and proofreading error by the *Texas Register* in the seventh paragraph of the preamble the reference to the Texas Natural Resources Code incorrectly reads "5113.051". The number "5" should be a § symbol as follows. "The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes..."

A similar error appears in the section heading for §9.19, *Insurance Requirements*, on page 8454.

Scanning errors appear in the second paragraph of the preamble to §§13.62 and 13.63 on page 8457. The word "to" is misspelled as "ton" and subsection "(l)" is misprinted as "(1)". The paragraph should read as follows "The commission adopts §13.62 with changes to the proposed text to redesignate the subsections to incorporate other changes to §13.62 which became effective on October 15, 1993, after publication of the proposed text. The changes reflect that subsection §13.62(a)-(i) are unchanged, rather than §13.62(a)-(d), as published; and that the new subsection §13.62(j),(k), and (l) are added, rather than new subsections §13.62(e),(f), and (g), as published. These changes are non-substantive and are editorial only "

In §13.63(g) the words "title (relating to Insurance Requirements) by submitting" are repeated in error. The subsection should read as follows. "(g) A state agency or institution, county, municipality, school district or other governmental subdivision may meet the requirements for workers' compensation coverage of §13.62 of this title (relating to Insurance Requirements) by submitting evidence of self-insurance permitted by the state Workers' Compensation Act, Texas Civil Statutes, Article 8308-1.01, et seq.; Texas Civil Statutes, Articles 8309b, 8309d, 8309g, 8309g-1 and 8309h, and the Texas Natural Resources Code, §116.036, by submitting a CNG Form 1995 to the commission."

The Railroad Commission of Texas proposed amendments to 16 TAC §§9.3, 9.4, 9.15, 9.154, 9.282-9.284, 9.286, 9.287, 9.289-9.293, 9.464, 9.499-9.506, 9.508, 9.509, 9.514-9.525, 9.505, 9.1551, 9.1557, 9.1570, 9.1571, 9.1651, 9.1653-9.1658, 9.1660-9.1666, 9.1668-9.1695, 9.1659, 9.1753, 9.1759, 9.1762-9.1764, concerning Liquefied Petroleum Gas Division, and §13.143, concerning

Regulations for Compressed Natural Gas (CNG) Fuel Systems. The rules appeared in the October 22, 1993, *Texas Register* (18 TexReg 7339)

In the preamble to 16 TAC §§9.3, 9.4, and 9.15 text was deleted due to an editorial error by the *Texas Register*. The paragraphs concerning fiscal implications should read as follows with the text that was deleted in error shown in italics.

"Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the amended sections are in effect there will be fiscal implications for state or local government or *small businesses* as a result of enforcing or administering these sections. The fiscal implications arise from the imposition of the \$50 transfer fee; because the fiscal implications will vary according to the number of transfers made, they cannot be calculated based on the type of entity.

"Mr. Petru also has determined that for each year of the first five years the amended sections are in effect the public benefit anticipated as a result of enforcing the sections will be an increase in compliance due to more clearly understandable rules and an increase in safety afforded to the general public due to the updated and revised safety requirements. There is no anticipated economic cost to persons who are required to comply with the sections as proposed."

Under the statutory authority note for the repeal of 16 TAC §§9.282-9.284, 9.286, 9.287, 9.289-9.293 on page 7352 the reference to "...rules and standard related to the LP-gas industry..." should read "...rules and standards related to the LP-gas industry...". The word "standards" should be plural.

In 16 TAC §9.464(7) the reference to "Division 1, §VII, of the edition of the ASME Boiler and Pressure Vessel Code" should read "Division 1, Section VII..." The word "Section" should be used instead of the "§" symbol.

Under the statutory authority note for 16 TAC §§9.499-9.506, 9.508, 9.509, 9.514-9.525 on page 7359, the phrase "rules and standard" should read "rules and standards".

The section heading for §9.505 on page 7359 should read "*§9.505. Thermometers and Thermometer Wells Required*."

In the preamble to 16 TAC §§9.1551, 9.1557, 9.1570, 9.1571 on page 7375 the fiscal note regarding the effect on small businesses is incorrect due to an editorial error by the *Texas Register*. It should read as follows with text deleted in error shown in italics.

"Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state or local government or *small businesses* as a result of enforcing or administering these sections; however, due to the nature of the proposed sections, it is impossible to specify the amount of that impact.

"Mr. Petru also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as result of enforcing the sections will be an increase in compliance due to more clearly understandable rules and an increase in safety afforded to the general public due to the updated and revised safety requirements. There is an anticipated economic cost to persons who are required to comply with the proposed sections; however, due to the nature of the proposed changes it is impossible to specify the amount to that impact."

On page 7376 the heading "Chapter O. Division XIII" is incorrect. It should read "Subchapter O. Division XIII".

In the preambles to 16 TAC §9.1659 on page 7387, §§9.1759, 9.1762-9.1764 on page 7391, and §13.143 on page 7402 the fiscal notes regarding the effect on small businesses in incorrect due to an editorial error by the *Texas Register*. The note should read as follows.

"Thomas D. Petru, director, Liquefied Petroleum Gas Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state or local government or *small businesses* as a result of enforcing or administering these sections; however, due to the nature of the proposed sections, it is impossible to specify the amount of that impact.

"Mr. Petru 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 an increase in compliance due to more clearly understandable rules and increase in safety afforded to the general public due to the updated and revised safety requirements. There is an anticipated economic cost to persons who are required to comply with the proposed sections; however, due to the nature of the proposed changes it is impossible to specify the amount of that impact."

In the third sentence under §9.1753(b) on page 7388, the word "must" should read "will" as follows. "If the safety relief valve(s) *will* be blocked, the blocks must be placed immediately...."

In §9.1763 on page 7391 the use of the section symbol "§" is incorrect. The word "section" should be used as follows.

"§9.1763. *Supports*. A transport container must be supported as required by Section 178.337-13 of the United States Department of Transportation Regulations."



Teacher Retirement System of Texas Report of Fiscal Transactions, Accumulated Cash and Securities, and Rate of Return on Assets

The Texas Government Code, §825.108, requires the Teacher Retirement System of Texas (TRS) to publish a report in the *Texas Register* no later than December 15 of each year containing the following information:

- (1) the retirement system's fiscal transactions for the preceding fiscal year;
- (2) the amount of the system's accumulated cash and securities; and
- (3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

TRS is publishing the following report as required by statute.

**TEACHER RETIREMENT SYSTEM
OF TEXAS**

**Report of Fiscal Transactions,
Accumulated Cash and Securities, and
Rate of Return on Assets
1992-93**

1000 Red River Street/Austin, Texas 78701-2698

TEACHER RETIREMENT SYSTEM OF TEXAS

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Teacher Retirement System Of Texas (323)

Combining Balance Sheet

FIDUCIARY FUND TYPES - AUGUST 31, 1993

Exhibit A

	PENSION TRUST FUND (960)		EXPENDABLE TRUST FUND (989)		AGENCY FUND (001)		Combined Totals
	Retirement		Retired Employees Group Insurance		Collections On Behalf Of The State's General Revenue Fund		
ASSETS							
Current Assets:							
Cash in Bank	\$	38,261,794	\$		\$		\$ 38,261,794
Cash on Hand		959,669		2,061			961,730
Cash In State Treasury		712,988,979		18,657,158			731,646,137
Short Term Investments		16,774,554		61,250,000			78,024,554
Accounts Receivable							
Sale of Investments		82,760,165					82,760,165
Member Contributions		30,607,341		1,719,017			32,326,358
State Contributions - School Districts		2,459,608					2,459,608
Other		9,193,522		311,865			9,505,387
Due from General Revenue Fund - State Contributions				1,947,148			1,947,148
Due from School Districts						6,911,325	6,911,325
Dividends Receivable		83,317,566					83,317,566
Interest Receivable		244,651,443		6,045,573			250,697,016
Prepaid Assets		527,411					527,411
TOTAL CURRENT ASSETS	\$	1,222,502,052	\$	89,932,922	\$	6,911,325	\$ 1,319,346,199
Long Term Investments:							
Fixed Income (Amortized Cost)							
U S Treasury	\$	3,673,986,198	\$		\$		\$ 3,673,986,198
U S Government Agency-Mortgages		4,330,831,163					4,330,831,163
U S Government Agency-Other		282,207,305					282,207,305
Mortgages Other		66,147,783					66,147,783
Corporate		4,630,625,031		163,521,753			4,794,146,784
Foreign		1,250,176,757					1,250,176,757
Real Estate Mortgages(Amortized Cost Less Allowances for Loan Losses of \$218,235,310)							
Direct Participating		894,401,085					894,401,085
Fixed Rate		374,388,414					374,388,414
Equities (Cost)		11,834,494,814					11,834,494,814
Real Estate Held for Sale		478,380,676					478,380,676
TOTAL LONG-TERM INVESTMENTS	\$	27,815,639,226	\$	163,521,753	\$	-0-	\$ 27,979,160,979
Fixed Assets:							
Land	\$	1,658,310	\$		\$		\$ 1,658,310
Building		26,630,071					26,630,071
Furniture and Equipment		9,456,825					9,456,825
Subtotal	\$	37,745,206	\$	-0-	\$	-0-	\$ 37,745,206
Less Accumulated Depreciation		(7,591,219)					(7,591,219)
NET FIXED ASSETS	\$	30,153,987	\$	-0-	\$	-0-	\$ 30,153,987
Other Assets							
Deferred Assets	\$	8,174,567	\$		\$		\$ 8,174,567
Total Assets	\$	29,076,469,832	\$	253,454,575	\$	6,911,325	\$ 29,336,835,732

(to next page)

- UNAUDITED -

Teacher Retirement System Of Texas (323)

Combining Balance Sheet

FIDUCIARY FUND TYPES - AUGUST 31, 1993

Exhibit A

(concluded)

	PENSION TRUST FUND (960)		EXPENDABLE TRUST FUND (989)		AGENCY FUND (001)		Combined Totals
	Retirement		Retired Employees Group Insurance		Collections On Behalf Of The State's General Revenue Fund		
TOTAL LIABILITIES, DEFERRED CREDITS, AND FUND EQUITY							
Current Liabilities:							
Accounts Payable	\$ 47,904,001		\$ 4,299,436				\$ 52,203,437
Benefits Payable	10,609,119		40,224,000				50,833,119
Due to State's General Revenue Fund	20,025,684				6,911,325		26,937,009
TOTAL CURRENT LIABILITIES	\$ 78,538,804		\$ 44,523,436		\$ 6,911,325		\$ 129,973,565
Deferred Credits:							
Net Gains Deferred on Investment Exchanges	\$ 49,905,847						\$ 49,905,847
Fund Equity:							
Fund Balance Reserved for:							
Member Savings Account	\$ 8,279,408,792						\$ 8,279,408,792
State Contribution Account	7,800,906,199						7,800,906,199
Retired Reserve Account	12,551,544,355						12,551,544,355
Benefit Increase Reserve Account	283,823,099						283,823,099
Expense Account	32,342,736						32,342,736
Future Retention, Claims, and Administrative Expenditures			208,931,139				208,931,139
TOTAL FUND EQUITY	\$ 28,948,025,181		\$ 208,931,139		\$ -0-		\$ 29,156,956,320
Total Liabilities, Deferred Credits, And Fund Equity	\$ 29,076,469,832		\$ 253,454,575		\$ 6,911,325		\$ 29,336,835,732

- UNAUDITED -

Teacher Retirement System Of Texas (323)
Comparative Statement of Revenues, Expenditures
and Changes in Fund Balance
Exhibit B

EXPENDABLE
TRUST FUND (989)

	<u>Year Ended</u> <u>August 31, 1993</u>
Revenues:	
Member Contributions	\$ 27,014,703
State Contributions from State of Texas	54,029,406
Retiree Contributions	65,154,653
Interest	17,181,545
Net Gain on Disposition of Securities	<u>(355)</u>
TOTAL REVENUES	<u>\$ 163,379,952</u>
Expenditures:	
Insurance Retention Paid	\$ 9,107,944
Insurance Claims Incurred	142,328,376
Operating Expenditures	<u>959,415</u>
TOTAL EXPENDITURES	<u>\$ 152,395,735</u>
Excess Of Revenues Over Expenditures	\$ 10,984,217
Fund Balance - Beginning September 1,	<u>197,946,922</u>
Fund Balance - Ending August 31	<u><u>\$ 208,931,139</u></u>

- UNAUDITED -

Teacher Retirement System Of Texas (323)
Comparative Statement of Revenues, Expenses
and Changes in Fund Balance
Exhibit C

PENSION
TRUST FUND (960)

	<u>Year Ended</u> <u>August 31, 1993</u>
Revenues:	
Member Contributions	\$ 820,491,528
State Contributions from State of Texas	899,663,369
State Contributions from Local School Districts	37,752,217
Interest	1,371,286,091
Dividends	556,439,772
Net Gain on Disposition of Securities	716,331,008
Reinstatement of Withdrawals	16,004,789
Reinstatement Fees	13,374,460
Membership Fees	5,712,770
Income from Retired Employees Group Insurance	154,375
Net Gain/(Loss) on Operations of Real Estate Held for Sale	<u>(72,680,740)</u>
TOTAL REVENUES	\$ 4,364,529,639
Expenses:	
Benefits Paid	\$ 1,446,714,384
Withdrawal of Member Accounts	122,114,590
Administrative Expenses	<u>25,934,080</u>
TOTAL EXPENSES	\$ 1,594,763,054
Net Income	\$ 2,769,766,585
Fund Balance - Beginning September 1	<u>26,178,258,596</u>
Fund Balance - Ending August 31	<u><u>\$ 28,948,025,181</u></u>

- UNAUDITED -

Teacher Retirement System Of Texas (323)

Statement of Changes in Assets and Liabilities

AGENCY FUNDS - YEAR ENDED AUGUST 31, 1993

Exhibit D

UNAPPROPRIATED RECEIPTS

Collections on Behalf of The State's General Revenue Fund	Balances September 1, 1992	Additions	Deductions	Balances August 31, 1993
<hr/>				
Assets				
Cash	\$	\$ 98,283,605	\$ 98,283,605	\$
Due from Reporting Districts	6,523,382	6,911,325	6,523,382	6,911,325
<hr/>				
TOTAL ASSETS	\$ 6,523,382	\$ 105,194,930	\$ 104,806,987	\$ 6,911,325
<hr/>				
Liabilities				
Due to State's General Revenue Fund	\$ 6,523,382	\$ 6,911,325	\$ 6,523,382	\$ 6,911,325
<hr/>				

Teacher Retirement System Of Texas (323)

Rate of Return on Assets

For the Year Ended August 31, 1993

Exhibit E

	<u>Total</u>	<u>Pension Trust Fund (960)</u>	<u>Expendable Trust Fund (989)</u>
Beginning Book Value	\$ 26,441,481,812	\$ 26,206,919,957	\$ 234,561,855
Net Contributions Added	299,885,274	298,173,744	1,711,530
Interest and Dividend Income	1,872,226,668	1,855,045,123	17,181,545
Net Realized Capital Gains	<u>716,330,653</u>	<u>716,331,008</u>	<u>(355)</u>
Ending Book Value	<u>\$ 29,329,924,407</u>	<u>\$ 29,076,469,932</u>	<u>\$ 253,454,575</u>
Return from Interest and Dividend Income	7.04%	7.04%	7.30%
Return from Net Realized Capital Gains	<u>2.69%</u>	<u>2.72%</u>	<u>0.00%</u>
Cash Return on Book Value	<u>9.73%</u>	<u>9.76%</u>	<u>7.30%</u>

Issued in Austin, Texas, on December 7, 1993.

TRD-9333260

Wayne Blevins
Executive Director
Teacher Retirement System of Texas

Filed: December 8, 1993

Waco Urban Transportation Study Request for Proposal

The Metropolitan Planning Organization for the Waco Urban Transportation Study is seeking proposals from qualified sources to provide a socioeconomic data forecast for the Long-Range Transportation Plan. The forecast will include population, dwelling units, income, and employment data.

The WUTS MPO encompasses approximately 261 square miles and has an estimate population of 154,000 people. The MPO is comprised of the Cities of Bellmead, Beverly Hills, Hewitt, Lacy-Lakeview, Northcrest, Robinson, Waco, and Woodway; and unincorporated areas in McLennan County. The last Long-Range Plan Update was produced in 1987. In accordance with the Intermodal Surface Transportation Efficiency Act of 1991, the WUTS MPO is currently producing a twenty-year long-range plan.

The purpose of this request is to solicit proposals from qualified sources to provide socioeconomic data forecast in the areas of population, dwelling units, income, and employment with target years of 2005, 2015, and 2020.

The base year is 1992 for population, dwelling units, and employment. The base year for income is 1990, and 1990 dollars should be used in the forecast.

To receive a copy of the RFP packet or to request additional information, contact to Anna K. Hayes, MPO Coordinator, P.O. Box 2570, Waco, Texas 76702, (817) 750-5655.

The City of Waco and Metropolitan Planning Organization reserves the right to accept or reject any or all proposals as a result of this request, to negotiate with all qualified sources, or to cancel in part or its entirety if found to be in the best interest of the City of Waco and MPO. This RFP does not commit the City of Waco or MPO to award a contract or to pay costs incurred for the preparation of proposals.

An original and five copies of the written proposal must be received by the MPO no later than 5:00 p.m. January 28, 1994. They should be addressed to: Anna K. Hayes, MPO Coordinator, City of Waco, P.O. Box 2570, Waco, Texas 76702-2570.

Proposals will be evaluated by a staff committee. Each proposals will be evaluated for acceptability with emphases on the various factors enumerated below, assigning to that factor a numerical weight. The scores will be used to develop a list of proposers with whom negotiations may be conducted. Additional documentation shall be at the discretion of the City of Waco and the MPO. Interviews, if necessary, will be conducted. The staff committee recommendation is subject to approval by the Waco City Council.

Criteria: Firm and Staff Experience-45 maximum points; Quality of Proposed Work Plan and Methodology-35 maximum points; Proposed Schedule and Current Workload-15 maximum points; Conformance with RFP Requirements-5 maximum points; for a total of 100 points.

Proposed scope of work must include a detailed budget consisting of proposed personnel hours, fringe benefits, travel, supplies, overhead, profit, and any other charges (itemized) by task as well as a summary budget by the above listed categories.

The proposer should note that if the total costs for the entire scope of work exceeds the anticipated funding level, the City of Waco and MPO reserves the right to proceed with only a portion of the request.

The firm selected to provide this study must be approved by the Waco City Council. The City of Waco and MPO may authorize contract negotiations to begin without further discussion with the proposers; therefore, each proposal should be submitted as completely as possible. The City of Waco and MPO reserve the right to request additional data or oral discussions/presentations in support of the written proposal. Contracts shall be awarded on the basis of the best interest of the City of Waco and MPO, price, content and other factors being considered in the RFP.

Issued in Austin, Texas, on December 7, 1993.

TRD-9333230

Anna K. Hayes
MPO Coordinator
Waco Urban Transportation Study

Filed: December 8, 1993



1994 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1994 issues of the *Texas Register*. Because of printing schedules, material received 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 of publication. No issues will be published on March 11, July 22, November 11, and November 29. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 Tuesday, January 4	Wednesday, December 29	Thursday, December 30
2 Friday, January 7	Monday, January 3	Tuesday, January 4
3 Tuesday, January 11	Wednesday, January 5	Thursday, January 6
4 Friday, January 14	Monday, January 10	Tuesday, January 11
5 Tuesday, January 18	Wednesday, January 12	Thursday, January 13
Friday, January 21	1993 ANNUAL INDEX	
6 Tuesday, January 25	Wednesday, January 19	Thursday, January 20
7 Friday, January 28	Monday, January 24	Tuesday, January 25
8 Tuesday, February 1	Wednesday, January 26	Thursday, January 27
9 Friday, February 4	Monday, January 31	Tuesday, February 1
10 Tuesday, February 8	Wednesday, February 2	Thursday, February 3
11 Friday, February 11	Monday, February 7	Tuesday, February 8
12 Tuesday, February 15	Wednesday, February 9	Thursday, February 10
13 Friday, February 18	Monday, February 14	Tuesday, February 15
14 Tuesday, February 22	Wednesday, February 16	Thursday, February 17
15 *Friday, February 25	Friday, February 18	Tuesday, February 22
16 Tuesday, March 1	Wednesday, February 23	Thursday, February 24
17 Friday, March 4	Monday, February 28	Tuesday, March 1
18 Tuesday, March 8	Wednesday, March 2	Thursday, March 3
Friday, March 11	NO ISSUE PUBLISHED	
19 Tuesday, March 15	Wednesday, March 9	Thursday, March 10
20 Friday, March 18	Monday, March 14	Tuesday, March 15
21 Tuesday, March 23	Wednesday, March 16	Thursday, March 17
22 Friday, March 25	Monday, March 21	Tuesday, March 22
23 Tuesday, March 29	Wednesday, March 23	Thursday, March 24
24 Friday, April 1	Monday, March 28	Tuesday, March 29
25 Tuesday, April 5	Wednesday, March 30	Thursday, March 31
26 Friday, April 8	Monday, April 4	Tuesday, April 5
27 Tuesday, April 12	Wednesday, April 6	Thursday, April 7
Friday, April 15	FIRST QUARTERLY INDEX	
28 Tuesday, April 19	Wednesday, April 13	Thursday, April 14

29 Friday, April 22	Monday, April 18	Tuesday, April 19
30 Tuesday, April 26	Wednesday, April 20	Thursday, April 21
31 Friday, April 29	Monday, April 25	Tuesday, April 26
32 Tuesday, May 3	Wednesday, April 27	Thursday, April 28
33 Friday, May 6	Monday, May 2	Tuesday, May 3
34 Tuesday, May 10	Wednesday, May 4	Thursday, May 5
35 Friday, May 13	Monday, May 9	Tuesday, May 10
36 Tuesday, May 18	Wednesday, May 11	Thursday, May 12
37 Friday, May 20	Monday, May 16	Tuesday, May 17
38 Tuesday, May 24	Wednesday, May 18	Thursday, May 29
39 Friday, May 27	Monday, May 23	Tuesday, May 24
40 Tuesday, May 31	Wednesday, May 25	Thursday, May 26
41 Friday, June 3	Friday, May 27	Tuesday, May 31
42 Tuesday, June 7	Wednesday, June 1	Thursday, June 2
43 Friday, June 10	Monday, June 6	Tuesday, June 7
44 Tuesday, June 14	Wednesday, June 8	Thursday, June 9
45 Friday, June 17	Monday, June 13	Tuesday, June 14
46 Tuesday, June 21	Wednesday, June 15	Thursday, June 16
47 Friday, June 24	Monday, June 20	Tuesday, June 21
48 Tuesday, June 28	Wednesday, June 22	Thursday, June 23
49 Friday, July 1	Monday, June 27	Tuesday, June 28
50 Tuesday, July 6	Wednesday, June 29	Thursday, June 30
51 Friday, July 8	Friday, July 1	Tuesday, July 5
Tuesday, July 12	SECOND QUARTERLY INDEX	
52 Friday, July 15	Monday, July 11	Tuesday, July 12
53 Tuesday, July 19	Wednesday, July 13	Thursday, July 14
Friday, July 22	NO ISSUE PUBLISHED	
54 Tuesday, July 26	Wednesday, July 20	Thursday, July 21
55 Friday, July 29	Monday, July 25	Tuesday, July 26
56 Tuesday, August 2	Wednesday, July 27	Thursday, July 28
57 Friday, August 5	Monday, August 1	Tuesday, August 2
58 Tuesday, August 9	Wednesday, August 3	Thursday, August 4
59 Friday, August 12	Monday, August 8	Tuesday, August 9
60 Tuesday, August 16	Wednesday, August 10	Thursday, August 11
61 Friday, August 19	Monday, August 15	Tuesday, August 16
62 Tuesday, August 23	Wednesday, August 17	Thursday, August 18
63 Friday, August 26	Monday, August 22	Tuesday, August 23
64 Tuesday, August 30	Wednesday, August 24	Thursday, August 25
65 Friday, September 2	Monday, August 29	Tuesday, August 30
66 Tuesday, September 6	Wednesday, August 31	Thursday, September 1
67 Friday, September 9	Friday, September 2	Tuesday, September 6

68 Tuesday, September 13	Wednesday, September 7	Thursday, September 8
69 Friday, September 16	Monday, September 12	Tuesday, September 13
70 Tuesday, September 20	Wednesday, September 14	Thursday, September 15
71 Friday, September 23	Monday, September 19	Tuesday, September 20
72 Tuesday, September 27	Wednesday, September 21	Thursday, September 22
73 Friday, September 30	Monday, September 26	Tuesday, September 27
74 Tuesday, October 4	Wednesday, September 28	Thursday, September 29
75 Friday, October 7	Monday, October 3	Tuesday, October 4
Tuesday, October 11	THIRD QUARTERLY INDEX	
76 Friday, October 14	Monday, October 10	Tuesday, October 11
77 Tuesday, October 18	Wednesday, October 12	Thursday, October 13
78 Friday, October 21	Monday, October 17	Tuesday, October 18
79 Tuesday, October 25	Wednesday, October 19	Thursday, October 20
80 Friday, October 28	Monday, October 24	Tuesday, October 25
81 Tuesday, November 1	Wednesday, October 26	Thursday, October 27
82 Friday, November 4	Monday, October 31	Tuesday, November 1
83 Tuesday, November 8	Wednesday, November 2	Thursday, November 3
Friday, November 11	NO ISSUE PUBLISHED	
84 Tuesday, November 15	Wednesday, November 9	Thursday, November 10
85 Friday, November 18	Monday, November 14	Tuesday, November 15
86 Tuesday, November 22	Wednesday, November 16	Thursday, November 17
87 Friday, November 25	Monday, November 21	Tuesday, November 22
Tuesday, November 29	NO ISSUE PUBLISHED	
88 Friday, December 2	Monday, November 28	Tuesday, November 29
89 Tuesday, December 6	Wednesday, November 30	Thursday, December 1
90 Friday, December 9	Monday, December 5	Tuesday, December 6
91 Tuesday, December 13	Wednesday, December 7	Thursday, December 8
92 Friday, December 16	Monday, December 12	Tuesday, December 13
93 Tuesday, December 20	Wednesday, December 14	Thursday, December 15
94 Friday, December 23	Monday, December 19	Tuesday, December 20
95 Tuesday, December 27	Wednesday, December 21	Thursday, December 22
96 Friday, December 30	Friday, December 23	Tuesday, December 27

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