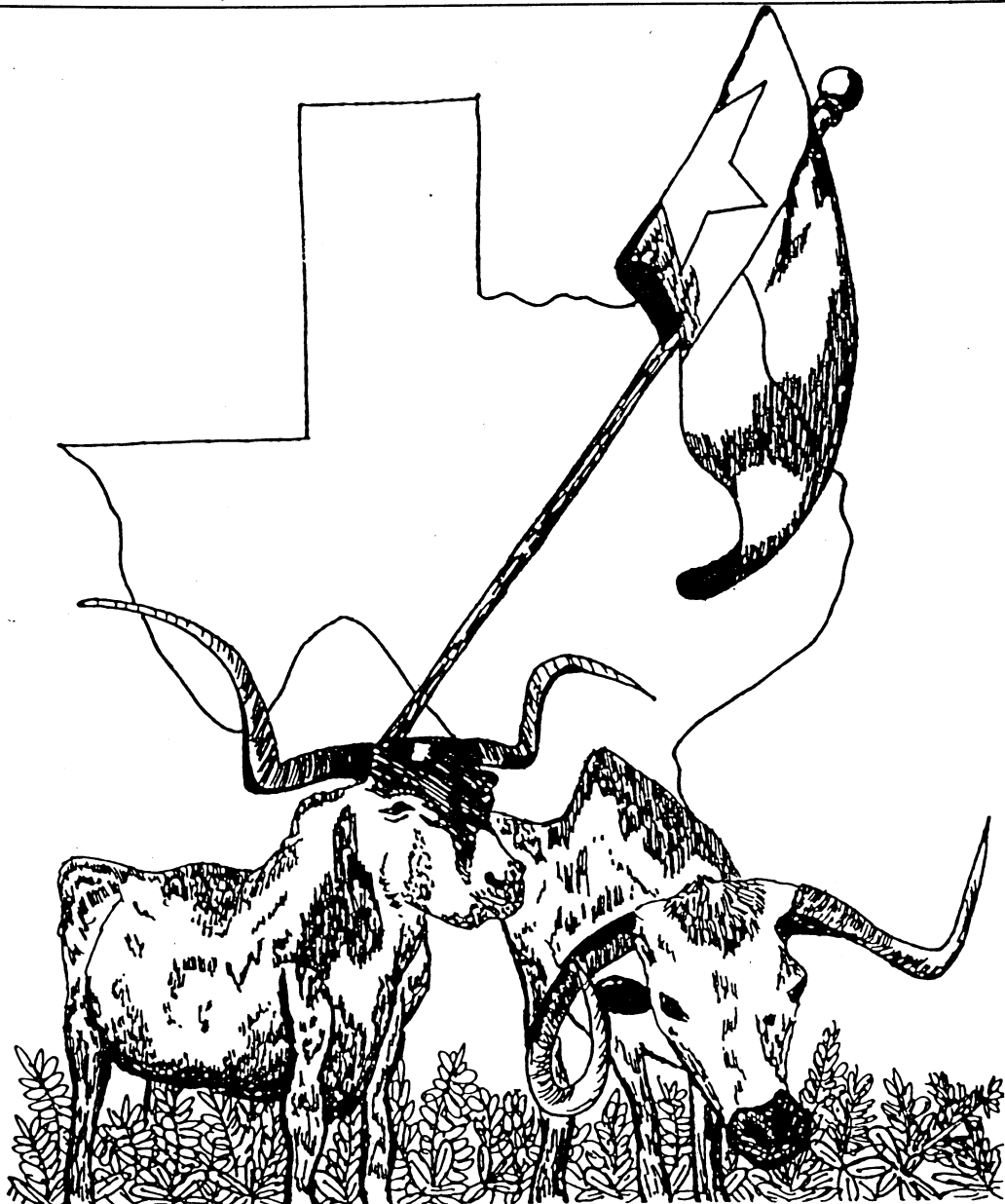

TEXAS REGISTER

Volume 21, Number 15, February 27, 1996

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Part II.



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Artist: Lakeisha R. Hines

11th grade

Sulphur Springs High School, Sulphur Springs ISD

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ADOPTED RULES

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

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

TITLE 1. ADMINISTRATION

Part IV. Office of the Secretary of State

Chapter 81. Elections

Voting Systems

7 TAC §81.52

The Office of the Texas Secretary of State adopts an amendment to §81.52, concerning the processing of ballots tabulated by precinct ballot counters, without changes to the proposed text as published in November 21, 1995, issue of the Texas Register (20 TexReg 9625).

The amendment allows for specific voting procedures for the processing of ballots tabulated by voting systems that are specifically designed as electronic precinct ballot counters.

The amendment is necessary because the current rules do not adequately address the situations to be faced by election officials in the processing of ballots tabulated by voting systems that are specifically designed as electronic precinct ballot counters.

No comments were made regarding the adoption of the amendment.

The amendment is adopted under the Texas Election Code, §31.003, which provides the Office of the Secretary of State with the authority to obtain and maintain uniformity in the application, interpretation, and operation of provisions under the Texas Election Code and other election laws, and, in performing such duties, to prepare detailed and comprehensive written directives and instructions based on such laws, and to adopt rules consistent with the Texas Election Code.

The Texas Election Code, §127.157 is affected by this amendment.

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 authority.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602074

Clark Kent Ervin

Assistant Secretary of State

Office of the Secretary of State

Effective date: March 5, 1996

Proposal publication date: November 21, 1995

For further information, please call: (512) 463-5650

TITLE 4. AGRICULTURE

Part I. Texas Department of Agriculture

Chapter 17. Marketing and Development Division

Livestock Export Facilities

4 TAC §17.30, §17.31

The Texas Department of Agriculture (the department), adopts amendments to §17.30 and §17.31, concerning the department's livestock export facilities, without changes to the proposed text as published in the January 5, 1996, issue of the *Texas Register*. (21 TexReg 193).

These amendments are adopted in order to establish fees for animals that have recently started to come through the livestock facilities with greater frequency.

The amendment to §17.30 will function by adding definitions for exotic livestock and exotic fowl. The amendment to §17.31 will function by establishing charges for poultry, baby chicks and eggs, and exotic livestock or fowl that are transported through the livestock export facilities.

No comments were received regarding the amendments.

The amendments are adopted under the Texas Agriculture Code (the Code), §146.021, which provides the Texas Department of Agriculture with the authority to receive and hold for processing animals transported in international trade and to establish and collect reasonable fees for yardage, maintenance, feed, medical care, and other necessary expenses.

This agency hereby certifies that the section 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 February 13, 1996.

TRD-9602097

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective Date: March 5, 1996

Proposed date: January 5, 1996

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

TITLE 7. BANKING AND SECURITIES

Part II. Texas Department of Banking

Chapter 12. Loans and Investments

Subchapter D. Other Real Estate Owned

7 TAC §12.91

The Finance Commission of Texas (the commission) adopts new §12.91 in new Subchapter D concerning the treatment of other real estate owned (OREO) by a state bank, with nonsubstantive changes to the proposed text as published in the December 22, 1995, issue of the *Texas Register* (20 TexReg 10945). Existing §3.25 concerning OREO is repealed in this issue of the *Texas Register*.

Texas Civil Statute, Article 342-5.002 (the Act), §5.002), substantially alters the statutory treatment of other real estate from prior law, Texas Civil Statutes, Article 342-502, although the provisions of the Act substantially resemble existing regulatory policy previously communicated to the industry. These changes necessitate repeal and rewrite of existing §3.25 to conform to the Act.

OREO is generally defined by the Act and adopted §12.91(a)(11) as real property interests not used or intended to be used as banking facilities. A state bank is not empowered to own real estate, other than for use in its own business, except in specified circumstances, such as acquisition of real estate through foreclosure of collateral securing debt previously contracted. The general prohibition on ownership of real property interests and the permissible means of acquiring OREO are set forth in §12.91(b) and (c). Section 12.91(d) specifies appraisal requirements for OREO and §12.91(e) permits the bank to make additional investment in the OREO to preserve its value pending required disposition.

The bank must dispose of OREO within a specified period of time, or holding period, set forth in §12.91(f), and such efforts must be documented under §12.91(g). Section 12.91(h) establishes those methods of disposition that will satisfy the

statutory requirement. For example, disposition pursuant to a contract for deed is specifically permitted, even though legal title remains with the bank until the contract is fully performed. Section 12.91(i) establishes that a bank must account for OREO under regulatory accounting principles, defined in the Act, §1.002(a)(46), as generally accepted accounting principles as modified by rule adopted under the Act or applicable federal statute or regulation. At present, no rules modify generally accepted accounting principles for OREO.

One comment was received. The Texas Bankers Association (TBA) suggested several changes to the proposed section, however, the commenter supported the rule as a whole. The agency's response to comments follows.

TBA requested that the definition of "appraisal" in §12.91(a)(2) be changed because the definition is somewhat confusing and could be misinterpreted to require appraisal support of whatever value a state bank places on OREO. TBA also requests deletion of the reference to stricter safety and soundness standards. The agency has carefully reviewed this suggestion and is of the opinion that the appraisal definition is unambiguous and serves to implement and clarify the Act.

TBA suggested that, in the interest of consistency in terminology with regulations of the Office of the Comptroller of the Currency (OCC) concerning national banks, that the agency change the terms "third party appraiser" and "in house appraiser" to "fee appraiser" and "staff appraiser," respectively. The agency concurs in large part and §12.91(a)(3), (9), and (13) have been amended to use and define the terms "third-party fee appraiser" and "staff appraiser."

TBA recommended that proposed §12.91(c)(1) and (2) be revised to add the term "debt or debts" to the language in these paragraphs to make it clear that a bank could also acquire OREO in foreclosure situations involving a single debt as long as the debt had previously been contracted in good faith. The agency does not object and §12.91(c)(1) and (2) are so amended.

TBA asserted that §12.91(e) should include a de minimis provision to allow state banks to invest up to a certain percentage of capital to put OREO in saleable condition without prior approval of the Commissioner. After careful consideration, the agency is of the opinion that §12.91(e) concerning additional expenditures is the better approach. A de minimis provision could serve to encourage banks to make additional expenditures speculative in nature and which are not reasonably necessary to restore OREO to saleable condition. Nonsubstantive changes to §12.91(e) are made to improve clarity.

TBA requested that §12.91(f)(3), which authorizes the commissioner to grant extensions of time for disposing of OREO under certain circumstances, be revised to provide that an extension of time be available if disposal of the OREO would be "detrimental to the state bank." The agency declines to change the provision. "Detrimental to the bank" is the statutory standard, see the Act, §5.002(d)(2). The purpose of the section is to implement and clarify the Act, and the agency interprets "detrimental to the bank" to mean that disposal would affect the safety and soundness of the state bank.

TBA also suggested that the agency include "10% down" rule similar to that found at 12 Code of Federal Regulations (CFR), §34.83(a)(6). This federal regulation provides, in part, that a national bank may meet its disposal of OREO requirement, if other methods of disposal are not applicable, by entering into another form of transaction, provided that the disposal requirement is not met until the bank receives or accumulates from the purchaser an amount in cash, principal and interest payment, and private mortgage insurances totaling 10% of the sales price. The agency concurs and has added new §12.91(h)(6).

TBA also proposed a new paragraph in §12.91(f) to authorize the commissioner to extend the holding period for bank facilities beyond the five years authorized by the Act, §5.001, if the commissioner found further delay was not detrimental to the safety and soundness of the bank and was not made for the purpose of speculation in real estate. TBA asserts that the five year holding period set out in the Act is not long enough to adequately meet the future planning needs of Texas banks and could place them at a competitive disadvantage with other business over prime locations since other businesses are not subject to such restrictions. The agency declines to add the suggested text because the Act, §5.001(c) specifically permits an application to the banking commissioner to extend the holding period for future expansion property.

TBA also requested that the term "regulatory accounting principles" in §12.91(h)(1) and §12.91(i) be either defined or changed to refer to "generally accepted accounting principles." The agency declines the suggestion. The Act, §1.002(a)(46), defines "regulatory accounting principles" as "generally accepted accounting principles as modified by rules adopted under this Act or an applicable federal statute or regulation."

TBA also proposed that adopted §12.91(h)(2) be changed to include as permissible selling OREO under a land contract in addition to a contract for deed. The agency does not object and adopted §12.91(h)(2) is so amended.

TBA also asked the agency to delete the term "for market value" in §12.91(h)(4), stating that the issue is already addressed in applicable federal law as cited. The agency declines to make the requested change. The agency is of the view that treatment of market value in the adopted section does not conflict with the federal law cited and enhances clarity for the reader. TBA further requested that the adopted section contain a provision authorizing the transfer of OREO to a subsidiary. The agency declines because §12.91(h)(4) of the adopted section, regarding transfer of OREO to an affiliate, is broad enough to include a subsidiary.

TBA also requested clarification of §12.91(h)(4) regarding circumstances under which a board member of a bank would be considered "disinterested" under the Act, §4.107, with respect to a transfer of OREO to an affiliate. TBA suggested defining the term as applying to a director who does not have a "related interest" as defined in 12 CFR, §215.2(n). In declining the suggestion, the agency notes that 12 CFR, §215.2(n), if applied in this instance, would permit a "disinterested" director to have up to a 10% ownership interest in the affiliate transferee. The agency is of the opinion that a director owning 10% of a potential purchaser, whether or not the purchaser is an affiliate of

the bank, cannot be said to be "disinterested" in the transaction. Further, the concept of "disinterested" is addressed in the Act, §8.001(b), and that treatment is consistent with pre-existing Texas case law.

The section is adopted under the Act, §5.002(a)(1), which authorizes the commission to adopt rules regarding acquisition and retention of real estate. As required by the Act, §1.012(b), the commission considered the need to promote a stable banking environment, provide the public with convenient, safe, and competitive banking services, preserve and promote the competitive parity of state banks with national banks and other depository institutions in this state consistent with the safety and soundness of state banks and the state bank system, and allow for economic development within this state.

§12.91. Other Real Estate Owned.

(a) Definitions. Words and terms used in this subchapter that are defined in the Act, §1.002, have the same meanings as defined in the Act. The following words and terms when used in this subchapter shall have the following meanings unless the context clearly indicates the contrary.

(1) Act-Texas Civil Statutes, Article 342-1.001 et seq (the Texas Banking Act, §1.001 et seq).

(2) Appraisal-A written report by a state certified or licensed appraiser containing sufficient information to support the state bank's evaluation of OREO taking into consideration market value, analyzing appropriate deductions or discounts, and conforming to generally accepted appraisal standards unless principles of safe and sound banking require stricter standards.

(3) Appraiser-A state certified or licensed staff appraiser or a state certified or licensed third party fee appraiser with relevant and competent experience and background as related to a particular appraisal assignment.

(4) Bank facility-Real property, including improvements, owned or leased to the extent of the lease by a state bank if the real estate is held for the purposes set forth in the Act, §5.001(a)(1)-(3), and is not disqualified under the Act, §5.001(c). The term also includes capitalized leasehold improvements if held for the same purposes.

(5) Coterminous sublease-A lease with the same duration as the remainder of the master lease.

(6) Evaluation-A written report prepared by an evaluator describing the OREO and its condition, the source of information used in the analysis, the actual analysis and supporting information and the estimate of the OREO's market value, with any limiting conditions.

(7) Evaluator-An individual who has related real estate training or experience and knowledge of the market relevant to the OREO but who has no direct or indirect interest in the OREO. An appraiser may be an evaluator.

(8) Generally accepted appraisal standards-The Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board, Appraisal Foundation, Washington, D.C.

(9) Market value-The most probable price which a property should bring in a competitive and open market under all condi-

tions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (A) buyer and seller are typically motivated;
- (B) both parties are well informed or well advised, and acting in what they consider their own best interests;
- (C) a reasonable time is allowed for exposure in the open market;
- (D) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (E) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(10) Non-coterminous sublease-A lease with a duration shorter than the remainder of the master lease.

(11) Other Real Estate Owned (OREO)-Real estate, including improvements, mineral interests, surface, and subsurface rights, owned in whole or in part or leased by a state bank, no matter how acquired, which is not a bank facility as defined by paragraph (4) of this subsection or leasehold property as permitted under the Act, §5.203(a).

(12) Staff appraiser-An appraiser on the staff of a state bank who has no direct or indirect interest in the OREO.

(13) Third party fee appraiser-An appraiser who has an independent contractor relationship with a state bank and has no direct or indirect interest in the OREO.

(14) Year-For the purposes of this section, a calendar year.

(b) Prohibition on real estate ownership. A state bank may not acquire or hold real estate except as specifically provided under the Act, §5.001, 5.002, and 5.203(a), and this section.

(c) Acquisition of OREO. A state bank may hold OREO only if acquired by:

- (1) purchase under judicial or nonjudicial foreclosure, or through a deed in lieu of foreclosure, of real estate that is security for a debt or debts previously contracted in good faith;
- (2) purchase to protect its interest in a debt or debts previously contracted if prudent and necessary to avoid or minimize loss;
- (3) purchase of an employee's principal residence to facilitate a change of duty assignment;
- (4) with prior written approval of the banking commissioner, an exchange of OREO or personal property for real estate to avoid or minimize loss on the real estate exchanged or to facilitate the disposition of OREO;
- (5) with prior written approval of the banking commissioner, purchase of additional real estate to avoid or minimize loss on OREO currently held;
- (6) involuntary acquisition of an ownership interest or leasehold interest in real estate as a result of or incidental to a judicial or nonjudicial foreclosure, or by adverse possession, or by operation

of law without any action on the part of the state bank to obtain such interest; or

(7) loss of designation of real estate owned or leased by the state bank as a bank facility.

(d) Appraisal requirements.

(1) Subject to paragraph (2) of this subsection, when OREO is acquired, a state bank must substantiate the market value of the OREO by obtaining an appraisal within 60 days of the date of acquisition. An evaluation may be substituted for an appraisal if the recorded book value of the OREO is less than \$250,000.

(2) An additional appraisal or evaluation is not required when a state bank acquires OREO if a valid appraisal or appropriate evaluation was made in connection with the real estate loan that financed the acquisition of the OREO and the appraisal or evaluation is less than one year old.

(3) An evaluation shall be made on all OREO at least once a year. An appraisal shall be made at least once every three years on OREO with a recorded book value in excess of \$250,000.

(4) Notwithstanding another provision of this section, the banking commissioner may require an appraisal of OREO if the banking commissioner considers an appraisal necessary to address safety and soundness concerns.

(e) Additional expenditures on OREO. A state bank may re-fit OREO for new tenants or make normal repairs and incur routine maintenance costs to preserve or protect the value of the OREO or to render the OREO in saleable condition without prior notification to or approval by the banking commissioner. Other advances or additional expenditures on OREO must have the prior written approval of the banking commissioner, and must not be:

- (1) made for the purpose of speculation in real estate;
 - (2) made for the purpose of changing or altering the current status or intended use of the OREO; and
 - (3) inconsistent with safe and sound banking practices.
- (f) Holding period.

(1) A state bank must dispose of OREO, except for real estate which became OREO pursuant to the Act, §5.001(c), no later than five years after it was acquired or ceases to be used as a bank facility, unless an extension of time for disposing of the real estate is granted in writing by the banking commissioner pursuant to the Act, §5.002(d). A bank must dispose of real estate which becomes OREO pursuant to the Act, §5.001(c), within two years of the date it ceases to be a bank facility, unless a delay in the improvement and occupation of the property is approved in writing by the banking commissioner pursuant to the Act, §5.001(c).

(2) The holding period commences on the date that:

- (A) ownership is acquired by the state bank pursuant to subsection (c)(1)-(5) of this section;
- (B) OREO is acquired by a state bank through merger/consolidation, conversion or purchase and assumption;
- (C) the bank first learns of its ownership interest in real estate which has devolved to the bank by operation of law under subsection (c)(6) of this section;

(D) the bank ceases to use a former bank facility or completes its relocation from a former bank facility to a new bank facility; or

(E) is three years following the acquisition of real estate as a bank facility for future expansion or relocation of the bank if the real estate has not been occupied by the bank, unless the banking commissioner has granted written approval to a further delay in the improvement and occupation of the real estate.

(3) The banking commissioner may grant one or more additional extensions of time for disposing of OREO if the commissioner finds that the state bank has made a good faith effort to dispose of the OREO or that disposal of the OREO would be detrimental to the safety and soundness of the state bank.

(g) Disposition Efforts; Documentation. A state bank must make diligent and ongoing efforts to dispose of OREO and must maintain documentation adequate to reflect those efforts. Such documentation must be available for inspection by the commissioner.

(h) Disposition of OREO. A state bank may dispose of OREO by:

(1) selling the OREO in a transaction that qualifies as a sale under regulatory accounting principles;

(2) selling the OREO pursuant to a land contract or contract for deed;

(3) retaining the property for its own use as a bank facility, subject to the approval of the commissioner;

(4) transferring the OREO for market value to an affiliate, subject to the Act, §4.107, and applicable federal law, including 12 United States Code, §371c, 371c-1, and 1828(j); [or]

(5) if the OREO is a master lease, obtaining a coterminous sublease or an assignment of a coterminous sublease, provided that if the bank acquires or obtains assignment of a non-coterminous sublease, the holding period during which the master lease must be divested is suspended for the duration of the sublease and will commence running again upon termination of the sublease; or

(6) entering into a transaction that does not qualify for disposal under paragraphs (h) (1) through (5) of this section; provided that its obligation to dispose of the OREO is not met until the bank receives or accumulates from the purchaser an amount in cash, principal and interest payments, and private mortgage insurance totaling 10% of the sales price, as measured in accordance with regulatory accounting principles.

(i) Accounting for OREO. Investment in OREO, and disposition of OREO, must be accounted for in accordance with regulatory accounting principles.

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 authority.

Issued in Austin, Texas, on February 9, 1996.

TRD-9601906

Everette D. Jobe

General Counsel

Texas Banking Department

Effective date: March 1, 1996

Proposal publication date: December 22, 1995

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

TITLE 10. COMMUNITY DEVELOPMENT

Part I. Texas Department of Housing and Community Affairs

Chapter 9. Texas Community Development Program

Subchapter A. Allocation of Programs Funds 10 TAC §9.9

The Texas Department of Housing and Community Affairs (TDHCA) adopts an amendment to §9.9, concerning the allocation of Community Development Block Grant (CDBG) non-entitlement area funds under the Texas Community Development Program, without changes to the proposed text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10331).

The amendment establishes the standard and procedure by which TDHCA will allocate fiscal year 1995 colonia economically distressed areas program funds.

The amendment make changes to the application procedures and selection criteria for the 1995 colonia economically distressed areas program fund.

One comment was received concerning the eligible activities for the colonia EDAP fund which are limited to service connections and access to water or sewer systems funded through the Texas Water Development Board's Economically Distressed Areas Program. The person commenting suggested that the eligible activities should include other activities, such as street paving, drainage and other improvements, that could address the requirements for such improvements in colonias located in counties affected by House Bill 1001. TDHCA is not considering any changes to the eligible activities because the 1995 colonia EDAP fund is specifically designed to address the lack of sufficient funding for providing low/moderate income persons access to Texas Water Development Board's Economically Distressed Areas Program funded water and sewer systems. Texas Community Development Program funds will be available for the suggested activities and other eligible activities under the 1996 Texas Community Development Program fund categories. One comment was received concerning the selection criteria for the colonia EDAP fund. The person commenting suggested that the cost per low/moderate-income beneficiary and the projected water and/or sewer rates evaluation criteria be eliminated because the cost per low/moderate-income beneficiary would probably be higher in poorer colonias and the projected water and/or sewer rates evaluation criterion should not be relevant to the receipt of funding for the eligible activities. TDHCA is not considering any changes to the colonia EDAP fund selection criteria because the fund will be distributed on a first-come, first-serve, basis for the 1995 program year.

The amendment is adopted under Texas Government Code, Chapter 2306, §2306.098, which provides TDHCA with the authority to allocate Community Development Block Grant non-

entitlement area funds to eligible counties and municipalities according to department rules.

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

Issued in Austin, Texas, on February 15, 1996.

TRD-9602386

Larry Paul Maneley
Executive Director

Texas Department of Housing and Community Affairs
Effective date: March 12, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 475-3916

Part IV. Texas Department of Commerce

Chapter 187. Job Training Partnership Act Rules

Subchapter I. Grievance Procedures

10 TAC §§ 187.280, 187.282, 187.283, 187.286-187.288, 187.290, 187.296-187.298

The Texas Department of Commerce adopts amendments to 187.280, 187.282, 187.283, 187.286-187.288, 187.290, 187.296-187.298, concerning Grievance Procedures for the Job Training Partnership program. The amendments incorporate modifications and clarification of procedures.

Section 187.298 is adopted with changes to the proposed text as published in the October 27, 1995, issue of the Texas Register (20 TexReg 8889). Sections 187.280, 187.282, 187.283, 187.286-187.288, 187.290, 187.296, and 187.297 are adopted without changes and will not be republished.

Commerce received two comments on the proposed amendments. One commenter suggested that §187.290 (d) be changed to limit the scope of hearings. It was decided to make no substantive changes in the Grievance Proceedings at this time. A second commenter suggested that §187.298 be amended to make clear that the final action of the Governor's designee should be considered the final state action. This suggestion was incorporated into the final form of the adopted rules.

The amendments are adopted under Texas Government Code §481.0044(a) which authorizes the policy board to adopt rules necessary for the administration of department programs.

There is no statute, articles, codes or regulations affected by these amendments.

§187.298. *Final State Action.*

The Hearing Officer shall forward a copy of the Proposal for Decision and the hearing record to the governor or a person designated by the governor for independent review and action. Within 30 days of the receipt of such hearing documents, the Proposal for Decision may be ratified, modified or rejected by the Governor, or his designee as the final state action on the appeal.

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 February 20, 1996.

TRD-9602382

Brenda F. Arnett
Executive Director

Texas Department of Commerce

Effective date: March 12, 1996

Proposal publication date: October 27, 1995

For further information, please call: (512) 936-0515

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter B. Basic Rules

16 TAC §9.184, §9.190

The Railroad Commission of Texas adopts amendments to §9.184, relating to uniform safety requirements; and §9.190, relating to maintenance, with changes to the proposed text as published in the November 14, 1995, issue of the *Texas Register* (20 TexReg 9356). Section 9.184 describes safety requirements for installations, including fire prevention, transfer procedures, container maintenance, and specifications for valves and pumps. Section 9.190 specifies that all containers, valves, dispensers, accessories, piping, and transfer equipment shall be maintained in good operating condition.

The adopted amendments in §9.184 clarify some existing requirements and add new requirements to prevent a major loss of LP-gas. Adopted changes to §9.184(b)(10) clarify requirements for containers with internal valves. The specific adopted requirements in §9.184(b)(11) and (12) requiring main liquid and vapor shutoff valves to remain closed, and either ball-type shutoff valves with locking handles or gate-type or globe-type shutoff valves, ensure further safety at LP-gas installations because these valves will not be opened until the transfer hose is properly and completely connected. These valves would also decrease the chance of accidental opening. If a loss of LP-gas did occur when the internal valves were still closed, the loss would be limited to only the LP-gas in the piping and transfer system. Loss of LP-gas in the storage container itself should not occur. The addition of these requirements will help prevent a major accident or fire.

The adopted amendments in §9.190 add the requirement that the installation shall be removed from service if any part of it is not properly maintained.

No comments were received concerning the proposal. The changes made from the proposed published version of §9.184 are not substantive and are found in the second and last sentences of (b)(12). In the second sentence, the proposed phrase "during transfer operations between the stationary container and the transport" has been deleted. The last sentence has been added as a reference for gate-type and globe-type valves. These changes are made to provide clarity.

The amendments are adopted under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following is the statute, article, or code affected by the adopted amendments: §9.184, 9.190—Texas Natural Resources Code, §113.051.

§9.184. *Uniform Safety Requirements.*

(a) (No change.)

(b) Valves.

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

(10) Internal valves. Containers which are equipped with internal valves are not required to have shutoff valves as specified in paragraph (9) of this subsection.

(11) Ball-type, gate-type, and globe-type shutoff valves. Either ball-type, gate-type, or globe-type shutoff valves shall be used on the connecting end of transfer hoses attached to stationary containers.

(12) Locking handles on ball-type shutoff valves. Any ball-type shutoff valve less than two inches in size shall have a locking handle. If a ball-type shutoff valve of any size has a locking handle installed at the terminal end of the hose, the main liquid and/or vapor valves or main shutoff valves on the stationary container at an attended installation may remain open as long as the locking handle on the transfer hose remains locked until the transfer hose is properly connected. If a ball-type shutoff valve does not have a locking handle, the main liquid and/or vapor valves or main shutoff valves on the stationary container shall remain closed at all times and shall not be opened until the transfer hose is properly connected. Gate-type and globe-type valves shall comply with subsection (b)(1) of this section.

(c) (No change.)

§9.190. *Maintenance.*

All LP-gas storage containers, valves, dispensers, accessories, piping, and transfer equipment shall be maintained in proper working order in accordance with the manufacturer's instructions and the LP-Gas Safety Rules. If LP-gas storage containers, valves, dispensers, accessories, piping, and transfer equipment is not in proper working order, the installation shall be immediately removed from LP-gas service and shall not be operated until the necessary repairs have been made.

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 authority.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602241

Mary Ross McDonald

Assistant Director, Gas Services Section

Railroad Commission of Texas

Effective date: March 7, 1996

Proposal publication date: November 14, 1995

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

Subchapter D. LP-Gas Appliances and Appurtenant Equipment

16 TAC §9.239

The Railroad Commission of Texas adopts an amendment to §9.239, relating to appliance connectors, without changes to the version published in the December 1, 1995, *Texas Register* (20 TexReg 10177). Section 9.239 specifies requirements for appliance connectors, including length, types of connectors, and methods of attachment. The commission adopts this action to add new subsection (g), which allows an additional method of connection to be used only in broiler houses or other types of poultry houses.

Two comments were received regarding the proposal. One commenter was opposed to the proposed amendments, stating that the cost of hose connectors currently required is not significantly higher than the hose connectors to be allowed by the amendment, and requesting specific standards for quality of material and method of installation. The commission disagrees with the comments as being unnecessarily burdensome. One organization, the Texas Poultry Federation, commented in favor of the proposal.

The amendment is adopted under the Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public.

The following are the statutes, articles, or codes affected by the adopted amendment: §9.239—Texas Natural Resources Code, §113.051.

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 authority.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602240

Mary Ross McDonald

Assistant Director, Gas Services Section

Railroad Commission of Texas

Effective date: March 7, 1996

Proposal publication date: December 1, 1995

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

Part III. Texas Alcoholic Beverage Commission

Chapter 41. Auditing

Records and Reports by Licensees and Permittees

16 TAC §41.54

The Texas Alcoholic Beverage Commission adopts new §41.54, concerning procedures for destruction of alcoholic beverages and for claiming tax exemption or credit for such beverages. The rule is adopted with changes to the proposed text as published in the December 22, 1995, issue of the *Texas Register* (20 TexReg 10948). The change consists of deletion of the

words "Monthly Distributor's Report, Monthly Wholesalers' Ale and Malt Liquor Report, or" from subsection (e)(2).

The rule is adopted in order to formalize procedures to be followed by licensees and permittees engaged in the destruction of alcoholic beverages. The rule further mandates the requirements that must be followed in order to obtain tax credits or rebates for destroyed beverages. In addition to the benefit received from establishing standardized procedures, the rule is justified because it relaxes past constraints and allows the Alcoholic Beverage Commission to monitor the destruction of alcoholic beverages without the less efficient practice of physically observing each destruction.

The only comment received was from the Wholesale Beer Distributors of Texas. That organization suggested that omission of the third sentence of subsection (e)(2) would add clarity to the section. This suggestion was adopted by the above mentioned modification of the text.

With the exception of the suggestion by the Wholesale Beer Distributors of Texas, no individuals or groups appeared for or against the rule.

This new section is adopted pursuant to Alcoholic Beverage Code, §5.31.

§41.54. Destructions.

(a) Each permittee subject to the provisions of the Alcoholic Beverage Code, §§201.03, 201.04, and 201.42 and each licensee subject to the provisions of the Alcoholic Beverage Code, §203.01 shall be entitled to receive an exemption from tax or a tax credit for any alcoholic beverages destroyed in accordance with the provisions stated herein.

(b) In order to qualify for this exemption from tax or a tax credit, the alcoholic beverages to be destroyed must meet the following criteria:

- (1) be in full unopened containers;
- (2) be unsalable or unmarketable;
- (3) have never been claimed for any other type of tax credit or exemption; and
- (4) have never been claimed for a refund of tax.

(c) The beverages, which will be claimed for destruction, must be destroyed in such a manner that the product will be rendered unrecoverable or unfit for human consumption.

(d) Prior to the destruction of the alcoholic beverages, the permittee or licensee must:

(1) notify the nearest authorized representative of the commission of the intent to destroy alcoholic beverages at least three full working days prior to the destruction. This notification must be made in writing on an "Application for Destruction of Alcoholic Beverages" and must contain the following information:

- (A) the account's trade name;
- (B) the account's location address;
- (C) the license or permit number of the licensee or permittee;
- (D) the reason the merchandise is to be destroyed;

(E) the location at which the destruction will take place;

(F) the time at which the destruction will take place;

(G) the method to be used to destroy the alcoholic beverages;

(H) the type of alcoholic beverages destroyed; and

(I) a listing by brand, quantity, container size, and package size of the destroyed merchandise, if beer or ale and malt liquor are destroyed; or a summary by class of alcoholic beverage, quantity, container size, and wine gallons, if distilled spirits and wine are to be destroyed.

(2) Receive written approval from the nearest authorized representative of the commission to conduct the destruction.

(e) The licensee or permittee must obtain the following documentation for the tax exemption or credit claimed:

(1) A signed written approval for the destruction of the alcoholic beverages from the nearest authorized representative of the commission. This information should be retained in the licensee's or permittee's files and made available upon request for inspection by an authorized representative of the commission.

(2) If distilled spirits and wine are destroyed, a detailed listing by brand, type or class of liquor, and package size of all alcoholic beverages destroyed. This listing may be in the form of an invoice if the invoice provides all required information. The listing should not be submitted with the Monthly Wholesalers Report but retained by the account for inspection by an authorized representative of the commission upon request.

(3) If the alcoholic beverages were destroyed at a location which charges a fee for this service, the licensee or permittee shall retain a copy of the receipt for payment for this fee and make such available to an authorized representative of the commission upon request.

(4) An affidavit of destruction executed by an employee of the licensee or permittee who witnessed the destruction of the alcoholic beverages. Separate affidavits must be prepared for distilled spirits and wine; ale and malt liquor; and beer. The affidavits should contain the following:

(A) the name and title of the person who witnessed the destruction and is preparing the affidavit;

(B) the date destroyed;

(C) the location where the destruction took place;

(D) how the merchandise was destroyed; and

(E) a copy of the original "Application for Destruction of Alcoholic Beverages".

(f) An original and two copies of the affidavit for destruction should be made and distributed as follows:

(1) The original should be submitted with the monthly report upon which the exemption for the destruction is claimed. If the licensee or permittee is unable to claim the destruction as an exemption on a tax report, they may submit a letter requesting an authorized tax credit. The request along with the destruction affidavit should be submitted to the commission's Austin headquarters.

(2) One copy should be retained in the licensee's or permittee's files and made available upon request for inspection by an authorized representative of the commission.

(3) The second copy should be forwarded to the commission office where the original "Application for Destruction of Alcoholic Beverages" was filed.

(g) The commission may designate an authorized representative to be present during the destruction of the alcoholic beverages.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602200

Lou Bright

General Counsel

Texas Alcoholic Beverage Commission

Effective date: March 7, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 206-3204.

Chapter 45. Marketing Practices

Subchapter A. Standards of Identity for Distilled Spirits

16 TAC §45.4

The Texas Alcoholic Beverage Commission adopts an amendment to §45.4(10), concerning standards of identity for distilled spirits without changes to the proposed text as published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10724). This section defines the criteria by which flavored brandy, gin, rum, vodka and whiskey are distinguished and identified. The section further specifies certain information which must be disclosed on labels of certain distilled spirits.

This rule is being amended because of a request by the Distilled Spirits Council of the United States. The federal Bureau of Alcohol, Tobacco and Firearms requires the designation "low proof" to appear on labels of certain alcoholic beverages of less than 60 proof. Prior to amendment, the Alcoholic Beverage Commission required such designation on products of less than 70 proof. This discrepancy created an unnecessary expense for certain permittees seeking to do business in Texas. This amendment conforms Texas requirements with those of the Bureau of Alcohol, Tobacco and Firearms.

The Distilled Spirits Council of the United States appeared in support of the rule. No other individuals or organizations made comments.

This amendment is adopted pursuant to the Alcoholic Beverage Code, §5.31 and §5.38.

This agency hereby certifies that the section 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 February 15, 1996.

TRD-9602199

Lou Bright

General Counsel

Texas Alcoholic Beverage Commission

Effective date: March 7, 1996

Proposal publication date: December 15, 1995

For further information, please call: (512) 206-3204.

TITLE 16. ECONOMIC REGULATION

Part I. Texas Board of Architectural Examiners

Chapter 1. Architecture

Subchapter A. Scope; Definitions

22 TAC §1.10

The Texas Board of Architectural Examiners adopts an amendment to §1.10., regarding Committees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10338).

This amendment changes representation of the Rules Committee and Personnel Committee.

The amendment will change the representation of the constituencies on the Rules Committee from three to four as the Board now has Architects, Landscape Architects, Interior Designers and Public Members on the Board. The amendment also changes the representation on the Personnel Committee. The Board will not always have an immediate past Chairman as the Governor now appoints the Chairman instead of the Board electing a Chairman annually.

The change will allow equal representation of the constituencies represented on the Board.

No comments were received regarding adoption of this amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602058

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter C. Examinations

22 TAC §1.51

The Texas Board of Architectural Examiners adopts new rule §1.51, regarding Disposal of Examination Material, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg10339).

This amendment will allow the Board to dispose of outdated examination material.

This amendment will free storage space for the Agency and State Library.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602061

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Chapter 1. Architecture

Subchapter E. Fees

22 TAC §1.81

The Texas Board of Architectural Examiners adopts an amendment to §1.81., regarding Fees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10339).

This rule will allow the agency to recover the costs incurred when processing and requesting replacement of a returned check.

This amendment establishes authority for the agency to charge a fee in order to recover costs for processing dishonored checks.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602057

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter E. Fees

22 TAC §1.82

The Texas Board of Architectural Examiners adopts an amendment to §1.82., regarding Application and Examination Fees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TeReg 10339).

This amendment allows the Board to prescribe fees for examination applications and initial registration.

This amendment established authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

This amendment will provide the Board with increased revenues for increased appropriations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602060

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter F. Architect's Seal

22 TAC §1.104

The Texas Board of Architectural Examiners adopts an amendment to §1.104., regarding Statement of Certification, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10340).

This amendment provides the correct information regarding the location of our agency.

This amendment will allow the public sector to know our correct mailing and physical address when entering into a contract with one of our registrants.

This amendment will state the correct agency address as the agency moved its offices September 1995.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249a, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602059

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Chapter 3. Landscape Architecture

Subchapter A. Scope; Definitions

22 TAC §3.10

The Texas Board of Architectural Examiners adopts an amendment to §3.10, regarding Committees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10340).

This amendment changes representation of the Rules Committee and Personnel Committee.

The amendment will change the representation of the constituencies on the Rules Committee from three to four as the Board now has Architects, Landscape Architects, Interior Designers and Public Members on the Board. The amendment also changes the representation on the Personnel Committee. The Board will not always have an immediate past Chairman as the Governor now appoints the Chairman instead of the Board electing a Chairman annually.

The change will allow equal representation of the constituencies represented on the Board.

No comments were received regarding adoption of this amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602067

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter B. Registration

22 TAC §3.21

The Texas Board of Architectural Examiners adopts an amendment to §3.21, regarding Eligibility, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10340).

This amendment will streamline the paperwork involving the applicant's registration process.

This amendment will parallel the same process presently being used by the architects (also regulated by this Board). This amendment will enhance the ability of approved registrants to acquire reciprocity in other states or jurisdictions. This amendment will increase the productivity of the TBAE staff.

No comments were received regarding adoption of the amendment.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602072

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter B. Registration

22 TAC §3.28

The Texas Board of Architectural Examiners adopts an amendment to §3.28, regarding Reciprocal Transfer, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10341).

This amendment changes the name of the Landscape Architect Examination.

This amendment will delete an outdated national examination title and state the correct title.

No comments were received regarding adoption of the amendment.

The amendment is proposed under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602071

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners
Effective date: March 5, 1996
Proposal publication date: December 8, 1995
For further information, please call: (512) 305-8535

Subchapter C. Written Examinations

22 TAC §3.51

The Texas Board of Architectural Examiners adopts an amendment to §3.51, regarding Disposal of Examination Material, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10341).

This amendment will allow the Board to dispose of outdated examination material.

This amendment will free storage space for the Agency and State Library.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602070
Cathy L. Hendricks
Executive Director
Texas Board of Architectural Examiners
Effective date: March 5, 1996
Proposal publication date: December 8, 1995
For further information, please call: (512) 305-8535

Subchapter E. Fees

22 TAC §3.82

The Texas Board of Architectural Examiners adopts an amendment to §3.82, regarding Application and Examination Fees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10342).

This amendment allows the Board to prescribe fees for examination applications and initial registration.

This amendment established authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

This amendment will provide the Board with increased revenues for increased appropriations.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602069
Cathy L. Hendricks
Executive Director
Texas Board of Architectural Examiners
Effective date: March 5, 1996
Proposal publication date: December 8, 1995
For further information, please call: (512) 305-8535

Subchapter F. Landscape Architecture Seal

22 TAC §3.106

The Texas Board of Architectural Examiners adopts an amendment to §3.106, regarding Statement of Certification, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10342).

This amendment provides the correct information regarding the location of our agency.

This amendment will allow the public sector to know our correct mailing and physical address when entering into a contract with one of our registrants.

This amendment will state the correct agency address as the agency moved its offices September 1995.

No comments were received regarding adoption of this amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249c, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602068
Cathy L. Hendricks
Executive Director
Texas Board of Architectural Examiners
Effective date: March 5, 1996
Proposal publication date: December 8, 1995
For further information, please call: (512) 305-8535

Chapter 5. Interior Design

Subchapter A. Scope; Definitions

22 TAC §5.10

The Texas Board of Architectural Examiners adopts an amendment to §5.10, regarding Committees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10342).

This amendment changes representation of the Rules Committee and Personnel Committee.

The amendment will change the representation of the constituencies on the Rules Committee from three to four as the Board now has Architects, Landscape Architects, Interior Designers and Public Members on the Board. The amendment also changes the representation on the Personnel Committee. The Board will not always have an immediate past Chairman as the Governor now appoints the Chairman instead of the Board electing a Chairman annually.

The change will allow equal representation of the constituencies represented on the Board.

No comments were received regarding adoption of this amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602063

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter E. Fees

22 TAC §5.91

The Texas Board of Architectural Examiners adopts an amendment to §5.91, regarding Fees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg10343).

This rule will allow the agency to recover the costs incurred when processing and requesting replacement of a returned check.

This amendment establishes authority for the agency to charge a fee in order to recover costs for processing dishonored checks.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602062

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

22 TAC §5.93

The Texas Board of Architectural Examiners adopts an amendment to §5.93, regarding Application and Examination Fees, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10343).

This amendment allows the Board to prescribe fees for examination applications and initial registration.

This amendment established authority for the agency to charge a fee for initial registration in order to increase revenue for increased appropriations.

This amendment will provide the Board with increased revenues for increased appropriations.

No comments were received regarding adoption of the amendment.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602065

Cathy L. Hendricks

Executive Director

Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Subchapter F. The Interior Designer's Seal

22 TAC §5.114

The Texas Board of Architectural Examiners adopts an amendment to §5.114, regarding Statement of Certification, without changes to the text as published in the December 8, 1995, issue of the *Texas Register* (20 TexReg 10344).

This amendment provides the correct information regarding the location of our agency.

This amendment will allow the public sector to know our correct mailing and physical address when entering into a contract with one of our registrants.

This amendment will state the correct agency address as the agency moved its offices September 1995.

No comments were received regarding adoption of the amendment.

The amendment is proposed under the Texas Civil Statutes, Article 249e, which provide the Texas Board of Architectural Examiners with authority to promulgate rules.

This proposed amendment does not affect any other statutes.

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 authority.

Issued in Austin, Texas, on February 13, 1996.

TRD-9602064

Cathy L. Hendricks
Executive Director
Texas Board of Architectural Examiners

Effective date: March 5, 1996

Proposal publication date: December 8, 1995

For further information, please call: (512) 305-8535

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 463. Applications

22 TAC §463.6

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.6, concerning Experience, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 TexReg 17).

The rule is being amended to clarify that the rule pertains only to those individuals seeking licensure as a psychologist and to delete a statement which is in contradiction to another part of the rule.

The amended rule will provide clarification that this rule only applies to applicants for licensure as a psychologist.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to promulgate rules consistent with the Statute.

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 February 15, 1996.

TRD-9602292

Rebecca E. Forkner
Executive Director
Texas State Board of Examiners of Psychologists

Effective date: March 8, 1996

Proposal publication date: January 2, 1996

For further information, please call: (512) 305-7700

Chapter 465. Rules of Practice

Subchapter

22 TAC §465.10

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.10, concerning Applicability of the Act and Rules of the Board, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 TexReg 18).

The rule is being amended to simplify the wording of the rule so that the rule does not have to be amended each time there is a change in classifications of licensees and/or certificands.

The amended rule will make the rules easier for the public to follow.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to promulgate rules consistent with the Statute.

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 February 15, 1996.

TRD-9602293

Rebecca E. Forkner
Executive Director
Texas State Board of Examiners of Psychologists

Effective date: March 8, 1996

Proposal publication date: January 2, 1996

For further information, please call: (512) 305-7700

22 TAC §465.19

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.19, concerning Persons with Criminal Backgrounds, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 TexReg 18).

The rule is being amended to simplify the wording of the rule so that the rule does not have to be amended each time there is a change in classifications of licensees and/or certificands.

The amended rule will make the rules easier for the public to follow.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to promulgate rules consistent with the Statute.

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 February 15, 1996.

TRD-9602294

Rebecca E. Forkner
Executive Director

Texas State Board of Examiners of Psychologists
Effective date: March 8, 1996
Proposal publication date: January 2, 1996
For further information, please call: (512) 305-7700

◆ ◆ ◆
22 TAC §465.20

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.20, concerning Rehabilitation Guidelines, without changes to the proposed text as published in the January 9, 1996, issue of the *Texas Register* (21 TexReg 248).

The rule is being amended to simplify the wording of the rule so that the rule does not have to be amended each time there is a change in classifications of licensees and/or certificands.

The amended rule will make the rules easier for the public to follow.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to promulgate rules consistent with the Statute.

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 February 15, 1996.

TRD-9602295
Rebecca E. Forkner
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 8, 1996
Proposal publication date: January 9, 1996
For further information, please call: (512) 305-7700

◆ ◆ ◆
22 TAC §465.33

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.33, concerning Sexual Intimacies and Sexual Harassment, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 TexReg 19).

The rule is being amended to simplify the wording of the rule so that the rule does not have to be amended each time there is a change in classifications of licensees and/or certificands.

The amended rule will make the rules easier for the public to follow.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to promulgate rules consistent with the Statute.

§465.33. *Sexual Intimacies and Sexual Harassment.*

(a) Applicability of Rule. This rule applies to any person subject to the rules and regulations of the Texas State Board

of Examiners of Psychologists including certificands, licensees, supervisees of a psychologist, and/or applicants for certification or licensure. Acts described in this rule constitute unprofessional conduct.

(b)-(f) (No change.)

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

Issued in Austin, Texas, on February 15, 1996.

TRD-9602296
Rebecca E. Forkner
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: March 8, 1996
Proposal publication date: January 2, 1996
For further information, please call: (512) 305-7700

◆ ◆ ◆
Part XXV. Structural Pest Control Board

Chapter 595. Compliance and Enforcement

22 TAC §595.2

The Structural Pest Control Board adopts an amendment to §595.2, without changes to the proposed text as published in the December 19, 1995, issue of the *Texas Register* (20 TexReg 10876).

Justification for the rule is the amendment reinserts the requirement that the Board is to be notified of the termination of employees.

The rule will function in that licensees will notify the Board within ten (10) days of the termination of all technicians and apprentices.

No comments were received regarding adoption of the amendment.

There were no groups or associations submitting comments for or against this rule.

The amendment is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to license and regulate structural pest control services.

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

Issued in Austin, Texas, on February 12, 1996.

TRD-9602081
Benny M. Mathis, Jr.
Executive Director
Structural Pest Control Board
Effective date: March 5, 1996
Proposal publication date: December 19, 1995
For further information, please call: (512) 835-4066
22 TAC §595.11

The Structural Pest Control Board adopts an amendment to §595.11, with changes to the proposed text as published in the December 19, 1995, issue of the *Texas Register* (20 TexReg 10876).

The changes better define drift and spot applications and incorporate all crack and crevice and bait applications of insect growth regulators on the green list.

Justification for the rule will allow easier implementation and better compliance with the School IPM plan.

The rule will function in that the amendment re-classifies products to the green and yellow list, and better defines the exclusion area for the twelve (12) hour re-entry period.

Comments received generally supported the amendments, particularly the inclusion of insect growth regulators on the green list.

The Texas Pest Control Association submitted comments for the amendments.

The amendment is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to license and regulate structural pest control services.

§595.11. Schools.

(a) Pesticide applications shall not be made within a school building if such an application will expose students to unnecessary physical drift within the next 12 hours.

(1) Green list products may be applied at any time if students are not present in the room at the time the treatment is occurring. Green list products may be applied to an open area or multi-purpose room if the area within ten feet of the application site is secured and no students are present within the secured area during the time of application.

(2) Yellow list products may be applied to a room if students are not expected to be present for the next 12 hours.

(3) All other products may be applied only if students are not expected to be present in the building for the next 12 hours.

(b) Pesticide applications shall not be made to an area on school grounds if such an application will expose students to unnecessary physical drift within the next 12 hours.

(1) Green list products may be applied if the area within ten feet of the location is secured and students are not expected to be present in the secured area at the time of application.

(2) Yellow list products may be applied to a localized area of treatment if the area within ten (10) feet of the application site is secured and students are not expected to be present in the secured area for the next 12 hours.

(3) All other products may be applied in a low pressure application to a localized area of treatment if there are no wind conditions which would disperse the chemical, the area within 50 feet of the application site is secured and students are not expected to be present within the secured area for the next 12 hours.

(c) Emergency treatments will be permitted in the localized area of infestation when there is an imminent threat to health or property or an infestation is imminent. Records of the reasons for

emergency treatments shall be kept in the pest control use records of the business or certified noncommercial applicator performing the treatment.

(d) Each school district shall develop a written pest management policy for all structural pest control activities conducted on school property based on the most current Structural Pest Control Board IPM document. The pest management policy must be adopted by the school board and kept on file by the district superintendent and IPM Coordinator. The policy shall be based on generally accepted tenets of integrated pest management, as defined by the Environmental Protection Agency. Such tenets include, but are not limited to:

(1) strategies that rely on the best combination of pest management tactics that are compatible with human health and environmental protection;

(2) proper identification of pest problems;

(3) monitoring programs to determine when pests are present or when pest problems are severe enough to justify corrective action;

(4) use of non-chemical management strategies whenever practical; and

(5) preferential use of least-toxic chemical controls when pesticides are needed.

(e) Each school district shall designate IPM Coordinator(s) on or before September 1, 1995. The District is responsible for the IPM Coordinator(s) compliance with Structural Pest Control Board regulations and school district policy. The person(s) so designated shall attend a Structural Pest Control Board approved IPM Coordinator training course within 12 months of designation as IPM Coordinator. The IPM Coordinator(s) shall oversee and be responsible for:

(1) assisting in the coordination of pest management personnel, ensuring that all school employees who perform pest control have the necessary training, are equipped with the appropriate personal protective equipment, and have the necessary licenses for their pest management responsibilities;

(2) maintaining a prioritized list of needed structural and landscape improvements;

(3) for school districts that opt to conduct some or all pest management work through independent contractors, working with the district administrators to ensure that pest control contract bid specifications are compatible with IPM principles, and that pest control contractors work under guidelines of the district's IPM policy;

(4) ensuring that all pesticides used on school district property are in compliance with the school districts policies;

(5) authorizing and/or reviewing least hazardous, effective emergency treatments with the approval of the certified applicator as provided for under §sect;595.6(d), 595.7(d), 595.8(d) and this title (relating to Structural Pest Control Board Regulations).

(6) handling requests and inquiries relating to pest problems, and maintain records of any pesticide-related complaints;

(7) maintaining files of pesticide application records, pesticide labels, and Material Safety Data Sheets(MSDS);

(8) informing school district administrators and other personnel about IPM requirements (e.g., training requirements, pre-notification and posting requirements, sanitation, and pesticide storage).

(9) maintaining a copy of the school's IPM policy.

(f) Each school district shall employ or contract with a certified applicator, who may, if an employee, also be the IPM Coordinator. The certified applicator shall:

(1) over-see day to day pest management needs of the district;

(2) provide written approval/justification for use of products on the Yellow List;

(3) handle and forward records of any complaints relating to pest problems, IPM activities, or pesticides to the IPM Coordinator;

(4) ensure that proper pesticide application records are maintained;

(5) participate in IPM training courses approved for school IPM personnel by the SPCB;

(6) consult with the IPM Coordinator concerning use of products not on the green or yellow list;

(7) authorize emergency treatments as provided for in subsection (e)(5) of this section.

(g) Licensed technicians must obtain written approval from the certified applicator to apply yellow or red list products.

(h) Pesticides approved for use on school property must be mixed off-site or outside student-occupied areas of buildings and are classified as follows:

(1) Green List. All products must be from the following list: Inorganic pesticides (i.e., boric acid, silica gels, diatomaceous earth, disodium octoborate tetrahydrate); Non-containerized baits and gels for crack and crevice use only; Insect growth regulators for crack and crevice or containerized bait station use only; Insect and rodent baits in tamper-resistant containers or bait stations; Microbial-based or fungal insecticides; granular baits used in void areas; Biological (living) control agents; insecticidal soaps and oils. Green list products may be used at the discretion of the licensee.

(2) Yellow List. All EPA Category III and IV pesticides (i.e., products carrying a CAUTION signal word) and insect growth regulators which are formulated as dusts, wettable powders, micro-encapsulated products, and granular products for use in a localized area of treatment, Botanical insecticides, other than synthetic pyrethroids, containing not more than 5.0% synergists. Use of Yellow List Products require written approval from the certified applicator. A copy of the approval must be sent to the IPM Coordinator. Yellow List approvals shall have a duration no longer than three months or three applications per site, whichever occurs first.

(3) Red List. Category I and II pesticides (i.e., products carrying a WARNING or DANGER signal word) not included in the green list, or any Category III or IV (Caution signal word) pesticides not included in the green or yellow lists or restricted-use pesticides or state-limited use pesticides as defined under the Federal Insecticide, Fungicide, Rodenticide Act and/or the Texas Agriculture Code. Use of Red List products require written approval from the certified applicator and IPM Coordinator. A copy of the approval for

the Category I or II Red List Product applied indoors must be sent to the Texas Structural Pest Control Board no later than 14 days after the application. Red List approvals shall have a duration no longer than three months or three applications per site, whichever is first.

(i) Written approvals for use of yellow and red list products shall be made on a form developed by the Structural Pest Control Board. The approvals shall include a description of the problem and justification for use of the yellow and red list product. Approvals shall be kept by the IPM Coordinator of the district for a minimum of two years.

(j) All contracts for pest control services executed on or after the effective date of this regulation must be consistent with the school district's written pest management policy.

(k) Any person found not in compliance with the Act or this Section is subject to administrative penalties under §10B. Such persons may include the school district or certified commercial applicator.

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 authority.

Issued in Austin, Texas, on February 12, 1996.

TRD-9602082

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Effective date: March 5, 1996

Proposal publication date: December 19, 1995

For further information, please call: (512) 835-4066

Chapter 597. Unlawful Acts and Grounds for Revocation

22 TAC §597.1

The Structural Pest Control Board adopts an amendment to §597.1, with changes to the proposed text published in the issue of the *Texas Register* (20 TexReg 10878).

The change makes the violation of conspiracy an intentional violation.

Justification for the rule is the amendments will increase the agency's enforcement capabilities with respect to persons not in compliance with Board Orders, involved in conspiracies or under sanction by other jurisdictions.

The rule will function in that the amendments create new grounds for the disciplinary sanctions available to the Board.

Comments submitted by individuals suggested that the conspiracy violation be made intentional.

There were no comments submitted by groups or associations for or against this rule.

The Structural Pest Control Board agrees with the comment and believes this change is in keeping with the reason for the sanction.

The amendment is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with

the authority to license and regulate structural pest control services.

§597.1. *Grounds for Revocation, Suspension, Penalties, Reprimanding, Refusal to Examine, Refusal to Issue or Renew Licenses.*

Any such action may be accomplished by a vote of the Board, after notice and hearings, as provided for by Texas Civil Statutes, Article 135b-6, and the Administrative Procedure and Texas Register Act. No revocation, suspension, annulment, or withdrawal of any license is effective unless prior to the institution of agency proceedings, the agency gave notice by personal service or by registered or certified mail to the licensee of facts or conduct alleged to warrant the intended action, and the licensee was given the opportunity to show compliance with all requirements of law for the retention of the license. The following are grounds for revocation, suspension, penalties, reprimanding, refusal to examine, refusal to issue or renew licenses:

(1)-(25) (No change.)

(26) Failure to comply with a final order of the Texas Structural Pest Control Board

(27) Permitting, aiding, abetting or conspiring with a person to intentionally violate or circumvent a law or regulation enforced by the Texas Structural Pest Control Board.

(28) Denial, suspension, revocation, probation, fine or other license restriction or discipline against a licensee by a state, territory, or Indian tribal government or the federal government.

(29) Any violation of the regulations promulgated under Section 599 relating to treatment standards.

(30) Failure to comply with any section of the Act or Regulations.

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 authority.

Issued in Austin, Texas, on February 12, 1996.

TRD-9602083

Benny M. Mathis, Jr.
Executive Director

Structural Pest Control Board

Effective date: March 5, 1996

Proposal publication date: December 19, 1995

For further information, please call: (512) 835-4066

Chapter 599. Treatment Standards

22 TAC §599.4

The Structural Pest Control Board adopts an amendment to §599.4, with changes to the proposed text as published in the December 19, 1995, issue of the *Texas Register* (20 TexReg 10879).

The change allows for appropriate sealing method to be used for fumigations.

Justification for the rule, the amendment will increase public understanding of the different types of drywood termite treatments.

The rule will function in that the amendment creates mandatory definitions of full and spot treatments for drywood termites to be provided at the time of estimate.

Comments received uniformly supported the amendment.

The Texas Pest Control Association submitted comments for the amendment.

The Structural Pest Control Board agrees that disclosure of types of treatments available is necessary.

The amendment is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to license and regulate structural pest control services.

§599.4. *Termite Treatment Disclosure Documents.*

(a) (No change.)

(b) Each termite treatment disclosure document shall include, but is not limited to:

(1)-(8) (No change.)

(9) For drywood termite and related insect treatments the following statements and definitions in at least eight-point type: A drywood termite or related insect treatment may be a full treatment or spot treatment. These types of treatments are defined as follows: FULL TREATMENT Generally defined as a treatment to control 100 percent of the insect infestation by tarpaulin fumigation or appropriate sealing method. A full treatment by fumigation is designed to eliminate every insect colony, both accessible and inaccessible. It should include the infested structure and all attached structures. Tarpaulin fumigation reaches every part of a structure that may not be reached by other approved methods. SPOT TREATMENT Any treatment less than full treatment. A treatment which has a limited and defined area that is intended to protect a specific location or "spot". Often there are adjacent areas susceptible to drywood termite or related insect infestations which are not treated. Because of the nature of wood destroying insects, these untreated areas may continue to harbor drywood termites and unrelated insects throughout the structure without detection.

(c) Before conducting any termite treatment, the pest control company proposing the treatment shall present the prospective customer or designee with a graph and description of the structure(s) to be treated including the following:

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

(A)-(E) (No change.)

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

Issued in Austin, Texas, on February 12, 1996.

TRD-9602084

Benny M. Mathis, Jr.
Executive Director

Structural Pest Control Board

Effective date: March 5, 1996

Proposal publication date: December 19, 1995

For further information, please call: (512) 835-4066

22 TAC §599.11

The Structural Pest Control Board adopts an amendment to §599.11, without changes to the proposed text as published in the December 19, 1995, issue of the (20 TexReg 10879).

Justification for the rule is the amendment will cause better understanding of the disclosure requirements by fumigations.

The function of the rule is to clarify the application of termite treatment disclosure to fumigations.

No comments on this regulation were received.

There were no groups or associations submitting comments for or against this regulation.

The amendment is adopted under Texas Civil Statutes, Article 135b-6, which provide the Structural Pest Control Board with the authority to license and regulate structural pest control services.

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

Issued in Austin, Texas, on February 12, 1996.

TRD-9602085

Benny M. Mathis, Jr.

Executive Director

Structural Pest Control Board

Effective date: March 5, 1996

Proposal publication date: December 19, 1995

For further information, please call: (512) 835-4066

TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 313. Athletic Trainers

General Requirements and Guidelines

25 TAC §313.3, §313.9

The Advisory Board of Athletic Trainers (board) adopts an amendment to §313.3 and new §313.19, concerning the regulation of licensed athletic trainers, without change to the proposed text as published in the September 19, 1995, issue of the *Texas Register* (20 TexReg 7452), except as corrected in the September 26, 1995, issue of the *Texas Register* (20 TexReg 7880), and therefore the sections will not be republished.

The amendment adds a new fee for reinstatement of a license suspended for failure to pay child support. The new section sets out procedures for suspension and reinstatement of a license for failure to pay child support under the Family Code, Chapter 232, as added by Acts 1995, 74th Legislature, Chapter 751, §85 (HB433).

The sections assure that the regulation of athletic trainers continues to identify competent practitioners.

No comments were received concerning the proposed amendment and new section.

The amendment and new section are adopted under Texas Civil Statutes, Article 4512d, §5, which provide the Advisory Board of Athletic Trainers with the authority to adopt rules concerning the regulation and licensure of athletic trainers.

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 February 20, 1996.

TRD-9602391

Michael Saly

Chairman, Advisory Board of Athletic Trainers

Texas Department of Health

Effective date: March 12, 1996

Proposal publication date: September 19, 1995

For further information, please call: (512) 458-7236

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 101. General Rules

30 TAC §101.1

The Texas Natural Resource Conservation Commission (TNRCC) adopts an amendment to 101.1, concerning Definitions, with changes as published in the September 5, 1995 issue of the *Texas Register* (20 TexReg 6889).

Revisions to Chapter 101, concerning General Rules, and the State Implementation Plan (SIP) are adopted in response to receipt of a petition for rulemaking, and in order to revise or add a variety of definitions which clarify or correct rule language, and update terminology.

The revisions to §101.1, concerning Definitions, revise the definition of volatile organic compounds (VOC) to exclude acetone, parachlorobenzotrifluoride (PCBTF), and volatile methyl siloxanes (VMS). The United States Environmental Protection Agency (EPA) has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to the formation of urban ozone (final rules at 59 Federal Register (FR) 50693 and 60 FR 31633). The revisions to the definition of VOC make the TNRCC definition consistent with the EPA definition. The revision to the definition of VOC is also being made in response to a company's petition to exclude VMS from the definition of VOC.

The revisions to §101.1 also add definitions of high-bake coatings, low-bake coatings, mechanical shoe seal, and remote reservoir cold solvent cleaning; revise the definitions of gasoline bulk plant and gasoline terminal to clarify that these do not include marine loading operations, which are separately regulated; delete the definition of specified solvent-using processes and relocate and clarify the associated definitions of cold solvent cleaning, open-top vapor degreasing, and conveyORIZED degreasing; and revise the definition of VOC to correct typographical errors. In addition, the changes to §101.1 delete the definition of automobile refinishing and replace it with a definition of vehicle refinishing (body shops) which more accurately describes the activities included in this definition. In addition, the definitions of automotive basecoat/clearcoat system, automotive precoat, automotive pretreatment, automotive primer or primer surfacers, automotive sealers, automotive spe-

cialty coatings, automotive three-stage system, and automotive wipe-down solutions have been revised to include a reference to vehicle refinishing (body shops).

The TNRCC has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated Section 2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to revise Chapter 101 in response to receipt of a petition for rulemaking, and to revise or add a variety of definitions which clarify or correct rule language, and update terminology. The rule amendment will substantially advance this specific purpose by changing rule language as appropriate. Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because no new control requirements are added by this adoption.

Public hearings were held September 26, 1995, in Beaumont and September 27, 1995, in Houston. The comment period closed on October 5, 1995.

Texas Chemical Council (TCC) and Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. Amoco Corporation (Amoco), Dow Chemical Company (Dow), DuPont Specialty Chemicals (DuPont), and Mobil Oil Corporation (Mobil) fully supported the TCC/TMOGA comments.

Thirteen commenters submitted testimony on §101.1, concerning Definitions. Chemical Specialties Manufacturers Association (CSMA) and Northrop Grumman (Northrop) fully supported the proposed revisions, while Amoco, Centapp Enterprises (Centapp), Citgo Petroleum Corporation, City of Dallas (Dallas), Conservatek Industries, Inc., Houston Lighting and Power (HL&P), Star Enterprise, TGB Partnership, TCC, TMOGA, and Union Carbide Corporation (UCC) generally supported the proposed revisions but suggested changes or clarifications.

Amoco, CSMA, Dow, HL&P, Mobil, TCC, and TMOGA supported the proposed changes to the definition of VOC which add acetone, PCBTF, and VMS to the list of compounds that are not classified as VOC. Northrop expressed support for the inclusion of acetone on the list of non-VOCs.

The EPA has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to urban ozone formation. The definition of VOC is designed to capture only those organic compounds which contribute to ozone smog formation. The TNRCC has made this change in order to maintain consistency with the federal requirements.

Amoco, TCC and TMOGA commented that the definition of VOC should continue to exempt perchloroethylene.

Perchloroethylene (tetrachloroethylene) is currently exempt from the Chapter 115 definition of VOC. In this rulemaking, it was inadvertently not published on the list of compounds excluded from the definition of VOC, although it is exempt. The error has been corrected and perchloroethylene will remain on the list.

Dallas expressed the opinion that the list of compounds exempted from the definition of VOC be listed alphabetically.

The TNRCC has kept the order of compounds consistent with that found in EPA's definition of VOC in order to facilitate comparison of the two definitions.

The UCC requested clarification as to what impact the VOC definition change will have on existing permits for vent streams.

The exclusion of acetone, PCBTF, and VMS from the definition of VOC will have no effect on existing permits. These compounds are still considered air contaminants, and any emissions will still have to meet the criteria for best available control technology (BACT) and acceptable impacts. Each permit provision addressing VOCs included in a permit issued prior to the effective date of this VOC definition change shall continue to include consideration of the acetone, PCBTF, and VMS until a future permit action separates the acetone, PCBTF, and VMS from the VOCs. The addition of acetone, VMS, and PCBTF to the list of compounds excluded from the definition of VOC does not result in an allowance for an increase in VOC emissions.

The UCC requested clarification as to how the VOC definition change will affect credits generated by the reduction of emissions from these delisted chemicals, and if netting done with those credits was still valid.

On the effective date of the TNRCC rule change exempting these compounds from the definition of VOC, any application involving netting that had not been deemed administratively complete would not include acetone, VMS, or PCBTF in netting calculations (i.e., those emissions would not be creditable). Additionally, the source would not be allowed to offset emission increases represented in these applications with credits generated from reductions in acetone, VMS, or PCBTF emissions. Any netting calculations performed by the source or acquisition of offsets prior to this date would not be revisited.

The UCC requested clarification as to how the changes to the definition of VOC would impact any Clean Texas 2000 Program emission reductions that were based on compounds previously classified as VOCs.

The Clean Industries 2000 Program encourages voluntary emission reductions of those compounds that are found in the Toxics Release Inventory (TRI). The TRI includes approximately 600 chemicals, and until recently, included acetone. (PCBTF and VMS are not included in the TRI). In addition to being excluded from the definition of VOC, acetone has also been removed from the TRI. Existing Clean Industries 2000 members that made their Clean Industries commitments based on the inclusion of acetone in their baseline will have two options. They can continue their commitment to that reduction, as per their original plan, or they may elect to delete the acetone quantities from their baseline and from their reduction commitments. New members joining after the delisting of acetone would not include the chemical in either their baseline or their commitments.

The TCC and TMOGA commented on the definitions of cold solvent cleaning, open-top vapor degreasing, and conveyORIZED degreasing which were proposed to replace the existing definition of specified solvent-using processes. They suggested that the definitions be revised for consistency with the Halogenated Solvent Cleaning Maximum Achievable Control Technology (MACT), promulgated on December 2, 1994, to avoid possible confusion for those sources subject to both the Chapter 115 degreasing processes rules and the MACT. They also suggested that the definition of remote reservoir cold solvent cleaning, as used in the MACT, be adapted to the definition of

cold solvent cleaning in order to reflect the intended applicability of relevant Chapter 115 requirements.

The TNRCC agrees with TCC and TMOGA that it is helpful in reducing possible confusion for sources subject to both the MACT and Chapter 115 to update Chapter 115 definitions to reflect the newer terminology used in the federal MACT regulations. The existing and proposed definitions are based upon EPA's Control Techniques Guideline (CTG) for degreasing processes, and the TNRCC believes that it is important to maintain consistency with the CTG. Therefore, the TNRCC has incorporated elements of the MACT definitions which clarify the definitions while retaining major elements of the original definitions. The TNRCC notes that the EPA's CTG definition of cold solvent cleaner is broader than the MACT definition of remote reservoir cold solvent cleaning. Remote reservoir cold solvent cleaners are merely a specialized type of cold solvent cleaners. The suggested change would exclude cold solvent cleaners not equipped with remote reservoirs from regulation as cold solvent cleaners, while the CTG and Chapter 115 rules clearly regulate cold cleaners both with and without remote reservoirs. Because the existing Chapter 115 rules use the term "remote reservoir" in the cold solvent cleaning rules but does not define it, the TNRCC has added a definition of remote reservoir cold solvent cleaning to make the applicability of the rules more clear.

The TCC and TMOGA suggested that the definition of gasoline bulk plant include a statement that a facility which is primarily used for the purpose of dispensing motor vehicle fuel is not a gasoline bulk plant. The TCC and TMOGA stated that this would clarify that gasoline dispensing facilities, which also happen to load small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use), are not included.

The suggested change does not appear to be necessary because the definition of gasoline bulk plant already states that "a motor vehicle fuel dispensing facility is not a gasoline bulk plant." The filling of small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use) at a motor vehicle fuel dispensing facility would not cause the facility to then be considered a gasoline bulk plant, although it should be noted that a gasoline bulk plant and a motor vehicle fuel dispensing facility can exist adjacent to each other on the same property.

The TCC and TMOGA stated that the definition of mechanical shoe seal should not include the phrase "impervious to VOC" in regards to the flexible coated fabric (envelope) which spans the annular space between the metal sheet and the floating roof. The TCC and TMOGA stated that "impervious to VOC" was nebulous and that "coated fabric" was sufficient to minimize VOC emissions from the seal area.

The TNRCC has made the suggested change to be consistent with the corresponding federal New Source Performance Standards Subpart Ka definition.

Centapp, Dallas, and HL&P commented on the proposed definition of vehicle refinishing (body shops). Dallas commented that body shops are commercial, industrial, and/or institutional operations and should be defined specifically as such, although a broader definition could result in increased enforcement capa-

bility concerning nuisance complaints against individuals. Centapp noted that the current definition of automobile refinishing includes the wording "commercial operations." Centapp expressed the understanding from the Auto Body Shop Task Force meetings that this wording was used to exclude painting operations by private individuals (for example, an individual painting a project car at his house), but includes in-house commercial operations such as a company's fleet refinishing paint booths. Centapp stated that the existing definition of automobile refinishing includes both in-house body shops and the typical for-profit body shops, but excludes non-business related vehicle refinishing, and suggested the addition of a sentence to the definition of vehicle refinishing (body shops) stating that "the repair and recoating of vehicles by private individuals is not included." HL&P commented that the current definition of automobile refinishing includes the wording "commercial operations." HL&P stated that HL&P's in-house vehicle refinishing operations are "non-commercial" and, therefore, are exempt from the vehicle refinishing rules.

It was the intention of the Auto Body Shop Task Force to include in-house (fleet) vehicle refinishing operations in the Chapter 115 auto body shop rules negotiated in 1992-1993. However, the definition of automobile refinishing (initially adopted in 1988) was inadvertently not revised concurrently with the development of the auto body shop rules in 1992-1993. Because the purpose of the current rulemaking is to clarify requirements and not to expand the applicability of the rules, the TNRCC has revised the definition of vehicle refinishing (body shops) to include the wording "commercial operation" and a statement that "the repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included."

The amendment is adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§101.1. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (Commission), the terms used by the Commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Automotive basecoat/clearcoat system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion and a transparent clearcoat portion. The volatile organic compound (VOC) content of a basecoat (bc)/clearcoat (cc) system shall be calculated according to the following formula: Figure 1: 30 TAC §101.1 where: $VOC_{bc/cc}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the basecoat/clearcoat system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; and VOC_{cc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive precoat (used in vehicle refinishing (body shops)) - Any coating that is applied to bare metal to deactivate the metal surface for corrosion resistance to a subsequent water-based primer. This coating is applied to bare metal solely for the prevention of flash rusting.

Automotive pretreatment (used in vehicle refinishing (body shops)) - Any coating which contains a minimum of 0.5% acid by weight that is applied directly to bare metal surfaces to etch the metal surface for corrosion resistance and adhesion.

Automotive primer or primer surfacers (used in vehicle refinishing (body shops)) - Any base coat, sealer, or intermediate coat which is applied prior to colorant or aesthetic coats.

Automotive sealers (used in vehicle refinishing (body shops)) - Coatings that are formulated with resins which, when dried, are not readily soluble in typical solvents. These coatings act as a shield for surfaces over which they are sprayed by resisting the penetration of solvents which are in the final topcoat.

Automotive specialty coatings (used in vehicle refinishing (body shops)) - Coatings or additives which are necessary due to unusual job performance requirements. These coatings or additives prevent the occurrence of surface defects and impart or improve desirable coating properties. These products include, but are not limited to, uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, jaming clear coatings, gloss flatteners, and anti-glare/safety coatings.

Automotive three-stage system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion, a semitransparent midcoat portion, and a transparent clearcoat portion. The volatile organic compound (VOC) content of a three-stage system shall be calculated according to the following formula: Figure 2: 30 TAC §101.1 where: $VOC_{T_{3-stage}}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the three-stage system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; VOC_{mc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given midcoat; and VOC_{cc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive wipe-down solutions (used in vehicle refinishing (body shops)) - Any solution used for cleaning and surface preparation.

Cold solvent cleaning - A batch process that uses liquid solvent to remove soils from the surfaces of metal parts or to dry the parts by spraying, brushing, flushing, and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

Conveyorized degreasing - A solvent cleaning process that uses an automated parts handling system, typically a conveyor, to automatically provide a continuous supply of metal parts to be cleaned or dried using either cold solvent or vaporized solvent. A conveyorized degreasing process is fully enclosed except for the conveyor inlet and exit portals.

Gasoline bulk plant - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput less than 20,000 gallons (75,708 liters) per day, averaged over any

consecutive 30-day period. A motor vehicle fuel dispensing facility is not a gasoline bulk plant.

Gasoline terminal - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput equal to or greater than 20,000 gallons (75,708 liters) per day, averaged over any consecutive 30-day period.

High-bake coatings - Coatings designed to cure at temperatures above 194 degrees Fahrenheit.

Low-bake coatings - Coatings designed to cure at temperatures of 194 degrees Fahrenheit or less.

Mechanical shoe seal - A metal sheet which is held vertically against the storage tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

Open-top vapor degreasing - A batch solvent cleaning process that is open to the air and which uses boiling solvent to create solvent vapor used to clean or dry metal parts through condensation of the hot solvent vapors on the colder metal parts.

Remote reservoir cold solvent cleaning - Any cold solvent cleaning operation in which liquid solvent is pumped to a sink-like work area that drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

Vehicle refinishing (body shops) - The repair and recoating of vehicles, including, but not limited to, motorcycles, passenger cars, vans, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses, and other vehicle body parts, bodies, and cabs by a commercial operation other than the original manufacturer. The repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included.

Volatile organic compound - Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (HCFC-22), trifluoromethane (HFC-23), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), perchlorobenzotrifluoride (PCBTF), cyclic, branched, or linear completely methylated siloxanes, acetone, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

(A) cyclic, branched, or linear, completely fluorinated alkanes;

(B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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 authority.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602207

Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

Effective date: March 7, 1996

Proposal publication date: September 5, 1995

For further information, please call: (512) 239-1970

Chapter 115. Control of Air Pollution From Volatile Organic Compounds

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §115.10, concerning Definitions; §§115.112, 115.114, 115.116, and 115.117, concerning Storage of Volatile Organic Compounds (VOC); §§115.121-115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control; §115.212 and §115.219, concerning Loading and Unloading of VOC; §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes; §§115.421-115.423, 115.425-115.427, and 115.429, concerning Surface Coating Processes; §§115.433, 115.435-115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes; §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing; §§115.512, 115.513, and 115.517, concerning Cutback Asphalt; §§115.541-115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels; and §§115.600, 115.614, and 115.617, concerning Consumer Products. The TNRCC withdraws the proposed repeal of §115.950, concerning Standard Construction Permits for VOC Control Projects, as published in the September 5, 1995 and September 8, 1995 issues of the *Texas Register* (20 *TexReg* 6910 and 7020).

Adopted with changes as published in the September 5, 1995, issue of the *Texas Register* (20 *TexReg* 6889) and the September 8, 1995, issue of the *Texas Register* (20 *TexReg* 7020) are §115.10; §115.114; §115.126, and §115.127; §115.219; §§115.421, 115.423, 115.426, 115.427, and 115.429; §115.541 and §115.542; and §115.614.

Adopted without changes are §§115.112, 115.116, and 115.117; §115.123 and §115.129; §115.212; §§115.412, 115.413, 115.416, 115.417, and 115.419; §§115.422, and 115.425; §§115.433, 115.435-115.437, and 115.439; §§115.442, 115.443, 115.445, and 115.446; §§115.512, 115.513, and 115.517; §§115.543, 115.546, 115.547, and 115.549; and §115.600 and §115.617. These sections will not be republished.

Revisions to Chapter 115, concerning Control of Air Pollution from VOC and the State Implementation Plan (SIP) are adopted

in response to receipt of several petitions for rulemaking, and in order to make a variety of changes which reduce requirements, clarify or correct rule language, delete obsolete language, eliminate duplicative requirements, and update terminology and references.

The revisions to §115.10, concerning Definitions, revise the definition of VOC to exclude acetone, parachlorobenzotrifluoride (PCBTF), and volatile methyl siloxanes (VMS). The United States Environmental Protection Agency (EPA) has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to the formation of urban ozone (final rules at 59 Federal Register (FR) 50693 and 60 FR 31633). The revisions to the definition of VOC make the TNRCC definition consistent with the EPA definition. The revision to the definition of VOC is also being made in response to a company's petition to exclude VMS from the definition of VOC.

The revisions to §115.10 also add definitions of high-bake coatings, low-bake coatings, mechanical shoe seal, and remote reservoir cold solvent cleaning; revise the definitions of gasoline bulk plant and gasoline terminal to clarify that these do not include marine loading operations, which are separately regulated; delete the definition of specified solvent-using processes and relocate and clarify the associated definitions of cold solvent cleaning, open-top vapor degreasing, and conveyORIZED degreasing; and revise the definition of VOC to correct typographical errors. In addition, the changes to §115.10 delete the definition of automobile refinishing and replace it with a definition of vehicle refinishing (body shops) which more accurately describes the activities included in this definition. In addition, the definitions of automotive basecoat/clearcoat system, automotive precoat, automotive pretreatment, automotive primer or primer surfacers, automotive sealers, automotive specialty coatings, automotive three-stage system, and automotive wipe-down solutions have been revised to include a reference to vehicle refinishing (body shops). The changes to §115.10 also revise the definitions of external floating roof and internal floating cover to specify that an external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) is considered to be an internal floating roof storage tank.

The revisions to §§115.112, 115.114, 115.116, and 115.117, concerning Storage of VOC, clarify existing requirements, update terminology, establish separate inspection requirements for internal and external floating roof tanks, and establish a repair schedule with the availability of extensions.

The revisions to §§115.121-115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control, respond to a recent policy decision to exempt general vent gas streams originating from sources which are addressed by more specific rules elsewhere in Chapter 115. In addition, to address concerns raised by a company, the amendments revise the synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations vent gas stream control requirements through the addition of exemptions (by reference to the corresponding federal New Source Performance Standards) which are based upon the total resource effectiveness (TRE) index value for individual vent gas streams. The TRE index is a decision tool used to determine if the annual cost of controlling

a given SOCOMI reactor/distillation vent gas stream is acceptable when considering the emissions reduction achieved. The amendments also add an exemption for combustion units which are not used as a control device for vent gas streams originating from non-combustion sources, clarify existing requirements, update rule references, and delete obsolete or unnecessary language.

The revisions to §115.212 and §115.219, concerning Loading and Unloading of VOC, remove the requirement to upgrade the vapor collection systems at gasoline terminals with vacuum-assisted vapor collection in response to a petition for rulemaking, and implement Chapter 115 marine vessel loading requirements in the Beaumont/Port Arthur (B/PA) ozone nonattainment area, but only if absolutely necessary.

The revisions to §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes, delete the requirements concerning acetone usage at polyester resin operations (cultured marble and fiber-reinforced plastic manufacturing) because the definition of VOC has been concurrently revised to exclude acetone. The changes also update a rule reference, and delete exemptions which do not provide any flexibility beyond that already available in §115.412(a)(2)(D) and §115.412(b)(2)(D). In addition, the TNRCC has changed the title of the undesignated head from Degreasing and Clean-up Processes to Degreasing Processes to reflect the content of the amendments.

The revisions to §§115.421-115.423, 115.425-115.427, and 115.429, concerning Surface Coating Processes, change the basis for all surface coating emission limitations from pounds of VOC per gallon of solids to pounds of VOC per gallon of coating (minus water and exempt solvent). This provides essentially the same emission limitations using different units of measurement which are more readily understood by the regulated community. The changes also add current terminology ("high-bake coatings" and "low-bake coatings") to more clearly define operations which include "air or forced air driers," define the term "daily weighted average" for clarity, delete obsolete language, update rule references, change references from "automobile refinishing" to "vehicle refinishing (body shops)" for consistency with Standard Exemption 124, delete a redundant exemption for customized (decorative) top coating of automobiles and trucks, and correct a reference to an EPA guidance document.

The revisions to §§115.433, 115.435, 115.436, 115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes, update rule references, correct a reference to an EPA guidance document, correct an unintended loophole in order to ensure that exempted printing operations must maintain records to document qualification for exemption status, and delete obsolete language.

The revisions to §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing, correct an unintended loophole to ensure the applicability of the cleaning solution standards, clarify that the cleaning solutions VOC content limitations are based upon volume percentages, update rule references, and correct a reference to an EPA guidance document.

The revisions to §§115.512, 115.513, and 115.517, concerning Cutback Asphalt, delete obsolete language, update a rule reference, and clarify the intent of an existing exemption for pothole patching material made with cutback asphalt.

The revisions to §§115.541, 115.542, 115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels, correct typographical errors and change VOC transport vessel and VOC marine vessel to transport vessel and marine vessel, respectively, for consistency with the remainder of Chapter 115 and the definitions of these terms contained within §115.10. The changes also update a rule reference and delete the attainment date from the contingency rules because this date may be revised in the future.

The revisions to §§115.600, 115.614, and 115.617, concerning Consumer Products, substitute the term "consumer" for "person" in the definition of "consumer product," delete the definition of "device," and simplify the definition of "pesticide." The revisions also provide for the registration of an innovative product just prior to its introduction into the Texas market. This will allow an innovative product to be marketed upon registration without waiting for approval from the TNRCC, thus avoiding unnecessary lengthy review and further encouraging innovative approaches for reducing VOCs. If, upon evaluation, a lack of equivalent reductions is determined, then enforcement procedures sufficient to deter noncompliance and make up lost SIP emission reduction credits will be implemented. In addition, the revisions delete subsections which have become obsolete because the referenced procedural rules have been repealed, and correct the exemption for adhesives sold in containers of one fluid ounce or less by eliminating reference to a measure of weight.

The TNRCC has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated Section 2007.043. The following is a summary of that assessment. The specific purpose of the rule amendment is to revise Chapter 115 to make a variety of changes which reduce requirements, clarify or correct rule language, delete obsolete language, eliminate duplicative requirements, update terminology and references, and add a schedule for repairing seals on storage tanks. The rule amendment will substantially advance this specific purpose by changing rule language as appropriate. Promulgation and enforcement of this rule amendment will not affect private real property which is the subject of the rule because no new control requirements are added by this adoption.

Public hearings were held September 26, 1995 in Beaumont and September 27, 1995, in Houston. The comment period closed on October 5, 1995, with the exception of the consumer products rules for which the comment period closed on October 8, 1995.

Texas Chemical Council (TCC) and Texas Mid-Continent Oil & Gas Association (TMOGA) submitted joint comments. Amoco Corporation (Amoco), Dow Chemical Company (Dow), DuPont Specialty Chemicals (DuPont), and Mobil Oil Corporation (Mobil) fully supported the TCC/TMOGA comments.

Thirteen commenters submitted testimony on §115.10, concerning Definitions. Chemical Specialties Manufacturers Association (CSMA) and Northrop Grumman (Northrop) fully sup-

ported the proposed revisions, while Amoco, Centapp Enterprises (Centapp), Citgo Petroleum Corporation (Citgo), City of Dallas (Dallas), Conservatek Industries, Inc. (Conservatek), Houston Lighting and Power (HL & P), Star Enterprise (Star), TGB Partnership (TGB), TCC, TMOGA, and Union Carbide Corporation (UCC) generally supported the proposed revisions but suggested changes or clarifications.

Eight commenters submitted testimony on §§115.112, 115.114, 115.116, and 115.117, concerning Storage of VOC. UCC fully supported the proposed revisions, while Citgo, EPA, Exxon Company, U.S.A. (Exxon), GATX Terminals Corporation (GATX), Star, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications.

Ten commenters submitted testimony on §§115.121, 115.122, 115.123, 115.126, 115.127, and 115.129, concerning Vent Gas Control. DuPont, Exxon, and Shell Chemical Company (Shell) fully supported the proposed revisions; Dallas, HL & P, Pennzoil Company (Pennzoil), TCC, TMOGA, and UCC generally supported the proposed revisions but suggested changes or clarifications; and Galveston Houston Association for Smog Prevention (GHASP) opposed the proposed revisions.

Nine commenters submitted testimony on §§115.212 and 115.219, concerning Loading and Unloading of VOC. Citgo, Star, Shell, and the Southeast Texas Regional Planning Commission (SETRPC) fully supported the proposed revisions; EPA, Exxon, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications; and GHASP opposed the proposed revisions.

One commenter submitted testimony on §§115.412, 115.413, 115.416, 115.417, and 115.419, concerning Degreasing Processes. Dallas generally supported the proposed revisions but suggested changes or clarifications.

Five commenters submitted testimony on §§115.421, 115.422, 115.423, 115.425, 115.426, 115.427, and 115.429, concerning Surface Coating Processes. Browning-Ferris Industries (BFI) and GHASP fully supported the proposed revisions, while Brault Auto Paint and Supply (Brault), Centapp, and EPA generally supported the proposed revisions but suggested changes or clarifications.

No commenters submitted testimony on §§115.433, 115.435, 115.436, 115.437, and 115.439, concerning Graphic Arts (Printing) by Rotogravure and Flexographic Processes; §§115.442, 115.443, 115.445, and 115.446, concerning Offset Lithographic Printing; and §§115.512, 115.513, and 115.517, concerning Cutback Asphalt.

Four commenters submitted testimony on §§115.541, 115.542, 115.543, 115.546, 115.547, and 115.549, concerning Degassing or Cleaning of Stationary, Marine, and Transport Vessels. Dallas, TCC, and TMOGA generally supported the proposed revisions but suggested changes or clarifications, while GHASP opposed the proposed revisions.

Four commenters submitted testimony on §§115.600, 115.614, and 115.617, concerning Consumer Products. CSMA, The Cosmetic, Toiletry, and Fragrance Association (CTFA), and EPA generally supported the proposed revisions but suggested changes or clarifications; and GHASP opposed the proposed revisions.

Five commenters submitted testimony on §115.950, concerning Standard Construction Permits for VOC Control Projects. Amoco, DuPont, HL & P, TCC, and TMOGA opposed the proposed repeal of this section.

Definitions. Amoco, CSMA, Dow, HL&P, Mobil, TCC, and TMOGA supported the proposed changes to the definition of VOC which add acetone, PCBTF, and VMS to the list of compounds that are not classified as VOC. Northrop expressed support for the inclusion of acetone on the list of non-VOCs.

The EPA has ruled that these compounds have negligible photochemical reactivity, and thus do not appreciably contribute to urban ozone formation. The definition of VOC is designed to capture only those organic compounds which contribute to ozone smog formation. The TNRCC has made this change in order to maintain consistency with the federal requirements.

Amoco, TCC and TMOGA commented that the definition of VOC should continue to exempt perchloroethylene.

Perchloroethylene (tetrachloroethylene) is currently exempt from the Chapter 115 definition of VOC. In this rulemaking, it was inadvertently not published on the list of compounds excluded from the definition of VOC, although it is exempt. The error has been corrected and perchloroethylene will remain on the list.

The UCC requested clarification as to how the exclusion of acetone from the definition of VOC would impact control plans submitted to comply with exemption requirements under the Industrial Wastewater and Loading/Unloading sections of Chapter 115. They asked if the TNRCC-approved plan could still be followed, if it no longer meets the requirements for 90% or 80% control, or would additional controls have to be implemented to continue to meet the control levels in the plan. They asked if additional time for compliance would be allowed if the plans have to be changed.

Both the industrial wastewater and the loading/unloading rules contain an exemption from control requirements for facilities that provide a control plan which demonstrates 90% overall control of affected emissions. The industrial wastewater rules also allow exemption for 80% overall control and case-by-case justification for remaining uncontrolled components. The control plan is required to assure that a flexible control approach will achieve timely initial compliance, and subsequently, maintain compliance.

The TNRCC reviewed each of the 90% overall control plans received (no 80% control plans were submitted) and verified with company representatives that unspesiated VOC reductions did not include acetone. The staff found that the plans that included acetone will still meet the overall 90% control efficiency after the exclusion of acetone. If emitted at all, acetone represents only a small fraction of total VOC emissions at the facilities affected by the loading or wastewater rules. Therefore, the TNRCC does not plan to revise the compliance dates of these rules as a result of delisting acetone.

Although the delisting of acetone by the TNRCC causes a slight decrease in the percent reduction of VOC in some initial control plans, a control plan would not need to be revised unless the owner or operator varies from a representation made in the plan. Companies may submit a revised plan to reflect the effect of the

agency's action on the plan, but such changes are not required by rule.

Citgo, Conservatek, Star, TGB, TCC, and TMOGA commented on the proposed revisions to the definition of external floating roof and internal floating cover. Citgo, Conservatek, Star, TGB, TCC, and TMOGA stated that an external floating roof tank with a geodesic dome roof should be treated as an internal floating roof tank for all purposes.

The TNRCC has reviewed the various storage tank guidance documents (EPA's Alternative Control Techniques documents and AP-42 (Fifth Edition, January 1995)), which specify that an external floating roof tank with a geodesic dome roof is considered to be an internal floating roof tank. Consequently, the TNRCC has made the suggested change for consistency with these federal guidelines.

TCC and TMOGA commented on the definitions of cold solvent cleaning, open-top vapor degreasing, and conveyORIZED degreasing which were proposed to replace the existing definition of specified solvent-using processes. They suggested that the definitions be revised for consistency with the Halogenated Solvent Cleaning Maximum Achievable Control Technology (MACT), promulgated on December 2, 1994, to avoid possible confusion for those sources subject to both the Chapter 115 degreasing processes rules and the MACT. They also suggested that the definition of remote reservoir cold solvent cleaning, as used in the MACT, be adapted to the definition of cold solvent cleaning in order to reflect the intended applicability of relevant Chapter 115 requirements.

The TNRCC agrees with TCC and TMOGA that it is helpful in reducing possible confusion for sources subject to both the MACT and Chapter 115 to update Chapter 115 definitions to reflect the newer terminology used in the federal MACT regulations. The existing and proposed definitions are based upon EPA's Control Techniques Guideline (CTG) for degreasing processes, and the TNRCC believes that it is important to maintain consistency with the CTG. Therefore, the TNRCC has incorporated elements of the MACT definitions which clarify the definitions while retaining major elements of the original definitions. The TNRCC notes that the EPA's CTG definition of cold solvent cleaner is broader than the MACT definition of remote reservoir cold solvent cleaning. Remote reservoir cold solvent cleaners are merely a specialized type of cold solvent cleaners. The suggested change would exclude cold solvent cleaners not equipped with remote reservoirs from regulation as cold solvent cleaners, while the CTG and Chapter 115 rules clearly regulate cold cleaners both with and without remote reservoirs. Because the existing Chapter 115 rules use the term "remote reservoir" in the cold solvent cleaning rules but do not define it, the TNRCC has added a definition of remote reservoir cold solvent cleaning to make the applicability of the rules more clear.

TCC and TMOGA suggested that the definition of gasoline bulk plant include a statement that a facility which is primarily used for the purpose of dispensing motor vehicle fuel is not a gasoline bulk plant. TCC and TMOGA stated that this would clarify that gasoline dispensing facilities which also happen to load small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use) are not included.

The suggested change does not appear to be necessary because the definition of gasoline bulk plant already states that "a motor vehicle fuel dispensing facility is not a gasoline bulk plant." The filling of small tanks or drums mounted on small trucks (such as pickup trucks for farm equipment use) at a motor vehicle fuel dispensing facility would not cause the facility to then be considered a gasoline bulk plant, although it should be noted that a gasoline bulk plant and a motor vehicle fuel dispensing facility can exist adjacent to each other on the same property.

TCC and TMOGA stated that the definition of mechanical shoe seal should not include the phrase "impervious to VOC" in regards to the flexible coated fabric (envelope) which spans the annular space between the metal sheet and the floating roof. TCC and TMOGA stated that "impervious to VOC" was nebulous and that "coated fabric" was sufficient to minimize VOC emissions from the seal area.

The TNRCC has made the suggested change to be consistent with the corresponding federal New Source Performance Standards Subpart Ka definition.

Centapp and HL&L commented on the proposed definition of vehicle refinishing (body shops). Centapp noted that the current definition of automobile refinishing includes the wording "commercial operations." Centapp expressed the understanding from the Auto Body Shop Task Force meetings that this wording was used to exclude painting operations by private individuals (for example, an individual painting a project car at his house), but includes in-house commercial operations such as a company's fleet refinishing paint booths. Centapp stated that the existing definition of automobile refinishing includes both in-house body shops and the typical for-profit body shops, but excludes non-business related vehicle refinishing, and suggested the addition of a sentence to the definition of vehicle refinishing (body shops) stating that "the repair and recoating of vehicles by private individuals is not included." HL&P commented that the current definition of automobile refinishing includes the wording "commercial operations." HL&P stated that HL&P's in-house vehicle refinishing operations are "non-commercial" and, therefore, are exempt from the vehicle refinishing rules.

It was the intention of the Auto Body Shop Task Force to include in-house (fleet) vehicle refinishing operations in the Chapter 115 auto body shop rules negotiated in 1992-1993. However, the definition of automobile refinishing (initially adopted in 1988) was inadvertently not revised concurrently with the development of the auto body shop rules in 1992-1993. Because the purpose of the current rulemaking is to clarify requirements and not to expand the applicability of the rules, the TNRCC has revised the definition of vehicle refinishing (body shops) to include the wording "commercial operation" and a statement that "the repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included."

Storage of VOC. The EPA commented on §115.112(a)(2)(A), which states, in part, that all openings in a floating roof except for automatic bleeder vents (vacuum breaker vents) and rim space vents must provide a projection below the liquid surface or be equipped with a cover, seal, or lid. The EPA

suggested that §115.112(a)(2)(A) be revised to require that all roof openings meet both conditions (i.e., a projection below the liquid surface and a cover, seal, or lid) be met.

The scope of the current rulemaking is intended to be limited to clarifying and simplifying requirements, rather than developing additional control measures. The EPA's suggested change is more stringent than current requirements and, therefore, will not be made at this time.

Citgo, EPA, Exxon, GATX, Star, TCC, TMOGA, and UCC commented on §115.114. The UCC supported the proposed changes, while Citgo suggested that §115.114 allow 45 days to repair floating roof failures, with the availability of a 60-day extension. Exxon suggested that §115.114 allow 90 days to repair floating roof failures, with the availability of a 90-day extension. TCC and TMOGA recommended that §115.114 allow 60 days to repair floating roof failures, with the availability of up to two 30-day extensions since this would be consistent with 40 CFR §63.140 (a MACT standard). GATX and Star recommended that §115.114 allow 45 days to repair floating roof failures, with the availability of up to two 30-day extensions. The EPA suggested that any request for an extension should include a demonstration of the unavailability of alternate storage capacity and a schedule that will assure that the repairs will be completed as soon as possible.

The TNRCC believes that the most appropriate schedule would allow 60 days to repair floating roof failures, with the availability of up to two 30-day extensions as suggested by TCC and TMOGA, and has revised §115.114 accordingly. The TNRCC agrees with EPA that any request for an extension should include a statement concerning the unavailability of alternate storage capacity and a repair schedule, and has revised §115.114 accordingly. The TNRCC regional office shall make all decisions concerning storage tank repair schedule extensions, with input as appropriate from any local air pollution control program with jurisdiction. Therefore, the owner or operator of the storage tank will be required to send a copy of each extension request to any local program with jurisdiction to ensure the flow of information necessary to facilitate the regional office's decision on the request.

TCC and TMOGA suggested that visible gaps between the seal and the wall of the storage tank be included in the list of defects requiring repair. TCC and TMOGA suggested further that the defect of the floating roof not resting on the surface of the VOC inside the storage tank be modified, to exclude the case of the floating roof resting on the leg supports.

As noted by the TCC and TMOGA, the proposed changes make the subsection consistent with EPA requirements for floating roof storage tanks. The suggested changes have been made.

TCC and TMOGA suggested that annual visual "through the hatch" inspections be required for internal floating roof storage tanks.

The TNRCC has incorporated this suggested change into §115.114(a)(1) for ozone nonattainment counties. The current storage tank rules specify more stringent levels of control and recordkeeping and reporting requirements for ozone nonattainment counties than the attainment counties. In particular, there are no requirements specified in the rules for recordkeeping and

reporting for storage tank control equipment in the attainment counties. Therefore, it is not appropriate to include the suggested change for attainment counties at this time.

Exxon suggested that §115.114(c) be deleted because this would apply in attainment counties.

The TNRCC disagrees with Exxon. A repair schedule in all affected counties is both necessary and beneficial because it guarantees industry a definite amount of time to make repairs and allows a reasonable extended repair time if needed, while also setting an upper limit on the repair time in order to prevent excessive emissions. The rule allows no repair time currently and a facility would now be considered out of compliance until the repair is made. In addition to reducing the stringency of the rule, the change makes the repair schedule consistent with federal requirements.

EPA, TCC, and TMOGA commented on the phrase "at storage conditions" in §115.116 and §115.117. The EPA stated that the rules should be based on the maximum true vapor pressure as determined at the highest monthly average temperature. TCC and TMOGA suggested the use of the long-term annual average daily temperature provided in AP-42 for ambient storage tanks, and the average actual product temperature measured (with at least one measurement taken each month for twelve months) for heated storage tanks.

Vapor pressure, a measure of the evaporability of VOC, increases with temperature, and is frequently used to define rule applicability in Chapter 115. The term "storage conditions" qualifies vapor pressure in several Chapter 115 rules, including storage, loading and unloading, transport vessel leaks, and vessel degassing or cleaning. The TNRCC gave notice in the September 5, 1995 rule proposal of its intent to define the temperature used to establish vapor pressure for all of the above source categories, but did not propose any actual rule language to define "storage conditions". The hearing record for the storage tank rules effective August 22, 1980 shows that the former Texas Air Control Board staff suggested in a list of recommendations that the tables specifying storage tank control requirements, "should be revised to...specify average monthly storage temperature, and other sections revised accordingly." The rule language submitted and adopted by the Board added a new recordkeeping section, requiring maintenance of records of the average monthly true vapor pressure of the stored liquid. However, the rule language submitted by the staff and adopted by the Board did not include a clarifying footnote to the tables specifying that storage conditions are determined on a monthly average basis. Because no clear interpretation has been widely publicized, in order to allow an appropriate determination and to ensure that the final determination is conclusively conveyed to the public, the TNRCC intends to publish a proposed rule to define "storage conditions" in the near future, rather than taking any further action at this time.

TCC and TMOGA suggested that §115.116(a)(1) and (b)(1) be revised to indicate that the exemptions from secondary seal requirements are contained in §115.117(a)(5), (6), and (7) rather than (a)(1), (6), and (7).

The TNRCC disagrees with the commenters. Sections 115.117(a)(1), (6), and (7) and 115.117(b)(1), (6), and (7) provide exemptions to secondary seal requirements which are

based upon the vapor pressure of the VOC being stored, while §115.117(a)(5) and (b)(5) provide exemptions which are not based upon vapor pressure. Consequently, vapor pressure records are necessary to document qualification for exemptions under §115.117(a)(1), (6), and (7) and §115.117(b)(1), (6), and (7), while these records are not necessary for tanks which qualify for §115.117(a)(5) and (b)(5).

Vent Gas Control. TCC and TMOGA commented on §115.121(a)(1), (a)(2), and (a)(3) and suggested that "burned" be replaced with "controlled" to indicate that methods other than burning are appropriate. TCC and TMOGA stated further that §115.122(a)(1) should specify a 90% control efficiency rather than a minimum temperature of 1300°F.

The suggested changes are unnecessary because §115.123 allows the use of "alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements...if emission reductions are demonstrated to be substantially equivalent." Section 115.123 also states that alternate vapor recovery systems which achieve the percent reduction efficiencies equivalent to direct-flame incinerators do not require Executive Director approval. Therefore, a control device which meets or exceeds the required control efficiency is already acceptable under the existing rule.

It has come to the TNRCC's attention that the proposed changes to §115.126(a)(5)(A) inadvertently included deletion of a reference to the 1990 emissions inventory. This reference has been retained.

TCC and TMOGA noted that the proposed changes to §115.127(a)(2)(B) inadvertently left out the word "pounds" in "0.009 pounds per square inch absolute." Dallas commented that the units of true partial pressure should be given in pounds per square inch absolute and parts per million.

The TNRCC has made these corrections.

DuPont, TCC, and TMOGA commented on §115.127(a)(4)(D)-(E) and supported the addition of TRE-based exemptions for SOCM reactor processes and distillation operations vent gas streams.

The adopted revision makes the Chapter 115 vent gas exemptions more consistent with the federal CTG guidance for SOCM vent gas streams.

Dallas commented on §115.127(a)(6), (b)(3), and (c)(3) and suggested that the undesignated heads be listed explicitly rather than using the wording "another undesignated head."

The specific Chapter 115 undesignated heads vary as rules are adopted, repealed, or renamed. Also, Chapter 115 presently contains 30 undesignated heads, and it is impractical to list all of these undesignated heads.

Exxon, HL&P, Pennzoil, TCC, and TMOGA expressed support for the proposed exemptions under §115.127(a)(6), (b)(3), and (c)(3) to exempt from the general vent gas rules any source which is already subject to a more specific Chapter 115 requirement, while GHASP objected to this change. TCC and TMOGA suggested that the exemptions be revised to state "A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which this or another

undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county."

The specific wording suggested by TCC and TMOGA cannot be made because referencing the exemption to itself could exempt all vent gas streams from the vent gas rules. However, the TNRCC agrees that the addition of an exemption from the general vent gas rule is appropriate for vent gas streams which are regulated by, or are exempt from, vent gas rules which have a different control requirement than the general vent gas rule, including air oxidation SOCM processes, liquid phase polypropylene manufacturing processes, liquid phase slurry high-density polyethylene manufacturing processes, continuous polystyrene manufacturing processes, SOCM reactor processes, SOCM distillation operations, and bakeries. This exemption has been added as new §115.127(a)(2)(D) and (E).

TCC and TMOGA recommended that other duplicative requirements be eliminated in future fixups, such as tanks subject to both wastewater storage tank control and VOC storage tank control.

The TNRCC will continue to work with affected persons to evaluate ways to streamline existing rules.

Pennzoil commented that some vent gas streams include emissions from sources which are subject to a more specific Chapter 115 rule as well as emissions which are not subject to a more specific Chapter 115 rule. Pennzoil suggested that in the case of such "mixed" vent gas streams, the exemptions should exclude emissions from sources which are subject to a more specific Chapter 115 rule. Pennzoil cited an example in which vent streams from 10 storage tanks and two process units are routed to a control device (a condenser) which has a control efficiency of 70%, with the tank vents having total emissions of 50 pounds per 24-hour period and the process units having emissions of 35 and 25 pounds per 24-hour period, respectively. Pennzoil commented that except for the prohibition against circumvention, it would be in this facility's best interest to separate all of the vent gas streams, each of which would then be individually exempt (on a mass emission rate basis).

Pennzoil did not provide the concentration of the "mixed" vent gas stream in their example. If the concentration is above the exemption level of 612 parts per million (ppm), then under the current version of the vent gas rule this "mixed" stream must be routed to a control device with an efficiency of at least 90%, and consequently this scenario would represent a violation of the current general vent gas rule since the control efficiency Pennzoil cited is only 70%. The rules cannot anticipate every possible scenario but do allow for case-by-case consideration (for example, bubbles under §101.23, and alternate means of control under §115.910) in special circumstances. In addition, Pennzoil's suggested change would result in a difficult-to-enforce rule because stack sampling of a "mixed" vent would not allow a determination of the contributions from the individual vent gas streams.

HL&P suggested that vent gas streams which originate from combustion sources (such as boilers, heaters, and internal combustion engines) be exempted from the vent gas control

requirements. HL&P stated that although combustion units qualify for existing exemptions, applicability of the vent gas rules to vent gas streams which originate from combustion sources will result in unnecessary documentation and recordkeeping because Chapter 122 requires that all applicable requirements be listed in Title V operating permits applications.

The TNRCC notes that the general vent gas rule is intended to apply to process vents. The exhaust stream from a combustion unit which is used solely as a process unit (i.e., does not also function as a control device for any vent gas stream which is subject to the Vent Gas Control undesignated head and which originates from a non-combustion source) would not normally be expected to exceed the vent gas rule exemption levels. In addition, the cost of fuel provides an economic incentive to minimize VOC emissions in a combustion device. The TNRCC agrees that the exhaust stream from a combustion unit used solely as a process unit can be exempted from the general vent gas rule without having an adverse impact on necessary VOC emission reductions, while also avoiding potentially burdensome Title V recordkeeping for these combustion units.

However, in the case of a combustion unit that also serves as a control device for a vent gas stream which is subject to the Vent Gas Control undesignated head and which originates from a non-combustion source, the monitoring and recordkeeping required by §115.126 is necessary to insure that the combustion unit meets the minimum control requirements given in §115.122. Therefore, the TNRCC has added an exemption for combustion units which are not used as a control device for vent gas streams originating from non-combustion sources.

Pennzoil requested that TNRCC clarify how §115.127(a)(6) will apply in terms of the "once-in, always-in" language of §115.122(a)(4). UCC requested that TNRCC clarify how the revised definition of VOC (which will now exclude acetone, PCBTF, and VMS) will relate to the "once-in, always-in" requirement of §115.122(a)(4).

Once-in, always-in (OIAI) is an EPA concept which means that once emissions from a source exceed the applicability cutoff for a particular VOC regulation in the State Implementation Plan (SIP), that source is always subject to the control requirements of the regulation. The purpose of this requirement is two-fold. First, it serves to discourage a source already subject to regulation from installing minimal controls to circumvent Reasonably Available Control Technology (RACT) requirements. Second, it improves the clarity of VOC regulations by minimizing the confusion over whether variations in production cause a particular source to be covered by a regulation. In the event of revised rules which are less stringent than previous requirements (for example, the addition of §115.127(a)(6), or the revised definition of VOC which excludes acetone, PCBTF, and VMS), the OIAI requirements will apply to the extent that emissions from a source exceed the applicability cutoff for the revised version of the rules.

Loading and Unloading of VOC. Citgo, TCC, and TMOGA supported the deletion of §115.212(a)(11)(A), concerning the requirement for vacuum-assisted vapor collection at gasoline terminals in the Dallas/Fort Worth, El Paso, and Houston/Galveston ozone nonattainment areas. GHASP opposed the

removal of the vacuum-assist vapor collection requirement at gasoline terminals. GHASP further noted that the installation of vacuum-assist is necessary because tank trucks often leak even when tank maintenance and leak checks are conducted annually.

The TNRCC agrees with GHASP that tank trucks may continue to leak even with annual maintenance and leakage checks. However, EPA has recently concluded that, partly as a result of tank trucks being subject to annual Method 27 leak-tightness testing, the emissions which could be prevented as a result of installing vacuum-assist are only about 1.3% of the total leakage emission rate. EPA also believes that this additional capture efficiency is too small to be demonstrated in practice and does not justify the additional cost that would be incurred by installing vacuum-assist. The elimination of the vacuum assist requirement in the Chapter 115 gasoline terminal rule is consistent with the adopted federal MACT standard for gasoline terminals.

Exxon requested that §115.214(a)(6) be amended to allow an option for fugitive monitoring to be conducted using new petroleum marketing terminal factors accompanied by an audio, visual, and olfactory leak detection and repair program (LDAR) on a daily basis. Exxon noted that this new approach has been evaluated and approved by the TNRCC New Source Review program.

The TNRCC appreciates the comment submitted by Exxon. However, §115.214 is not currently open for amendment. Evaluation and consideration of this comment will be deferred to future rulemaking.

Exxon requested an amendment to §115.212(a)(11)(B) to provide for a short-term emergency allowance to continue to operate for 48 hours when the vapor recovery system is out of service or not properly operating. Exxon noted that operational flexibility is needed because unforeseen circumstances could prevent the immediate repair of a vapor recovery system.

The TNRCC disagrees with Exxon. The TNRCC believes that any necessary repairs of vapor recovery systems can be phased in without adverse disruptions to the operation of gasoline terminals. An emergency allowance to operate gasoline terminals without vapor collection would discourage operators from the necessity of consistently maintaining the vapor recovery systems and keeping spare parts on the premises to be able to deal with any problem as it arises.

EPA, GHASP, SETRPC, TCC, and TMOGA commented on §115.219(5) and the proposed §115.219(6), concerning the compliance schedule for the marine vessel loading contingency rule in the B/PA ozone nonattainment area. EPA stated that the requirement to implement RACT for marine terminals is contained in §182(b)(2)(C) of the Federal Clean Air Act (FCAA), which requires implementation of RACT at non-CTG major sources. EPA stated that there are major VOC sources in B/PA which have marine terminals, and, therefore, RACT must be implemented on these marine terminals. EPA stated that this requirement will not change if B/PA is reclassified as a moderate ozone nonattainment area. GHASP stated that marine loading controls should be implemented in B/PA to ensure large reductions of VOCs and air toxics which are affecting nearby communities. SETRPC fully supported the

proposed revisions, while TCC and TMOGA suggested that these paragraphs be combined, for clarity.

On September 19, 1995, EPA published final standards for marine vessel loading in the Federal Register (pages 48388-48417). These standards included MACT requirements for air toxics under §112 of the FCAA, as well as RACT requirements under §183(f) of the FCAA. EPA's promulgation of marine vessel loading RACT under §183(f) establishes what EPA considers to be the minimum requirements for marine vessel loading under §182(b)(2)(C). EPA's actions under §183(f) have satisfied the marine vessel loading RACT requirements without any further action necessary on the state's part. In response to TCC and TMOGA, the TNRCC has combined the paragraphs as suggested.

Degreasing Processes. Dallas commented on the proposed deletion of §115.417(a)(5) and expressed misgivings about the proposed deletion of this exemption.

Sections 115.412(a)(2)(D) and 115.412(b)(2)(D) establish four control options for open-top vapor cleaning. The control option available under §115.412(a)(2)(D)(ii) and §115.412(b)(2)(D)(ii) is a properly sized refrigerated chiller, and the control option available under §115.412(a)(2)(D)(iv) and §115.412(b)(2)(D)(iv) is a carbon adsorption system. The exemptions under §115.417(a)(5) and §115.417(b)(5) which are proposed for deletion exempt any open-top vapor degreaser with an open area less than 10 ft² (1 m²) from the refrigerated chiller or the carbon adsorber requirements in §115.412(a)(2)(D)(ii) and (iv) and §115.412(b)(2)(D)(ii) and (iv). However, any open-top vapor degreaser with an open area less than 10 ft² (1 m²) must still meet one of the other two control options available under §115.412(a)(2)(D) and §115.412(b)(2)(D). Consequently, the exemptions available under §115.417(a)(5) and §115.417(b)(5) are entirely redundant with the flexible control options already available in §115.412(a)(2)(D) and §115.412(b)(2)(D), and these exemptions will be deleted as proposed.

Surface Coating Processes. BFI fully supported the proposed revisions. Centapp, EPA, and GHASP supported the proposed change of the coating limits basis in §115.421 from pounds of VOC per gallon of solids to pounds of VOC per gallon of coating (minus water and exempt solvents).

The return to the more conventional units greatly simplifies rule compliance and was widely supported by both governmental authorities and the regulated community.

Centapp commented on §115.421 and stated that the wording of §115.421 (which states that most surface coating limits are based on the daily weighted average) conflicts with the requirements of §115.421(a)(8)(B) (coating limits for body shops), and §115.426(a)(1)(B) (which allows the monthly recordkeeping of Standard Exemption No. 124 for body shops). Centapp stated that the Auto Body Shop Task Force developed coating limits which could easily be met without averaging and that the monthly recordkeeping of Standard Exemption No. 124 does not give enough information to tell if a body shop is complying if they are averaging. Centapp suggested revising §115.426(a)(1)(B) to state that if a body shop uses any coating which exceeds the limits of §115.421(a)(8)(B), then they have to keep daily records showing the daily averaging instead of monthly records.

The TNRCC agrees and has revised §115.426(a)(1)(B) as suggested.

The EPA commented on §115.421(a) and (b) and stated that the procedure for calculating the daily weighted average should be modified to exclude water and exempt solvents from the coating volume in the calculation.

The TNRCC has made the suggested change.

Brault commented on §115.421(a)(8)(B)(ix) and suggested changing the emission limitation for auto body shop wipe-down solutions from 1.4 pounds of VOC per gallon to 6.4 pounds of VOC per gallon, with a concurrent change in the usage limit of Standard Exemption 124 (as referenced in §116.211 of this title (relating to Standard Exemption List)), from 50 gallons per month to 10 gallons per month.

The TNRCC is willing to consider revising the auto body shop wipe-down solution emission limit. However, at this time there is not a consensus among auto body shops, trade associations, wipe-down solution manufacturers, and auto body shop suppliers concerning a possible revision to the auto body shop wipe-down solution emission limit. Consequently, the TNRCC is not revising the limit at this time. The TNRCC suggests that affected auto body shops, trade associations, wipe-down solution manufacturers, and auto body shop suppliers provide detailed information concerning the auto body shop wipe-down solution emission limit, including justification for revising the limit.

The EPA requested that TNRCC confirm that equivalency determinations under §115.423(a)(2) using transfer efficiency and §115.423(a)(3) using add-on controls are on a pounds of VOC per gallon of solids basis.

As noted in §115.423(a)(1), equivalency determinations (for example, bubbles under §101.23, alternate means of control under §115.910, or other demonstrations of equivalency with the specified emission limits) shall be based on the pounds of VOC per gallon of solids for all affected coatings. Therefore, all such equivalency determinations are on the basis of pounds of VOC per gallon of solids.

The EPA suggested the inclusion of formulas in §115.423(a)(1) and (3) which determine the conversion of emission specifications to a pounds of VOC per gallon of solids basis and the required overall control efficiency for facilities with add-on controls, respectively.

The TNRCC has added the suggested coating emission specification conversion formula to §115.423(a)(1) and (b)(1). However, §115.423(a)(3) and §115.423(b)(3) were not proposed for revision. Therefore, the suggested formula for the required overall control efficiency for facilities with add-on controls cannot be added at this time. The TNRCC will consider making this change in future rulemaking.

It has come to the TNRCC's attention that §115.423(b)(4) and §115.427(b)(2) incorrectly refer to §115.421(b)(9) rather than §115.421(b)(8), and that §115.427(b)(3) incorrectly refers to §115.421(b)(10) rather than §115.421(b)(9). These sections have been corrected.

In addition, it has come to the TNRCC's attention that in rare instances the change of the coating limits basis in §115.421 from pounds of VOC per gallon of solids to pounds of VOC

per gallon of coating could result in a product which meets the pounds of VOC per gallon of solids limits but exceeds the pounds of VOC per gallon of coating limits. Therefore, the TNRCC has added new §115.429(b) which provides for a transition period in such instances.

Degassing or Cleaning of Stationary, Marine, and Transport Vessels. TCC and TMOGA commented on the proposed change of "VOC transport vessel" and "VOC marine vessel" to "transport vessel" and "marine vessel," respectively, in §115.541 and §115.542 and suggested minor wording changes to avoid misinterpretation that these vessels must be kept vaportight regardless of whether or not they were transporting VOCs.

The TNRCC agrees and has revised the wording of §115.541 and §115.542. Although §115.542(b)(1)-(2) were inadvertently not proposed for change, the TNRCC has also revised the wording in these paragraphs for consistency with the other paragraphs in §115.541 and §115.542.

Dallas commented on §115.541(a)(1) and suggested the inclusion of a definition of "stationary vessel."

This term is not used within this undesignated head. The term "stationary storage tank" is used, however. It should be noted that §115.547(2) exempts any stationary storage tank with a nominal storage capacity of less than 1,000,000 gallons. Storage tanks with a nominal storage capacity of 1,000,000 gallons or more will not be portable. Marine vessels are defined separately. Therefore, the suggested change does not appear to be necessary.

GHASP commented on §115.549(b)(c) and objected to removal of the November 15, 1996 date for these contingency rules.

The specific attainment date is being deleted because this date may be revised through future federal or congressional action. Removal of the attainment date does not affect the actual rule requirements but merely makes the rules more flexible in the event of such action.

Consumer Products. CSMA and CTFA commented on §115.614(c)(2)(D) and stated that the proposed penalty procedure should be amended to provide the TNRCC with the flexibility to assess appropriate civil penalties needed to maintain the integrity of the SIP. CSMA and CTFA strongly believed that it is inappropriate to impose an offset requirement solely as a punitive measure. CSMA indicated that a company should not be required to obtain an offset in excess of the level needed to make the necessary SIP emission reduction requirements. CTFA, however, indicated that any required offset in excess of the level needed to maintain the SIP whole should be assessed by the Executive Director, taking into account whether a company has acted in good faith when the exemption registration was sought.

The innovative product registration process is designed to provide manufacturers maximum flexibility to introduce innovative products and reduce emissions while allowing the opportunity to avoid disclosure of new products until the last possible instance. Delaying required disclosure of these products should remove the competitive pressures upon a manufacturer to enter a market before new product testing is complete. The manufacturer must know prior to registration that the emissions of an

innovative product meet the emission reduction requirements of the rule. It is left to the discretion of the manufacturer to decide when adequate testing has been done to ensure the compliance. Dispensing with pre-market approval for an innovative product places the larger share of the burden for maintaining the integrity of the SIP upon the innovative product manufacturer. A manufacturer has more diverse concerns about an innovative product than simply whether it meets emission reduction requirements. Therefore, in order to ensure a manufacturer gives proper consideration to air quality issues, the minimum sanctions for failure to comply must be certain, computable, non-negotiable, and must sufficiently discourage noncompliance.

Requiring a 2:1 offset of excess emission achieves some of these objectives, while channeling penalty dollars directly to improvements in air quality. Any particular offset will not be large, (the total emissions due to any one product in the four ozone non-attainment areas is typically about one ton a year), and the purchase of the offset is unlikely to be the only sanction imposed in instances of non-compliance. However, the 2:1 offset will allow manufacturers to estimate the minimum cost of non-compliance should an innovative product's emission reductions, or the manufacturer's demonstration of those reductions, be inadequate.

In addition to discouraging noncompliance, a 2:1 offset of excess emissions (as compared to a 1:1 offset) provides a compensatory benefit to the environment which balances the delay in achieving reductions caused by a noncompliant innovative product. The steps to recoup lost emission reductions caused by marketing a noncompliant innovative product are lengthy: Review of a manufacturer's innovative claims and usage testing, laboratory analysis of product formula, issuance of a product removal order, and finally, securing the necessary offsets.

CSMA commented that the TNRCC should amend §115.614(c)(2)(C) to allow manufacturers to supplement original test data by conducting newly-identified tests or tests requested by the TNRCC. CSMA is concerned that they may be held accountable for not conducting tests that may not have been widely accepted (or in existence) at the time that the original testing was conducted.

As noted in the response to the previous comment, the new registration process removes any pressure under these rules to introduce a new product before the manufacturer is convinced the product will meet the emission reduction requirements of the rule. The TNRCC can request additional testing data at any time, however, the manufacturer may not rely on this post-registration data to justify decisions taken prior to the creation of the data. Doing otherwise would remove incentives for manufacturers to conduct adequate testing prior to product registration.

If the TNRCC or the manufacturer determines that subsequent test methods or data more accurately demonstrate a product's emissions, nothing in these rules prohibits a manufacturer from re-registering an innovative product based upon the new information.

CTFA commented that the proposed §115.614(c)(2)(F) does not give confidential status to the information submitted in the registration form. Consequently, CTFA believes that the registration form should contain only basic information such as a

general description of the product and the facts about its status as innovative. Additional specific information requested by the TNRCC must be granted confidential status.

The confidential status of information submitted to the TNRCC is governed by the Texas Open Records Act. Under that act, the Texas Attorney General bears responsibility for determining what information, submitted to an agency as confidential, can be protected or released under the act. The TNRCC must comply with the requirements of the Open Records Act and can neither expand nor contract the protection afforded under that act.

CTFA commented that public hearings held in accordance with the Texas Administrative Procedures Act to revoke or modify an innovative product approval (§115.614(f)), shall provide the same level of protection that was initially granted under the repealed reference to §103.31 and §103.33 of this title.

Prior hearing requirements in Chapter 103 were intended to meet the minimum statutory requirements of the Administrative Procedures and Texas Register Act, (now the Administrative Procedures Act). The TNRCC repealed Chapter 103 in May of 1994 and prior references to Chapter 103 must be removed or updated. All TNRCC contested case hearings are now held before the State Office of Administrative Hearings under the consolidated hearing rules of the agency. The TNRCC is engaged in an ongoing project to update these rules, and ensure that the rules are clear, concise, necessary and make sense. Hearing requirements under the new rules must meet, and are intended to exceed, the minimum requirements of the APA. Therefore, no substantive or procedural rights related to revocation or modification hearings have been lost by this change in the innovative product rules.

EPA commented that §115.614(c)(2)(C) should be modified to allow Texas to have the right to undertake a review of a registered exemption at its own discretion, not based only on reasonable suspicion or citizen enforcement.

The TNRCC agrees with EPA's intent. Nothing, however, in these rules prohibits the TNRCC from undertaking an inspection of a registered exemption at its own discretion. The TNRCC finds no need to modify §115.614(c)(2)(C).

The EPA further commented that the TNRCC should provide the assurance that at a minimum, the Executive Director shall conduct a minimum evaluation of the suspected or reported noncompliance, to determine if the report of noncompliance has any merit.

The TNRCC agrees with EPA and has made the recommended change.

The EPA indicated that the TNRCC should be aware that this rulemaking does not grant federal innovative product waivers once the national Consumer Products rule is promulgated.

The TNRCC is aware of the consumer products national rulemaking and agrees with EPA that approval of innovative products under this rule does not constitute an approval under the national rule when the national rule is promulgated.

GHASP opposed allowing innovative products to be put on the market without being approved, as this will place the TNRCC under pressure to keep the product on the market even if it was later found to be out of compliance.

The TNRCC disagrees with GHASP. The adopted rule language under §115.614(c)(2)(D) clearly states that the innovative product shall be withdrawn from the market if found out of compliance. Furthermore, the requirement to provide VOC emission reduction credits in each nonattainment area equivalent to twice the excess emissions determined to have occurred and the civil penalties that may be assessed should provide compelling incentives for manufacturers to make sure that innovative products will continue to be in compliance with the rules over time.

Standard Construction Permits for VOC Control Projects. Amoco, DuPont, TCC, and TMOGA opposed the repeal of the standard permit in §115.950 until the industry group currently working with TNRCC has reached resolution on the need to eliminate standard permits under Chapter 115 and 117. Amoco, TCC, and TMOGA stated that they do not believe that the standard permit in Chapter 116 is redundant with the standard permit in §115.950 because the Chapter 116 requirements are more restrictive. HL&P, TCC, and TMOGA commented that Chapter 116 standard permits also include incorporation of standard permits at permit renewal, record retention requirements, registration requirements, and fee requirements. HL&P, TCC, and TMOGA also stated that repeal of §115.950 would complicate compliance requirements for those already using this standard permit.

The TNRCC has withdrawn the proposed repeal of §115.950. It is the TNRCC's intention to pursue negotiation of potential changes to Chapter 116, Subchapter F, concerning Standard Permits, concurrently with the repeal of §115.950 and §117.550, concerning Standard Construction Permits for NOx RACT Projects. The TNRCC expects that all standard permit issues can be satisfactorily addressed at that time.

Subchapter A. Definitions

30 TAC §115.10

The amendment is adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.10. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (Commission), the terms used by the Commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, the following terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Automotive basecoat/clearcoat system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion and a transparent clearcoat portion. The volatile organic compound (VOC) content of a basecoat (bc)/clearcoat (cc) system shall be calculated according to the following formula: Figure 1: 30 TAC §115.10 where: $VOC_{bc/cc}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the basecoat/clearcoat system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; and VOC_{cc} is the VOC content, in pounds of

VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive precoat (used in vehicle refinishing (body shops)) - Any coating that is applied to bare metal to deactivate the metal surface for corrosion resistance to a subsequent water-based primer. This coating is applied to bare metal solely for the prevention of flash rusting.

Automotive pretreatment (used in vehicle refinishing (body shops)) - Any coating which contains a minimum of 0.5% acid by weight that is applied directly to bare metal surfaces to etch the metal surface for corrosion resistance and adhesion.

Automotive primer or primer surfacers (used in vehicle refinishing (body shops)) - Any base coat, sealer, or intermediate coat which is applied prior to colorant or aesthetic coats.

Automotive sealers (used in vehicle refinishing (body shops)) - Coatings that are formulated with resins which, when dried, are not readily soluble in typical solvents. These coatings act as a shield for surfaces over which they are sprayed by resisting the penetration of solvents which are in the final topcoat.

Automotive specialty coatings (used in vehicle refinishing (body shops)) - Coatings or additives which are necessary due to unusual job performance requirements. These coatings or additives prevent the occurrence of surface defects and impart or improve desirable coating properties. These products include, but are not limited to, uniform finish blenders, elastomeric materials for coating of flexible plastic parts, coatings for non-metallic parts, jambing clear coatings, gloss flatteners, and anti-glare/safety coatings.

Automotive three-stage system (used in vehicle refinishing (body shops)) - A topcoat system composed of a pigmented basecoat portion, a semitransparent midcoat portion, and a transparent clearcoat portion. The volatile organic compound (VOC) content of a three-stage system shall be calculated according to the following formula: $Figure\ 2:\ 30\ TAC\ \S 115.10$ where: $VOC_{T_{3-stage}}$ is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, in the three-stage system; VOC_{bc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given basecoat; VOC_{mc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given midcoat; and VOC_{cc} is the VOC content, in pounds of VOC per gallon (less water and exempt solvent) as applied, of any given clearcoat.

Automotive wipe-down solutions (used in vehicle refinishing (body shops)) - Any solution used for cleaning and surface preparation.

Cold solvent cleaning - A batch process that uses liquid solvent to remove soils from the surfaces of metal parts or to dry the parts by spraying, brushing, flushing, and/or immersion while maintaining the solvent below its boiling point. Wipe cleaning (hand cleaning) is not included in this definition.

Conveyorized degreasing - A solvent cleaning process that uses an automated parts handling system, typically a conveyor, to automatically provide a continuous supply of metal parts to be cleaned or dried using either cold solvent or vaporized solvent. A conveyorized degreasing process is fully enclosed except for the conveyor inlet and exit portals.

External floating roof - A cover or roof in an open-top tank which rests upon or is floated upon the liquid being contained and is equipped with a single or double seal to close the space between the roof edge and tank shell. A double seal consists of two complete and separate closure seals, one above the other, containing an enclosed space between them. An external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

Gasoline bulk plant - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput equal to or greater than 20,000 gallons (75,708 liters) per day, averaged over any consecutive 30-day period. A motor vehicle fuel dispensing facility is not a gasoline bulk plant.

Gasoline terminal - A gasoline loading and/or unloading facility, excluding marine terminals, having a gasoline throughput equal to or greater than 20,000 gallons (75,708 liters) per day, averaged over any consecutive 30-day period.

High-bake coatings - Coatings designed to cure at temperatures above 194 degrees Fahrenheit.

Internal floating cover - A cover or floating roof in a fixed roof tank which rests upon or is floated upon the liquid being contained, and is equipped with a closure seal or seals to close the space between the cover edge and tank shell. An external floating roof storage tank which is equipped with a self-supporting fixed roof (typically a bolted aluminum geodesic dome) shall be considered to be an internal floating roof storage tank.

Low-bake coatings - Coatings designed to cure at temperatures of 194 degrees Fahrenheit or less.

Mechanical shoe seal - A metal sheet which is held vertically against the storage tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

Open-top vapor degreasing - A batch solvent cleaning process that is open to the air and which uses boiling solvent to create solvent vapor used to clean or dry metal parts through condensation of the hot solvent vapors on the colder metal parts.

Remote reservoir cold solvent cleaning - Any cold solvent cleaning operation in which liquid solvent is pumped to a sink-like work area that drains solvent back into an enclosed container while parts are being cleaned, allowing no solvent to pool in the work area.

Vehicle refinishing (body shops) - The repair and recoating of vehicles, including, but not limited to, motorcycles, passenger cars, vans, light-duty trucks, medium-duty trucks, heavy-duty trucks, buses, and other vehicle body parts, bodies, and cabs by a commercial operation other than the original manufacturer. The repair and recoating of trailers, construction equipment, vehicles at in-house (fleet) vehicle refinishing operations, and vehicles by private individuals are not included.

Volatile organic compound - Any compound of carbon or mixture of carbon compounds excluding methane, ethane, 1,1,1-trichloroethane (methyl chloroform), methylene chloride (dichloromethane), perchloroethylene (tetrachloroethylene), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12),

chlorodifluoromethane (HCFC-22), trifluoromethane (HFC-23), 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113), 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), 1,1,1-trifluoro-2,2-dichloroethane (HCFC-123), 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124), pentafluoroethane (HFC-125), 1,1,2,2-tetrafluoroethane (HFC-134), 1,1,1,2-tetrafluoroethane (HFC-134a), 1,1-dichloro-1-fluoroethane (HCFC-141b), 1-chloro-1,1-difluoroethane (HCFC-142b), 1,1,1-trifluoroethane (HFC-143a), 1,1-difluoroethane (HFC-152a), parachlorobenzotrifluoride (PCBTF), cyclic, branched, or linear completely methylated siloxanes, acetone, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonate, and perfluorocarbon compounds which fall into these classes:

- (A) cyclic, branched, or linear, completely fluorinated alkanes;
- (B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (D) sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

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 authority.

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Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1970

Subchapter B. General Volatile Organic Compound Sources

Storage of Volatile Organic Compound

30 TAC §§115.112, 115.114, 115.116, 115.117

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.114. Inspection Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following inspection requirements shall apply.

(1) For internal floating roof storage tanks, the internal floating roof and the primary seal or the secondary seal (if one is in service) shall be visually inspected through a fixed roof inspection hatch at least once every 12 months. If the internal floating roof is not resting on the surface of the volatile organic compounds (VOC) inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps

between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title (relating to Degassing or Cleaning of Stationary, Marine, and Transport Vessels). If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate Texas Natural Resource Conservation Commission (TNRCC) regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(a)(2)(F) of this title (relating to Control Requirements). If the secondary seal gap exceeds the limitations specified by §115.112(a)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) If the tank is equipped with a mechanical shoe or liquid-mounted primary seal, compliance with §115.112(a)(2)(F) of this title can be determined by visual inspection.

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every six months to ensure compliance with §115.112(a)(2)(E)-(H) of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank in accordance with §§115.541-115.547 of this title. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(b) For all persons in Gregg, Nueces, and Victoria Counties, the following inspection requirements shall apply.

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal

is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) For external floating roof storage tanks, the secondary seal gap shall be physically measured at least once every 12 months to insure compliance with §115.112(b)(2)(F) of this title. If the secondary seal gap exceeds the limitations specified by §115.112(b)(2)(F) of this title, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(3) If the tank is equipped with a mechanical shoe or liquid-mounted primary seal, compliance with §115.112(b)(2)(F) of this title can be determined by visual inspection.

(4) For external floating roof storage tanks, the secondary seal shall be visually inspected at least once every 12 months to insure compliance with §115.112(b)(2)(E)-(F) of this title. If the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(c) For all persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, the following inspection requirements shall apply.

(1) If during an inspection of an internal floating roof storage tank, the internal floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the internal floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair

the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

(2) If during an inspection of an external floating roof storage tank, the external floating roof is not resting on the surface of the VOC inside the storage tank and is not resting on the leg supports; or liquid has accumulated on the external floating roof; or the seal is detached; or there are holes or tears in the seal fabric; or there are visible gaps between the seal and the wall of the storage tank, within 60 days of the inspection the owner or operator shall repair the items or shall empty and degas the storage tank. If a failure cannot be repaired within 60 days and if the storage tank cannot be emptied within 60 days, the owner or operator may submit written requests for up to two extensions of up to 30 additional days each to the appropriate TNRCC regional office. The owner or operator shall submit a copy to any local air pollution control program with jurisdiction. Each request for an extension shall include a statement that alternate storage capacity is unavailable and a schedule that will assure that the repairs will be completed as soon as possible.

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 authority.

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Kevin McCalla

Director, Legal Services Division

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Vent Gas Control

30 TAC §§115.121-115.123, 115.126, 15.127, 115.129

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.126. *Monitoring and Recordkeeping Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the owner or operator of any facility which emits volatile organic compounds (VOC) through a stationary vent shall maintain records at the facility for at least two years and shall make such records available to representatives of the Texas Natural Resource Conservation Commission (TNRCC), United States Environmental Protection Agency (EPA), or any local air pollution control agency having jurisdiction in the area upon request. These records shall include, but not be limited to, the following.

(1) Records for each vent required to satisfy the provisions of §115.121(a)(1)-(3) of this title (relating to Emission Specifi-

cations) shall be sufficient to demonstrate the proper functioning of applicable control equipment to design specifications, including:

(A)-(E) (No change.)

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

(5) For bakeries affected by §115.122(a)(3)(C) and (D) of this title, the following additional requirements apply.

(A) No later than six months after the TNRCC publishes notification in the *Texas Register* as specified in §115.129(a)(4) of this title (relating to Counties and Compliance Schedules), the owner or operator of each bakery shall submit an initial control plan to the TNRCC Austin Office (Office of Air Quality), the appropriate TNRCC Regional Office, and any local air pollution control program with jurisdiction which demonstrates that the overall reduction of VOC emissions from the bakery's 1990 baseline emissions inventory will be at least 30%. At a minimum, the control plan shall include the EPN and the FIN of each bakery oven and any associated control device, a plot plan showing the location, EPN, and FIN of each bakery oven and any associated control device, and the 1990 VOC emission rates (consistent with the bakery's 1990 emissions inventory). The projected VOC emission rates shall be calculated in a manner consistent with the 1990 emissions inventory.

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

(b) (No change.)

§115.127. Exemptions.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions apply.

(1) A vent gas stream from a low-density polyethylene plant is exempt from the requirements of §115.121(a)(1) of this title (relating to Emission Specifications) if no more than 1.1 pounds of ethylene per 1,000 pounds (1.1 kg/1000 kg) of product are emitted from all the vent gas streams associated with the formation, handling, and storage of solidified product.

(2) The following vent gas streams are exempt from the requirements of §115.121(a)(1) of this title:

(A) a vent gas stream having a combined weight of volatile organic compounds (VOC) equal to or less than 100 pounds (45.4 kg) in any continuous 24-hour period;

(B) a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 0.009 pounds per square inch absolute (psia) true partial pressure (612 parts per million (ppm));

(C) until November 15, 1998 for facilities which have been assigned the code number 26 as described in the document Standard Industrial Classification (SIC) Manual, 1972, as amended by the 1977 Supplement, a vent gas stream specified in §115.121(a)(1) of this title with a concentration of VOC less than 0.44 psia true partial pressure (30,000 ppm);

(D) a vent gas stream which is subject to §115.121(a)(2), (3), or (4) of this title; and

(E) a vent gas stream which qualifies for exemption under paragraphs (3), (4), or (5) of this subsection.

(3) The following vent gas streams are exempt from the requirements of §115.121(a)(2) of this title:

(A) a vent gas stream having a combined weight of VOC equal to or less than 100 pounds (45.4 kilograms) in any continuous 24-hour period;

(B) a vent gas stream from any air oxidation synthetic organic chemical manufacturing process with a concentration of VOC less than 0.009 pounds psia true partial pressure (612 ppm); and

(C) a vent gas stream from any liquid phase polypropylene manufacturing process, any liquid phase slurry high-density polyethylene manufacturing process, and any continuous polystyrene manufacturing process with a concentration of VOC less than 0.006 psia true partial pressure (408 ppm).

(4) For synthetic organic chemical manufacturing industry (SOCMI) reactor processes and distillation operations:

(A) Any reactor process or distillation operation that is designed and operated in a batch mode is exempt from the requirements of §115.121(a)(3) of this title. For the purposes of this subparagraph, batch mode means any noncontinuous reactor process or distillation operation which is not characterized by steady-state conditions, and in which the addition of reactants does not occur simultaneously with the removal of products.

(B) Any reactor process or distillation operation operating in a process unit with a total design capacity of less than 1,100 tons per year, for all chemicals produced within that unit, is exempt from the requirements of §115.121(a)(3) of this title.

(C) Any reactor process or distillation operation vent gas stream with a flow rate less than 0.011 standard cubic meters per minute or a VOC concentration less than 500 parts per million by volume is exempt from the requirements of §115.121(a)(3) of this title.

(D) Any distillation operation vent gas stream which meets the requirements of 40 Code of Federal Regulations (CFR) 60.660(c)(4) or 60.662(c) (concerning Subpart NNN - Standards of Performance for VOC Emissions From SOCMI Distillation Operations) is exempt from the requirements of §115.121(a)(3) of this title.

(E) Any reactor process vent gas stream which meets the requirements of 40 CFR 60.700(c)(2) or 60.702(c) (concerning Subpart RRR - Standards of Performance for VOC Emissions From SOCMI Reactor Processes) is exempt from the requirements of §115.121(a)(3) of this title.

(5) Bakeries are exempt from the requirements of §115.121(a)(4) and §115.122(a)(3) of this title (relating to Emission Specifications and Control Requirements) if the total weight of VOC emitted from all bakery ovens on the property, when uncontrolled, is less than 25 tons per calendar year.

(6) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(7) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the

unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

(b) For all persons in Nueces and Victoria Counties, the following exemptions apply:

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(b) of this title:

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

(3) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(4) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

(c) For all persons in Aransas, Bexar, Calhoun, Matagorda, San Patricio, and Travis Counties, the following exemptions apply:

(1) (No change.)

(2) The following vent gas streams are exempt from the requirements of §115.121(c)(1) of this title:

(A) (No change.)

(B) a vent gas stream having a concentration of the VOC specified in §115.121(c)(1)(B) and (C) of this title less than 0.44 psia true partial pressure (30,000 ppm); and

(C) (No change.)

(3) A vent gas stream is exempt from this undesignated head (relating to Vent Gas Control) if all of the VOCs in the vent gas stream originate from a source(s) for which another undesignated head within Chapter 115 (for example, Storage of VOC) has established a control requirement(s), emission specification(s), or exemption(s) which applies to that VOC source category in that county.

(4) A combustion unit exhaust stream is exempt from this undesignated head (relating to Vent Gas Control) provided that the unit is not being used as a control device for any vent gas stream which is subject to this undesignated head and which originates from a non-combustion source.

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 authority.

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Kevin McCalla

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Subchapter C. Volatile Organic Compound Transfer Operations

Loading and Unloading of Volatile Organic Compounds

30 TAC §115.212, §115.219

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.219. Counties and Compliance Schedules.

All affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas shall be in compliance with this undesignated head (relating to Loading and Unloading of Volatile Organic Compounds) in accordance with the following schedules.

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

(5) All affected marine terminals in Hardin, Jefferson, and Orange Counties shall be in compliance with §§115.211(a), 115.212(a), 115.213(a), 115.214(a), 115.215(a), 115.216(a), and 115.217(a) of this title (relating to Emission Specifications; Control Requirements; Alternate Control Requirements; Inspection Requirements; Approved Test Methods; Monitoring and Recordkeeping Requirements; and Exemptions) as soon as practicable but no later than three years after the earliest of the following occurs:

(A) the Texas Natural Resource Conservation Commission publishes notification in the *Texas Register* of its determination that this contingency rule is necessary as a result of failure to attain the national ambient air quality standard for ozone by the attainment deadline or failure to demonstrate reasonable further progress as set forth in the 1990 Amendments to the Federal Clean Air Act, §172(c)(9);

(B) the United States Environmental Protection Agency (EPA) publishes notification in the *Federal Register* of its determination to deny the petition to redesignate the Beaumont/Port Arthur ozone nonattainment area as an ozone attainment area; or

(C) EPA publishes notification in the *Federal Register* of its determination to deny approval of the demonstration of attainment for the Beaumont/Port Arthur ozone nonattainment area based upon Urban Airshed Model modeling.

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 authority.

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Subchapter E. Solvent-Using Processes

Degreasing Processes

30 TAC §§115.412, 115.413, 115.416, 115.417, 115.419

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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Surface Coating Processes

30 TAC §§115.421-115.423, 115.425-115.427, 115.429

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§115.421. Emission Specifications.

(a) No person in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions) may cause, suffer, allow, or permit volatile organic compound (VOC) emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(13) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (10) of this subsection which are based on paneling surface area and those in paragraph (11) of this subsection which are based on the VOC content of architectural coatings sold or offered for sale. For the purposes of this undesignated head (relating to Surface Coating Processes), daily weighted average means the total weight of VOC emissions from all coatings, divided by the total volume of all coatings (minus water and exempt solvent) applied each day.

(1) Large appliance coating. VOC emissions from the application, flashoff, and oven areas during the coating of large appliances (prime and topcoat, or single coat) shall not exceed 2.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.34 kg/liter).

(2) Metal furniture coating. VOC emissions from metal furniture coating lines (prime and topcoat, or single coat) shall not exceed 3.0 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.36 kg/liter).

(3) Coil coating. VOC emissions from the coating (prime and topcoat, or single coat) of metal coils shall not exceed 2.6 pounds

per gallon of coating (minus water and exempt solvent) delivered to the application system (0.31 kg/liter).

(4) Paper coating. VOC emissions from the coating of paper (or specified tapes or films) shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(5) Fabric coating. VOC emissions from the coating of fabric shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(6) Vinyl coating. VOC emissions from the coating of vinyl fabrics or sheets shall not exceed 3.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.45 kg/liter). Plastisol coatings should not be included in calculations.

(7) Can coating. The following VOC emission limits shall be achieved, on the basis of solvent content per gallon of coating (minus water and exempt solvent) delivered to the application system: Figure 1: 30 TAC §115.421(a)(7)

(8) Vehicle coating.

(A) (No change.)

(B) VOC emissions from the coatings or solvents used in vehicle refinishing (body shops) as defined in §115.10 of this title shall not exceed the following limits, as delivered to the application system:

(i) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for primers or primer surfacers, as defined in §115.10 of this title;

(ii) 5.5 pounds per gallon (0.66 kg/liter) of coating (minus water and exempt solvent) for precoat, as defined in §115.10 of this title;

(iii) 6.5 pounds per gallon (0.78 kg/liter) of coating (minus water and exempt solvent) for pretreatment, as defined in §115.10 of this title;

(iv) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for single-stage topcoats;

(v) 5.0 pounds per gallon (0.60 kg/liter) of coating (minus water and exempt solvent) for basecoat/clearcoat systems, as defined in §115.10 of this title;

(vi) 5.2 pounds per gallon (0.62 kg/liter) of coating (minus water and exempt solvent) for three-stage systems, as defined in §115.10 of this title;

(vii) 7.0 pounds per gallon (0.84 kg/liter) of coating (minus water and exempt solvent) for specialty coatings, as defined in §115.10 of this title;

(viii) 6.0 pounds per gallon (0.72 kg/liter) of coating (minus water and exempt solvent) for sealers, as defined in §115.10 of this title; and

(ix) 1.4 pounds per gallon (0.17 kg/liter) of wipe-down solutions, as defined in §115.10 of this title.

(C) Additional control requirements for vehicle refinishing (body shops) are referenced in §115.422 of this title (relating to Control Requirements).

(9) Miscellaneous metal parts and products coating.

(A) VOC emissions from the coating of miscellaneous metal parts and products shall not exceed the following limits for each surface coating type:

(i) 4.3 pounds per gallon (0.52 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a clear coat; or as an interior protective coating for pails and drums;

(ii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a low-bake coating; or that utilizes air or forced air driers;

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as an extreme performance coating, including chemical milling maskants;

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent) delivered to the application system for all other coating applications, including high-bake coatings, that pertain to miscellaneous metal parts and products; and

(v) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a prime coat for the exterior of aircraft.

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

(10)-(11) (No change.)

(12) Surface coating of mirror backing.

(A) VOC emissions from the coating of mirror backing shall not exceed the following limits for each surface coating application method:

(i) 4.2 pounds per gallon (0.50 kg/liter) of coating (minus water and exempt solvent) delivered to a curtain coating application system;

(ii) 3.6 pounds per gallon (0.43 kg/liter) of coating (minus water and exempt solvent) delivered to a roll coating application system.

(B) (No change.)

(13) (No change.)

(b) No person in Gregg, Nueces, and Victoria Counties may cause, suffer, allow, or permit VOC emissions from the surface coating processes as defined in §115.10 of this title affected by paragraphs (1)-(9) of this subsection to exceed the specified emission limits. These limitations are based on the daily weighted average of all coatings delivered to each coating line, except for those in paragraph (9) of this subsection which are based on paneling surface area. For the purposes of this undesignated head (relating to Surface Coating Processes), daily weighted average means the total weight of VOC emissions from all coatings, divided by the total volume of all coatings (minus water and exempt solvent) applied each day.

(1) Large appliance coating. VOC emissions from the application, flashoff, and oven areas during the coating of large appliances (prime and topcoat, or single coat) shall not exceed 2.8

pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.34 kg/liter).

(2) Metal furniture coating. VOC emissions from metal furniture coating lines (prime and topcoat, or single coat) shall not exceed 3.0 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.36 kg/liter).

(3) Coil coating. VOC emissions from the coating (prime and topcoat, or single coat) of metal coils shall not exceed 2.6 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.31 kg/liter).

(4) Paper coating. VOC emissions from the coating of paper (or specified tapes or films) shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(5) Fabric coating. VOC emissions from the coating of fabric shall not exceed 2.9 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.35 kg/liter).

(6) Vinyl coating. VOC emissions from the coating of vinyl fabrics or sheets shall not exceed 3.8 pounds per gallon of coating (minus water and exempt solvent) delivered to the application system (0.45 kg/liter). Plastisol coatings should not be included in calculations.

(7) Can coating. The following VOC emission limits shall be achieved, on the basis of solvent content per gallon of coating (minus water and exempt solvent) delivered to the application system: Figure 2: 30 TAC §115.421(b)(7)

(8) Miscellaneous metal parts and products coating.

(A) VOC emissions from the coating of miscellaneous metal parts and products shall not exceed the following limits for each surface coating type:

(i) 4.3 pounds per gallon (0.52 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a clear coat; or as an interior protective coating for pails and drums;

(ii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as a low-bake coating; or that utilizes air or forced air driers;

(iii) 3.5 pounds per gallon (0.42 kg/liter) of coating (minus water and exempt solvent) delivered to the application system as an extreme performance coating, including chemical milling maskants; and

(iv) 3.0 pounds per gallon (0.36 kg/liter) of coating (minus water and exempt solvent) delivered to the application system for all other coating applications, including high-bake coatings, that pertain to miscellaneous metal parts and products;

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

(9) (No change.)

§115.423. Alternate Control Requirements.

(a) For all affected persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following alternate control requirements may apply:

(1) Emission calculations for surface coating operations performed to satisfy the conditions of §101.23 of this title (relating

to Alternate Emission Reduction "Bubble" Policy), §115.910 of this title (relating to Availability of Alternate Means of Control), or other demonstrations of equivalency with the specified emission limits in this section shall be based on the pounds of volatile organic compounds (VOC) per gallon of solids for all affected coatings. The following equation shall be used to convert emission limits from pounds of VOC per gallon of coating to pounds of VOC per gallon of solids: Figure 3: 30 TAC §115.423(a)(1)

(2) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria, such as use of improved transfer efficiency in this section, may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

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

(b) For all affected persons in Gregg, Nueces, and Victoria Counties, the following alternate control requirements may apply:

(1) Emission calculations for surface coating operations performed to satisfy the conditions of §101.23 of this title, §115.910 of this title, or other demonstrations of equivalency with the specified emission limits in this section shall be based on the pounds of VOC per gallon of solids for all affected coatings. The following equation shall be used to convert emission limits from pounds of VOC per gallon of coating to pounds of VOC per gallon of solids: Figure 4: 30 TAC §115.423(b)(1)

(2) Any alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria, such as use of improved transfer efficiency in this section, may be approved by the Executive Director in accordance with §115.910 of this title if emission reductions are demonstrated to be substantially equivalent.

(3) (No change.)

(4) For any surface coating process or processes at a specific property the Executive Director may approve requirements different from those in §115.421(b)(8) of this title based upon his determination that such requirements will result in the lowest emission rate that is technologically and economically reasonable. When he makes such a determination, the Executive Director shall specify the date or dates by which such different requirements shall be met and shall specify any requirements to be met in the interim. If the emissions resulting from such different requirements equal or exceed 25 tons a year for a property, the determinations for that property shall be reviewed every two years. Executive Director approval does not necessarily constitute satisfaction of all federal requirements nor eliminate the need for approval by the EPA in cases where specified criteria for determining equivalency have not been clearly identified in applicable sections of this chapter.

§115.426. *Monitoring and Recordkeeping Requirements.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following recordkeeping requirements shall apply:

(1) Any person affected by §115.421(a) of this title (relating to Emission Specifications) shall satisfy the following recordkeeping requirements.

(A) (No change.)

(B) Records shall be maintained of the quantity and type of each coating and solvent consumed during the specified averaging period. Such records shall be sufficient to calculate the applicable weighted average of VOC for all coatings. As an alternative to the recordkeeping requirements of this subparagraph, any vehicle refinishing (body shop) operation affected by §115.421(a)(8)(B) of this title may substitute the recordkeeping requirements specified in Standard Exemption 124 as referenced in §116.211 of this title (relating to Standard Exemption List) provided that all coatings and solvents meet the emission limits of §115.421(a)(8)(B) of this title. If an affected vehicle refinishing (body shop) operation uses any coating(s) or solvent(s) which exceeds the limits of §115.421(a)(8)(B) of this title, then that vehicle refinishing (body shop) operation shall maintain daily records of the quantity and type of each coating and solvent consumed in sufficient detail to calculate the daily weighted average of VOC for all coatings and solvents.

(C)-(D) (No change.)

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

(b) (No change.)

§115.427. *Exemptions.*

(a) For the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following exemptions shall apply:

(1) The following coating operations are exempt from the application of §115.421(a)(9) of this title (relating to Emission Specifications):

(A) exterior of fully assembled aircraft, except as required by §115.421(a)(9)(A)(v) of this title;

(B) vehicle refinishing (body shops), except as required by §115.421(a)(8)(B) and (C) of this title;

(C) exterior of fully assembled marine vessels; and

(D) exterior of fully assembled fixed offshore structures.

(2) (No change.)

(3) The following exemptions shall apply to surface coating operations, except for aircraft prime coating controlled by §115.421(a)(9)(A)(v) of this title and vehicle refinishing (body shops) controlled by §115.421(a)(8)(B) and (C) of this title.

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

(4) (No change.)

(5) Automobile refinishing facilities in Hardin, Jefferson, and Orange Counties are exempt from the requirements of §115.421(a)(8)(B) of this title and §115.422(1) and (2) of this title (relating to Control Requirements).

(b) For Gregg, Nueces, and Victoria Counties, the following exemptions shall apply:

(1) (No change.)

(2) The following coating operations are exempt from the application of §115.421(b)(8) of this title:

(A) (No change.)

(B) vehicle refinishing (body shops);

- (C) exterior of fully assembled marine vessels; and
- (D) exterior of fully assembled fixed offshore structures.

(3) The following coating operations are exempt from the application of §115.421(b)(9) of this title:

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

§115.429. Counties and Compliance Schedules.

(a) All wood parts and products surface coating affected by §115.421(a)(13) of this title (relating to Emission Specifications) in Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Galveston, Harris, Liberty, Montgomery, Tarrant, and Waller Counties shall be in compliance with this undesignated head (relating to Surface Coating Processes) as soon as practicable, but no later than November 15, 1996.

(b) For persons affected by the change from gallon of solids to gallon of coating (minus water and exempt solvents) for calculating VOC content in §115.421 of this title, any coating operation which does not meet the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) in §115.421 of this title but which meets the emission limits (pounds of VOC per gallon of solids) in §115.421 of this title (as in effect June 16, 1995) shall be in compliance with the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) in §115.421 of this title as soon as practicable, but no later than December 31, 1996. All such coating operations shall continue to comply with the emission limits (pounds of VOC per gallon of solids) in §115.421 of this title (as in effect June 16, 1995) until these coating operations are in compliance with the emission limits (pounds of VOC per gallon of coating, minus water and exempt solvent) under §115.421 of this title.

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 authority.

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 For further information, please call: (512) 239-1970

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Graphic Arts (Printing) by Rotogravure and Flexographic Processes

30 TAC §§115.433, 115.435-115.437, 115.439

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 authority.

Issued in Austin, Texas, on February 15, 1996.

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Offset Lithographic Printing

30 TAC §§115.442, 115.443, 115.445, 115.446

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 authority.

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**Subchapter F. Miscellaneous Industrial Sources
 Cutback Asphalt**

30 TAC §§115.512, 115.513, 115.517

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 authority.

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Degassing or Cleaning of Stationary, Marine, and Transport Vessels

30 TAC §§115.541-115.543, 115.546, 115.547, 115.549

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to

adopt rules consistent with the policy and purposes of the TCAA.

§115.541. Emission Specifications.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas as defined in §115.10 of this title (relating to Definitions), the following emission specifications shall apply to degassing during or in preparation of cleaning.

(1) (No change.)

(2) For all transport vessels, as defined in §115.10 of this title, with a nominal storage capacity of 8,000 gallons or more:

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

(C) When conducting degassing or cleaning operations, no avoidable liquid or gaseous leaks, as detected by sight or sound, shall originate from the degassing or cleaning operations;

(D) (No change.)

(E) All transport vessels, as defined in §115.10 of this title, shall be kept vapor-tight at all times until the VOC vapors remaining in the vessel are discharged to a vapor control system.

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston areas, the following emission specifications shall apply to degassing during or in preparation of cleaning for all marine vessels, as defined in §115.10 of this title, which have a nominal storage capacity of 10,000 barrels (420,000 gallons) or more and contain VOCs.

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

(5) All marine vessels, as defined in §115.10 of this title, containing VOCs shall have all cargo tank closures properly secured, or maintain a negative pressure within the tank when a closure is opened, and shall have all pressure/vacuum relief valves operating within certified limits as specified by classification society or flag state until the vapors are discharged to a vapor control system if the vessel is degassed or cleaned.

§115.542. Control Requirements.

(a) For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, the following control requirements shall apply to stationary storage tanks and transport vessels.

(1) No person shall permit the degassing or cleaning of volatile organic compounds (VOC) from a stationary storage tank or transport vessel unless the vapors are processed by a vapor control system.

(2) When degassing or cleaning is effected through the hatches of a transport vessel with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch. A means shall be provided to minimize liquid drainage from the degassing or cleaning device when it is removed from the hatch of any transport vessel or to accomplish drainage before such removal.

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

(5) Vapors shall be routed to the control device until a turnover of at least four vapor space volumes has occurred, or four

turnovers of the vapor space under a floating roof, or the partial vapor pressure is less than 0.5 psia (19,000 ppmw, or 34,000 ppmv expressed as methane). After one of these conditions has been satisfied, the storage vessel may be vented to the atmosphere for the remainder of the degassing or cleaning process.

(b) For all persons in the Beaumont/Port Arthur and Houston/Galveston areas, the following control requirements shall apply to marine vessels:

(1) No person shall permit the degassing or cleaning of a marine vessel containing VOCs unless the vapors are processed by a vapor control system.

(2) When degassing or cleaning is effected through the hatches of a marine vessel containing VOCs with a loading arm equipped with a vapor collection adapter, then pneumatic, hydraulic, or other mechanical means shall be provided to force a vapor-tight seal between the adapter and the hatch, or a negative pressure inside the cargo tank shall be maintained. A means shall be provided to minimize liquid drainage from the degassing or cleaning device and line when they are removed from the hatch of any marine vessel containing VOCs or to accomplish drainage before such removal.

(3) (No change.)

(4) Vapors shall be routed to the control device until the marine vessel is stripped VOC liquid-free and a turnover of at least four vapor space volumes has occurred, the partial vapor pressure is less than 0.5 psia (19,000 ppmw, or 34,000 ppmv expressed as methane), or the concentration of VOC is less than 20% of lower explosion limit. After one of these conditions has been satisfied, the marine vessel may be vented to the atmosphere for the remainder of the degassing or cleaning process. §115.543. Alternate Control Requirements. For all persons in the Beaumont/Port Arthur, Dallas/Fort Worth, El Paso, and Houston/Galveston areas, alternate methods of demonstrating and documenting continuous compliance with the applicable control requirements or exemption criteria in this undesignated head may be approved by the Executive Director in accordance with §115.910 of this title (relating to Availability of Alternate Means of Control) if emission reductions are demonstrated to be substantially equivalent.

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 authority.

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TRD-9602217

Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

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Subchapter G. Consumer-Related Sources

Consumer Products

30 TAC §§115.600, 115.614, 115.617

The amendments are adopted under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to

adopt rules consistent with the policy and purposes of the TCAA.

§115.614. Innovative Products.

(a) A consumer product shall be exempt from the requirements of §115.612(a) of this title (relating to Control Requirements) if a manufacturer demonstrates to the satisfaction of the Executive Director that, due to some characteristic of the product formulation, design, delivery systems, or other factors, the use of the product will result in equal or less volatile organic compounds (VOC) emissions as compared to:

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

(b) (No change.)

(c) A manufacturer shall comply with one of the following paragraphs for any exemption claimed under this section.

(1) A manufacturer may apply in writing to the Executive Director for a pre-market approval of an exemption as follows:

(A) The application shall include the supporting documentation that demonstrates the emissions from the innovative product, including the actual physical test methods used to generate the data and, if necessary, the consumer testing undertaken to document product usage. In addition, the applicant must provide any information necessary to enable the Executive Director to establish enforceable conditions for granting the exception including the VOC content for the innovative product, and test methods for determining the VOC content. Information submitted to the Texas Natural Resource Conservation Commission (TNRCC or Commission) by an exemption applicant may be claimed as confidential, and if so claimed, shall be protected from public disclosure to the extent allowed under the Texas Open Records Act.

(B) Within 30 days of receipt of the exemption application the Executive Director shall determine whether an application is complete.

(C) Within 90 days after an application has been deemed complete, the Executive Director shall determine whether, under what conditions, and to what extent, an exemption from the requirements of §115.612(a) of this title will be permitted. The applicant and the Executive Director may mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Executive Director shall notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from the product will meet the emissions reductions specified in subsection (a) of this section, and that such emissions reductions can be enforced.

(D) If an applicant has been granted an exemption for an innovative product by another state or federal agency whose criteria for exemption meet or exceed those provided for in subsection (a) of this section, the applicant may submit such an exemption as part of the application under this section. In such a case, the Executive Director shall make its determination under subsection (e) of this section within 45 days after the application has been deemed complete.

(E) In granting an exemption for a product, the Executive Director shall establish conditions that are enforceable. These conditions may include the VOC content of the innovative product, dispensing rates, application rates, and any other parameters deter-

mined by the Executive Director to be necessary. The Executive Director shall also specify the test methods for determining conformance to the conditions established. The test methods shall include criteria for reproducibility, accuracy, sampling, and laboratory procedures.

(F) All exemptions previously granted by the Executive Director in accordance with this section, as adopted effective May 27, 1994, are deemed to be approved under this paragraph.

(2) In lieu of applying for pre-market approval under paragraph (1) of this subsection, a manufacturer may register a claim for an exemption. A consumer product shall be exempt from the requirements of §115.612(a) of this title if:

(A) The product meets the requirements of subsections (a) and (b) of this section, and the manufacturer files a registration document in writing with the Executive Director, certifying that the emissions meet these requirements, and provides the information required in subparagraph (B) of this paragraph. Retail sales in Texas of the innovative product may commence five (5) working days after receipt of the registration document by the Executive Director. Affirmative approval of the registration by the TNRCC is not required.

(B) An innovative product registration must briefly set forth any claims which form the basis for the innovative nature of the product, such as product formulation, design, delivery system, usage directions, or other factors. Additional claims not set forth in the registration may not be used to establish the innovative nature of the product, however, a manufacturer may subsequently provide additional elaboration as to the details of registered claims as necessary to satisfy an evaluation. Prior to registration, a manufacturer must have sufficiently tested the product to clearly establish the product's VOC emissions and innovative nature.

(C) If noncompliance of a registered innovative product is reported to or otherwise suspected by the TNRCC, then the TNRCC may institute an evaluation of the manufacturer's registration claims to determine if the report of noncompliance has any merit. Under this evaluation, the manufacturer shall be required to provide basic information supporting or not supporting a product's innovative claims to the Executive Director. The Executive Director may also require additional review of supporting documentation, until the Executive Director is satisfied with the legitimacy of the innovative claims. Information submitted to the Executive Director pursuant to an evaluation may be claimed as confidential, and if so claimed, shall be protected from public disclosure to the extent allowed under the Texas Open Records Act. Additional testing, completed after the submittal of an innovative product registration, may not be used to further substantiate the manufacturer's claims.

(D) If, through an evaluation, the Executive Director determines that a registered innovative product is non-compliant with the innovative product provisions under subsection (a) of this section, then the manufacturer shall be required to purchase or provide VOC emission reduction credits in each nonattainment area equivalent to twice the excess emissions determined to have occurred in the respective nonattainment area due to sale of the non-compliant product. The manufacturer shall also be required to reformulate or withdraw the non-compliant product from the market in Texas. Civil penalties may also be assessed.

(E) Neither pre-market review nor subsequent evaluation shall create an enforcement waiver and the TNRCC may revisit

innovative claims at any time the Executive Director has reason to believe that substantive circumstances have changed.

(F) The Executive Director will not consider, and the applicant may not rely upon, innovative product claims or other information submitted as confidential on a registration document.

(d) For any product for which an exemption has been granted or registration filed pursuant to this section, the manufacturer shall notify the Executive Director in writing no less than 30 days prior to any change in the product formulation, recommended product usage directions, or any information which would alter the emissions estimates submitted to the Executive Director in support of the exemption application or registration.

(e) If VOC standards are lowered for a product category through any subsequent rulemaking, all innovative product exemptions granted or registrations filed for products in the product category, except as provided in this subsection, shall have no force and effect as of the effective date of the modified VOC standard. This subsection shall not apply to innovative products which have VOC emissions less than representative products using the new VOC standard, for which a written notification of the product's emissions status versus the lowered VOC standard has been submitted to the Executive Director before the effective date of such standard, or to products manufactured prior to the effective date of the modified standard under a valid innovative product exemption or registration.

(f) If the Executive Director believes that a consumer product for which an exemption has been granted no longer meets the criteria for an innovative product specified in subsection (a) of this section, the Executive Director may modify or revoke the exemption as necessary to assure that the product will meet these criteria.

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 authority.

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Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

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For further information, please call: (512) 239-1970



Chapter 116. Control of Air Pollution by Permits for New Construction or Modification

The Texas Natural Resource Conservation Commission (TNRCC) adopts amendments to §116.10, concerning General Definitions, and §116.116, concerning Changes to Facilities; the repeal of §116.117, concerning Distance Limitations; and new §116.112, concerning Distance Limitations, §116.117, concerning Documentation and Notification of Changes to Qualified Facilities, and §116.118, concerning Pre-change Qualification. Sections 116.10, 116.116, 116.117, and 116.118 are adopted with changes to the proposed text as published in the October 10, 1995, issue of the *Texas Register* (20 TexReg 8306). The repeal and §116.112 are adopted without changes

and will not be republished. Section 116.119 is withdrawn by the TNRCC.

The TNRCC permit amendment and alteration criteria and procedures are being modified pursuant to Senate Bill 1126 (74th Legislature, 1995). The modified language will implement Senate Bill 1126 (SB 1126) to allow certain facilities the ability to make changes without requiring prior authorization.

Revisions to §116.10, concerning General Definitions, amend the current definition of new source (now new facility) and add the proposed new definitions for actual emissions, allowable emissions, Best Available Control Technology (BACT), facility, grandfathered facility, maximum allowable emission rate table, modification of existing facility, qualified facility, and source. The proposed definition for non-qualified facility was deleted as unnecessary from the adopted rule. The proposed definitions for relatively equivalent compound and net increase in allowable emissions were also deleted, however the concepts have been incorporated into the adopted §116.116(e). Definitions for grandfathered facility, facility, and source were added to the rule to clarify the meanings of these terms.

Revisions to §116.116, concerning Changes to Facilities, establish the criteria by which changes at qualified facilities may be made without triggering the requirements for obtaining a permit amendment or permit alteration. To make the requirements easier to understand, new §116.116(e) consolidates in one location the principal provisions which cover changes made to qualified facilities. These provisions include the criteria for facility qualification and the methods for determining the net effect of emission increases and decreases, compound interchanges, and intraplant trading of emissions. This section explicitly prohibits the construction of new facilities or the lessening of controls since neither was intended to be included within the flexibility intended under SB 1126. It also requires facilities to install current BACT if the purpose of the installation is to become a qualified facility.

Revisions to §116.117, concerning Documentation and Notification of Changes to Qualified Facilities, establish the requirement for record keeping of all changes made under the adopted §116.116(e) at the facility and the types of notification associated with specific scenarios. Section 116.117(a) requires that the records be maintained on-site and that they are presented to the TNRCC upon request in order to make proper inspection of the changes made at the facility. Section 116.117(a) also identifies the type of information to be included in these records. There are three types of notification required under §116.117(b) for changes to facilities: an annual report, which covers the previous year's changes not notified by the other two means; post-change notification, which covers changes for which there was an intraplant trade of emissions below the reportable limit; and pre-change notification, which covers intraplant trades above the reportable limit. The reportable limit has been established as a screening approach to allow the commission an opportunity to review certain intraplant trades. Section 116.117(d) was established to provide another method, in addition to permit alteration procedures, for those permitted facilities making changes pursuant §116.116(e) that would result in a violation of a permit special condition. This subsection requires a permit holder to identify the permit special conditions that are made invalid by a change made pursuant §116.116(e) and de-

note the necessary revision to the special condition or desire to remove the special condition from the permit.

Revisions to §116.118, concerning Pre-change Qualification, provide the conditions under which a facility must establish with the TNRCC that the facility is qualified. This section directs these facilities to submit documentation describing the basis for qualification.

New §116.112, concerning Distance Limitations, relocates the current rule language from §116.117 to this new section. This recommendation is made to allow for a more logical presentation of Chapter 116.

The TNRCC has prepared a Takings Impact Assessment for these rules pursuant to the Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rule is to provide for changes in permitting requirements for existing qualified facilities as allowed by Senate Bill 1126. The rules will substantially advance this specific purpose by making the necessary revisions to current regulations covering changes to facilities and by developing new definitions that assist in the implementation of these changes. Further, the amendments incorporate a new mechanism for notification to the TNRCC of changes at facilities qualified for the flexibility provided by SB 1126. Promulgation and enforcement of these rules will not affect private real property which is the subject of the rules because the permit amendment and notification processes are considered operational, not capital cost borne by the affected parties of these rules.

A total of 18 interested parties submitted written testimony on the proposal: Eastman Chemical Company (Eastman); Exxon Company USA (Exxon); Houston Lighting and Power (HL&P); Phillips 66 Company; Texas Chemical Council (TCC); Texas Mid-continent Oil and Gas Association (TMOGA); EC-Applied, Inc.; American Electronics Association (AEA); Central and South West Services, Inc. (CSWS); Enron Operations Corporation (Enron); Amoco; and Union Carbide Corporation (Carbide). Brown McCarroll & Oaks Hartline (Brown) and Texas Utilities Services, Inc. (TU Services) generally supported the intent of the proposed revisions, but suggested changes or clarifications. An individual submitted an option for determining "Relatively Equivalent Compound." The United States Environmental Protection Agency (EPA) submitted comments on the proposal and items of concern it suggested be addressed in the public record, but did not indicate support or opposition to the proposal. The City of Dallas submitted comments, but did not support or oppose the proposal. Galveston-Houston Association for Smog Prevention (GHASP) requested that the entire proposal be withdrawn.

General Comments. Carbide suggested that a small section of permit engineers be created to work on pre-change notifications, and on some of the BACT issues.

The TNRCC recognizes that staff resources will be necessary to review requests related to this rulemaking.

Exxon, Enron, and Carbide suggested the TNRCC quickly move to address allowable emissions from grandfathered facilities that are not considered qualified. This action will impact the way that facilities will be treated under the operating permits program. CSWS wants this issue addressed in this rulemaking and also

stated that the grandfathered rate definition for the natural gas industry would be appropriate for non-qualified grandfathered acid rain units. Carbide suggested that TNRCC action on this issue is needed to resolve confusion for the regulated community.

Currently, grandfather rates are defined in 30 TAC Chapter 122 for the purposes of determining potential to emit for Title V applicability. Discussions have taken place in which it has been suggested that this language be moved from Chapter 122 to Chapter 116. This suggested change, however, is outside the scope of this rule proposal. The TNRCC appreciates the concern raised by the commenters.

Phillips 66 suggested another comment period due to the complexity of the rules and the overlap between major and minor New Source Review and Prevention of Significant Deterioration.

This proposal does not affect Prevention of Significant Deterioration applicability of review. It is necessary to enact this proposal as soon as possible in order to implement the changes to the statute that resulted from the last legislative session. An additional comment period would serve to delay this effort.

TMOGA/TCC provided language for a new subsection, §116.116(e), which covers changes to qualified facilities. The purpose of this subsection is to consolidate in one location the principal provisions of SB 1126 regarding the flexibility provided to qualified facilities to make physical and operational changes. These provisions are: net increases in allowable emissions; air contaminants not previously emitted; notification requirements; excluded changes; additional controls for qualification purposes; and intraplant trading of allowable and actual emissions. Brown recommended that similar changes be made.

The TNRCC accepts the proposed change and feels that the format is easier to understand. However, it should be noted that the language has not been accepted verbatim.

Eastman, GHASP, EPA, and EC-Applied, Inc. requested that the guidance document undergo public review and comment or at least, the public should be given adequate notice prior to changes to the guidance document.

The TNRCC intends to make draft versions of the guidance document available on the TNRCC bulletin board. Concerns and comments will be accepted on the guidance document.

Amoco, Enron, AEA, Exxon, and HL&P supported the recommendations of TMOGA/TCC.

The TNRCC acknowledges the support from these groups for the changes recommended by TMOGA.

Section 116.10. General Definitions comments are as follows. Phillips 66 requested that the TNRCC explain the interaction of §116.10 definitions with those in §116.12 specifically for terms such as "actual emissions" and "actual emissions rate."

The newly adopted definitions in §116.10 are relevant in all sections of Chapter 116 with the exception of §116.150, concerning Nonattainment Review as is the case for the current definitions in §116.10. The definition of "actual emissions" in §116.10, however, restricts its applicability to §116.116(e).

TMOGA/TCC and an individual suggested a definition for grandfathered facility from the Texas Clean Air Act (TCAA) for inclusion in the rule, since it is a term used within other parts of the proposed rule.

A definition for grandfather facility has been included.

Brown recommended that the TNRCC add statutory definitions for "facility" and "source" to the rule proposal.

The TNRCC agrees and has made the changes to the proposal.

Regarding the definition of actual emissions rate, Carbide suggested that the TNRCC clarify the phrases "prior to change" and "federal or state emissions limitations."

"Change" is a term that is currently used in the regulations and is intended to indicate that requirements are to be met prior to commencement of construction of a physical change or prior to making an operational change. Federal and state emission limitations would include those limits in federal or state permits or any limit that may apply to a facility in a state or federal regulation. The TNRCC does not feel that a change is needed to the proposed language to make these terms clear.

TMOGA/TCC suggested word changes and additions to clarify the definition and make it more consistent with the statute and implementing rules. TMOGA/TCC also suggested this definition apply only to intraplant trading involving actual emissions from other qualified facilities. Further, TMOGA/TCC recommended that the TNRCC add language to the rule which requires intraplant trades to be expressed in the same time periods, e.g., pounds per hour or tons per year.

The TNRCC agrees and has made the proposed changes.

Brown requested the deletion of the term "rate" since the language of the statute does not use the term. Brown also suggested that the TNRCC add language to the rule which requires intraplant trades to be expressed in the same time periods on emissions.

The TNRCC agrees and has made the proposed changes.

TMOGA/TCC, TU Services, and Eastman recommended that the January 1, 1990, restriction in determining actual emissions be deleted. Eastman supports the flexibility offered by the 120-month window for determining actual emission rates from qualified facilities with no permitted allowable emission rate.

The TNRCC agrees and has deleted the appropriate language.

GHASP disagreed with the approach for determining actual emission rates which allows facilities to use the highest annual rate for anytime in the past ten years.

The statute does not specifically speak to the relevant time period for establishing a facility's actual emissions. The statute does use a 120-month period for qualifying facilities based on control technology. Some time period must be used, and therefore the TNRCC feels it is reasonable to follow the 120-month precedent established in the statute.

Regarding the definition of allowable emission rate, the City of Dallas raised a concern that the rule proposal will reduce agency awareness of emission changes on a timely basis.

Notification is required for changes that result in intraplant trading. This provides adequate notice of significant emission changes. Other changes either result in insignificant emission trading or do not exceed previously established allowables. Records of these changes must be maintained on-site and must be made available to the TNRCC upon request. Additionally, changes that don't require notification are required to be reported to the TNRCC annually.

GHASP opposed allowing facilities to maintain their maximum allowable emission rate after implementation of controls.

This rule language is intended to implement the statutory change that allows the consideration of reductions made in determining if an increase in emissions had occurred.

Brown requested the removal of the term "rate" since the language of the statute does not use the term and recommended language to clarify the definition.

The TNRCC agrees and has made the proposed change.

Regarding the definition of allowable emission rate for a qualified grandfathered facility, TMOGA/TCC suggested changes and additions to clarify the meaning of the definition and make it more consistent with the statute and implementing rules. For grandfathered facilities installing BACT to become a qualified facility, TMOGA/TCC recommended that 10% of pre-control maximum annual emissions rate be added to the facility's allowable emission.

The TNRCC agrees and has made the proposed change.

The City of Dallas questioned whether this definition was intended to include the application of control technology for allowable emission rate determinations.

Yes, the intent was to reflect that a reduction in emission potential had occurred as a result of the additional controls.

Regarding the definition of allowable emission rate for a qualified facility voluntarily installing controls, the EPA requested that the TNRCC explain the approach of allowing a facility to keep its pre-control allowable emission rate when the facility's potential to emit would be lower after the voluntary installation of controls. Further, the EPA requested that the rule specify that reductions from the old allowable emission rate not be used to satisfy provisions for netting and offsetting associated with permitting for Prevention of Significant Deterioration (PSD) and nonattainment (NA) areas.

The purpose of this rulemaking is to implement the changes to state New Source Review as a result of SB 1126. Senate Bill 1126 allows a facility to install controls at the same time physical and operational changes are made in order to avoid a "net" increase in allowable emissions.

The TNRCC recognizes, however, that some of these changes that are now exempt from the state definition of modification may require federal PSD or NA review. The adopted rules require that a facility verify that a change will not require federal review. This rule does not affect federal permitting applicability or requirements. It is TNRCC's position that the use of reductions to net out of state New Source Review does not affect its creditability for federal review. Therefore, any reduction in emissions that may result at a source is available

for netting and offsetting only if it satisfies the creditability criteria established under the PSD and NA regulations.

Regarding the definition of BACT, TMOGA/TCC suggested that BACT would be expressed better as an emissions limitation rather than a specified control technology.

The acronym BACT was included simply to be substituted for the phrase as defined. The term is not intended to imply a particular control technology, but rather the best level of control that can be achieved considering technical practicability and economic reasonableness. An emissions limitation is established based on the application of BACT which is reflected as an allowable emission rate in a permit. The TNRCC does not feel that it is appropriate to define BACT as an emissions limitation due to various factors that determine each individual facility's emissions limitation.

The EPA recommended that the TNRCC modify the definition of BACT to make it consistent with the federal definition or explain the justification for the difference. Further, EPA suggested the TNRCC indicate how the different definitions are equivalent.

The term "BACT" added as part of this rule amendment is consistent with its use in the TCAA, existing TNRCC regulations, the State Implementation Plan, in the PSD delegation agreement, and in the annual grant agreements with the EPA. The TNRCC believes this represents a long historical understanding of how BACT is characterized in Texas.

Brown suggested language to correct the proposed definition since the term being defined is used within the definition.

It was not the intention of staff to define BACT, as a specific level of control, but rather to define the acronym BACT as it is used by the TNRCC.

Regarding the definition of maximum allowable emissions rate table (MAERT), TMOGA/TCC and Brown suggested language changes to specify that the maximum allowable emission rate table is that which is issued with a preconstruction permit.

The TNRCC agrees and has made proposed change.

Regarding the definition of modification of existing facility, Carbide and Phillips 66 suggested that TNRCC more clearly define the term "facility" because there is confusion regarding the ability to net emissions. Carbide requests that the TNRCC prepare a BACT guidance document and make it accessible through various media.

The TNRCC agrees and has added the statutory definition for the term "facility" to the definitions in §116.10. The TNRCC is in the process of developing a guidance document that will explain to the regulated community how to determine if a physical or operational change at a facility is exempt from the definition of modification consistent with SB 1126. As part of this guidance document, the TNRCC will publish a list of historical BACT requirements and will provide guidance on netting of emissions between facilities. The document will be available through the TNRCC electronic bulletin board and in hard copy upon request.

Phillips 66; EPA, and GHASP requested more clarity on the term "insignificant increase" and the basis for its determination.

The term "insignificant increase" is an existing term under the definition of "modification" in the TCAA. The TNRCC

is not proposing to change the definition or undertake a new interpretation of the existing statute. TNRCC's current mechanism for authorizing insignificant sources is through standard exemption. As of yet, there is no established level of emissions that the TNRCC considers to be "insignificant."

TMOGA/TCC and Brown suggested updating the language to reflect the current organization of TNRCC. TMOGA/TCC and Brown suggested language to clarify that facility qualification on the basis of BACT applies to those facilities that do not satisfy the criteria for qualification on the basis of a permit, permit amendment, or standard exemption. Brown recommended that language be deleted to remove redundancy with the definition of BACT.

The TNRCC agrees and has made the proposed changes.

Eastman suggested that other parts of Chapter 116 referencing standard exemptions as modifications be changed to be consistent with the definition of "modification of existing facility" in §116.10. Eastman also requested that the definition of modification also be changed so that an increase in the hours of operations at a permitted or exempted facility would not be considered a modification if the additional operating time was previously authorized. Eastman also suggested that the definition be changed as to exclude relatively equivalent compounds from those air contaminants judged not to be previously emitted.

This rulemaking package is intended to implement the changes to the statute that resulted from SB 1126. The portion of the definition of modification that refers to standard exemptions existed prior to the passage of SB 1126. It is not staff's intent to review issues related to the existing statute and the language in Chapter 116 dealing with standard exemptions at this time. Staff does not believe that the definition of modification needs to be changed to include language that an increase in operating hours at a permitted or exempted facility is not a modification. As long as the facility does not exceed previous representations regarding operating hours, under existing rule language, this would not be considered a modification. The language proposed for the definition of modification is directly from the statute. The definition of relatively equivalent compound has been deleted and the concept of interchanging equivalent compounds was placed in §116.116(e).

The City of Dallas had a serious concern regarding how the term "insignificant increases" could be interpreted, especially as applied to toxic emissions. The City of Dallas suggested that the TNRCC apply Standard Exemption 118 requirements to these speciated chemicals.

The term "insignificant increase" is an existing term under the definition of modification in the TCAA. The TNRCC is not proposing to change the definition or undertake a new interpretation of the existing statute. The TNRCC's current mechanism for authorizing insignificant sources is through standard exemption as previously explained.

GHASP indicated that documenting BACT over the past ten years would be unworkable because of the case-by-case approach the TNRCC took regarding BACT.

To the extent possible, the TNRCC intends to make information available on historical BACT determinations. The rule prescribes in §116.118, pre-change qualification for those facilities for which BACT cannot be documented or that vary from the historical list. This pre-change qualification allows the agency to consider demonstrations made by the owner/operator that the facilities in question are qualified on the basis of having BACT equivalent to what would have been required 120 months prior to a change.

Enron indicated that this definition could resolve the grandfathered status of natural gas facilities.

The TNRCC agrees that the definition clarifies the types of changes these facilities can make without those changes being considered a modification.

Regarding the definition of net increase in allowable emissions, TMOGA/TCC recommended the removal of this term with the provision that this language be included in their proposed §116.116(e).

The TNRCC agrees and has made the proposed change.

Phillips 66 requested clarification on which baseline levels of emissions to use when calculating the net effect of a change to an existing facility.

In determining if a modification has occurred, there must first be a physical or operational change. A qualified facility is not modified if a physical or operational change does not result in an increase above its authorized allowable. Likewise, a facility is not considered modified if sufficient decreases can be found from other qualified facilities so that a net increase in allowable emissions is avoided. If the facility at which the reduction occurs is qualified by permit, then the reduction must come from the allowable emission rate of that facility. If the facility at which the reduction occurs is qualified by BACT or standard exemption, then reductions must come in the form of actual emissions. Actual emissions, for purposes of netting under §116.116 (e)(1), are defined as the highest level of emissions achieved within 120 months prior to a change.

The EPA recommended that any decreases used for netting purposes not be relied upon in a PSD permit or NA permit, and not used in the demonstration of attainment or reasonable further progress in the State Implementation Plan. The EPA suggested that the netting window begin when the facility notifies the TNRCC of the proposed change and end when the proposed increase occurs. The EPA requested that TNRCC consider the inclusion of other non-project increases which occur in the netting window. The EPA concurred that the TNRCC has adequately addressed the applicability of major sources and major modifications with respect to PSD and NA permitting requirements. The EPA requested that TNRCC address the effect the rule proposal will have on the Operating Permits Program under Title V of the Federal Clean Air Act.

It is TNRCC's position that the use of reductions to net out-of-state New Source Review does not affect the creditability of these reductions for federal review. Likewise, emission increases netting for out-of-state review purposes are still accountable in PSD/NA netting. Therefore, any reduction in emissions that may result at a source are available for netting

and offsetting as long as they satisfy the creditability criteria established under the PSD and NA regulations.

The TNRCC believes there will not be a net reduction associated with these changes available to be used in a demonstration of attainment or reasonable further progress in the State Implementation Plan.

The TNRCC has proposed a simple netting exercise to determine if a net increase in emissions occurs as a result of a physical or operational change. A netting window for the purposes of this demonstration would unnecessarily complicate the process. Each project will require a separate demonstration that a net increase has not occurred, since Texas has a more narrow definition of facility and stricter definition of modification than the federal programs. The TNRCC does not see the benefit of including non-project related increases within a netting window as the EPA has suggested.

The TNRCC appreciates EPA's concurrence that PSD and NA applicability has been adequately addressed in the rule. The TNRCC acknowledges the EPA's comment.

The TNRCC is unsure of the exact effects of this rule given the developmental status of the Title V Operating Permit Program. However, if changes allowed under these rules trigger a requirement under the federal operation permit program for a permit or permit modification, then those rules will govern for that program.

Regarding the definition of new source, TMOGA/TCC and Brown recommended that the definition of new source be changed to new facility and suggested language consistent with their suggested definition of grandfathered facilities. TU Services made similar comments with suggested language for the definition.

The TNRCC agrees to change the definition of new source to new facility to be consistent with the terminology used in the statute and in Chapter 116. In revising the definition of new facility, the TNRCC did not rely solely on the suggested language made by any one of the commenters, but believes that the adopted definition is consistent with the statute and the spirit of the comments.

Regarding the definition of non-qualified facility, TMOGA/TCC and Brown recommended that this term be deleted as unnecessary.

The TNRCC agrees and has deleted the term "non-qualified facility."

Regarding the definition of qualified facility, Carbide suggested TNRCC allow operating units that have undergone the permit renewal process to be considered qualified, especially those renewals that have adjusted permits conditions to BACT and near BACT.

The TNRCC does not agree with the comment since the statute does not make such a provision. Control technology review is not performed at time of renewal unless there is a demonstrated condition of air pollution. Therefore, a facility that has undergone a permit renewal may not necessarily meet the requirement of having BACT equivalent to what would have been required 120 months prior to a change.

TMOGA/TCC and Brown recommended that TNRCC avoid using language significantly different from that found in the statute and suggested language to correct the inconsistency.

The TNRCC agrees and has made the proposed changes.

Eastman suggested that any facility which has undergone a BACT review as part of a special exemption authorization within the last 120 months also be considered qualified. Eastman also suggested that the definition be modified to allow for shutdown facilities to be creditable reductions when considering the impact of a change on net allowable emission levels.

The TNRCC agrees that special exempted facilities and standard exempted facilities authorized under the TCAA, §382.057 within 120 months prior to a change are qualified and have revised the rule language appropriately. Emissions from shutdown facilities can be used to avoid a net increase in emissions as long as the shutdown facility would meet the criteria of being a qualified facility at the time of the change resulting in the emission increase.

Regarding the definition of relatively equivalent compound, Carbide recommended this issue be simplified by having three to four groupings for the purposes of netting and Carbide also suggested the TNRCC allow for intergroup trades as long as the emission rate of the more impacting chemicals does not increase.

The TNRCC evaluated several approaches for determining whether a physical or operational change results in a net increase in allowable emissions. The adopted rule does not contain the term "relatively equivalent compound." The rule does, however, allow increases in emissions of individual compounds to be offset by equivalent decreases in emissions at the same or another qualified facility. The offset is made by the interchange of another compound in the same air contaminant category or an intraplant trade, which is similar to Carbide's suggested grouping. In addition to being in the same air contaminant category, interchanges must offset an increase in emissions by an equivalent reduction in emissions. The equivalence is based on a ratio of the effects screening level of the compounds. Interchanges may not result in a rate of emissions that will exceed the allowable for an air contaminant category. This method affords flexibility as suggested by Carbide.

TMOGA/TCC and Brown suggested language so that the term could be modified to make it consistent with the practical manner in which the term will be used.

As explained in the previous response, the term "relatively equivalent compound" has been deleted. However, the concept of offsetting emission increases by equivalent decreases is found in §116.116(e). This approach results in a rule that is more consistent with this approach as suggested by TMOGA/TCC and Brown.

The City of Dallas requested clarification of the term "similar characteristics." The City of Dallas indicated that different processes using the same compound will affect the emission rate of the compound, thus, the TNRCC will need to take this into consideration when chemical groupings are determined.

The term "similar characteristics" is no longer in the rule due to the removal of the term "relatively equivalent compound." However, the concept of equivalence, to which the term "similar characteristics" applied, is now found in §116.116(e) and is based on effects screening levels. GHASP objected to the use of the concept because it would allow the release of toxic compounds that should be strictly regulated.

The adopted rule will not allow the release of toxic compounds unchecked nor will the rule relieve the owner from complying with regulations governing the release of toxic compounds.

EC-Applied, Inc. supported the proposed flexibility to create groupings which allow for facilities to make weekly changes to products and feedstocks without the need for permit amendments or standard exemptions.

The adopted rule will allow for operational changes cited by the EC-Applied, Inc., but only if the change does not result in a net increase in allowable emissions.

The individual recommended TNRCC include as an option the ability for a facility to submit modeling information that would show no adverse impacts from the proposed change. Eastman suggested the TNRCC consider the collocation of impacts screening as an alternative approach to evaluating the interchangeability of one compound for another.

The TNRCC intends to allow facilities to use valid methods for determining if a change will result in an adverse impact and is currently evaluating several options. These methods will be discussed in the guidance document. However, the determination of whether there has been a net increase in allowable emissions is limited to equivalent emission rates based on relative toxicity as determined by a ratio of effects screening levels.

AEA recommended that the TNRCC refine the definition to specifically allow the interchange of different compounds.

The adopted rule will allow for the interchange of different compounds in the same air contaminant category as provided in §116.116(e).

Amoco supported TNRCC's effort to incorporate this concept.

The TNRCC acknowledges Amoco's support.

Section 116.116 comments are as follows. TMOGA/TCC and Brown suggested that the section title be changed to indicate more clearly the subject matter on the section.

The TNRCC agrees that §116.116 pertains to more than amendments and alterations for permitted facilities and has made the proposed change to reflect that this section contains requirements for changes at existing facility, permitted or otherwise.

TMOGA/TCC and Brown provided language for a new subsection, §116.116(e), which covers changes to qualified facilities. The purpose of this subsection is to consolidate in one location the principals provisions of SB 1126 regarding the flexibility provided to qualified facilities to make physical and operational changes. These provisions are: net increases in allowable emissions; air contaminants not previously emitted; notification requirements; excluded changes; additional controls for qualifi-

cation purposes; and intraplant trading of allowable and actual emissions.

The TNRCC agrees and has added a new subsection as §116.116(e) to govern physical and operational changes at qualified facilities. This new subsection will contain the regulatory language to exempt certain changes at qualified facilities from permitting requirements. The definition of net increase in allowable emissions will be deleted from the definitions in §116.10 and language will be added to this subsection. This new subsection will also allow for the interchange of equivalent compound in the same air contaminant category at qualified facilities. The TNRCC believes that it was the intent of the legislature to afford facilities flexibility in making changes. The concept of interchanging equivalent compounds is consistent with that philosophy. Notification of changes will be required to allow the agency the opportunity to track changes at facilities to ensure compliance with the rules governing changes at qualified facilities. Language has been added to preclude a claim that a facility would not have to comply with a monitoring or sampling condition under the excuse that the change does not result in an increase in allowable emissions or the emission of a new air contaminant. Language has also been added to limit trading to equivalent mass rate units.

Brown also requested that TNRCC address in the guidance document what constitutes the interchange of relatively equivalent compounds "in a manner approved by the executive director of the TNRCC." Brown suggested language to replace "air contaminant not previously emitted" with "air contaminant not previously authorized to be emitted." The basis of this recommendation is that some permits have been issued which include allowable emission rates to authorize the emissions of air contaminants that were not emitted upon issuance of the permit, but may be emitted in the future.

The TNRCC intends to address in the guidance document what constitutes the interchange of relatively equivalent compound. The phrase "air contaminant not previously emitted" comes from the statutory definition of modification. For consistency, the staff recommends the terms closely agree with the statute.

Regarding §116.117(b)(1), Phillips 66 suggested the word "change" be replaced with "modification." Phillips 66 also suggested language to clarify the term "various emissions."

The rulemaking is intended to implement SB 1126. Phillip's suggestions address existing rule language and is outside the scope of this rulemaking.

TMOGA/TCC and Brown suggested modifications that will keep the current permit amendment requirements of non-qualified facility changes separate from those requirements of changes made to qualified facilities.

The restructuring of the rule to place all requirements related to SB 1126 in §116.116(e) maintains separate procedures for qualified and non-qualified facilities.

Regarding §116.116(b)(2), Phillips 66 suggested the word "change" be replaced with "modification."

The TNRCC would like to clarify that these rules address two types of changes; those that are modifications and require permit authorization and those that are not modifications. Those

changes that do not require authorization will be required to comply with recordkeeping and notification requirements of §116.117 and §116.118 of the adopted rules.

Regarding §116.116(c), TMOGA/TCC and Brown recommended TNRCC clarify in the preamble that the intent of §116.116(c)(1)(C) is to show that a permit alteration is one means to effect a reduction in allowable emissions, but it is not the only means. TMOGA/TCC and the individual also suggested that incorporating the allowable reduction in the notification required under §116.117(b)(2) or (3) would make the reduction enforceable, since the reduction is a condition of changing a qualified facility under their suggested language §116.116(e).

For a qualified facility, a reduction in allowable emissions may also be accomplished through the pre-change notification or post-notification processes in §116.117(b)(2) or (3). However, for non-qualified facilities, reduction in allowable emissions can only be accomplished through permit alteration. Under the alteration process, the TNRCC will re-issue a MAERT; while under the notification process for qualified facilities, a PI-E form must be submitted. Reductions in allowable emissions are enforceable because either the permit allowable has been changed and a new MAERT issued or a PI-E form, which established a new enforceable emission limit, has been submitted with the notification. Where a permitted facility submits a PI-E, the MAERT will be reissued.

Regarding §116.116(c)(1), Phillips 66 suggested adding the words "required for" after "A permit alteration is..." to alleviate some confusion of the proposal as written.

The rulemaking is intended to implement SB 1126. Phillips' suggestions address existing rule language and is outside the scope of this rulemaking.

Regarding §116.116(c)(1)(C), Phillips 66 suggested this subparagraph be eliminated because of the potential volume of changes to a permit when federal requirements change. Phillips 66 also suggested replacement language for subsection (c) if the TNRCC continued to require a permit alteration for a decrease in allowable emissions.

This provision was not meant to require that a person submit a permit alteration if a new state or federal regulation limited a facility's emissions below that which is stated in the MAERT since the rule already provides that the allowable cannot exceed a applicable state or federal emission limitation. The alteration language was added to allow facilities to make a voluntary reduction in allowable for use by qualified facilities to determine if there has been a net increase in allowable emissions.

Regarding §116.116(d), TMOGA/TCC and Brown suggested that this exemption be expanded to all subsections in §116.116 and provided minor language changes to simplify this section.

The TNRCC agrees that this section needs to be changed to make clear that a standard exemption may be used in lieu of a permit amendment or alteration, but it is not appropriate to include other subsections.

Eastman stated that permit amendments or alterations should not be required for any type of change that does not qualify as

a modification to an existing facility and provided language to be contained in §116.116(d) to this effect.

This subsection presumes that a change has occurred at a permitted facility and in lieu of obtaining a permit amendment or alteration, the change is authorized through standard exemption. This subsection was originally added to give industry flexibility to make changes rapidly that would otherwise require permit amendment or alteration by use of a standard exemption. Later these changes must be rolled into the permit. Senate Bill 1126 says that certain changes at qualified facilities are not modifications, and therefore do not require pre-construction authorization. Therefore, it is not appropriate to say that these changes do not require a standard exemption since a standard exemption is a type of pre-construction authorization.

Section 116.117 comments are as follows. TMOGA/TCC and Brown suggested the title of the section be modified to make it consistent with the language of the statute and other sections of the proposed rules.

The TNRCC agrees and has made the appropriate changes.

TMOGA/TCC and Brown recommended that the proposed language be deleted and suggested new language which consolidates the proposed notification requirements under §116.117 (b)-(d) into one subsection. TMOGA/TCC suggested the language of these subsections be changed to clarify and distinguish the notification requirements from the pre-change qualification requirements.

The TNRCC agrees and suggested changes have been made to clarify the process. Section 116.117 has been reorganized and renamed to highlight the documentation and notification requirements for changes made pursuant to §116.116(e). Pre-qualification procedures have been separated from the notification procedures and are contained in §116.118, concerning Pre-change Qualification. In addition, a requirement for prior notification of changes that would conflict with an existing permit special conditions has been added.

GHASP indicated concern regarding the lack of real time notification of changes made at a facility. Further, GHASP disagreed with the lack of public input into these facility modifications.

The TNRCC believes that significant changes in emissions will be reported to the agency. The TNRCC believes that the legislature did not intend for these facility changes, which do not amount to a modification, to be subject to agency approval or public input. The public's opportunity for input will be at the time the facility is constructed or modified such that emission increases significantly above the previous allowable.

The City of Dallas requested that the local agencies be copied on all notices to the agency as required in §116.117(b), (c), and (d) documentation of changes to the TNRCC. The City of Dallas requested that the local agencies be notified due to their enforcement responsibilities.

The TNRCC intends to have pre- and post-change notification of intraplant trades sent to the central office and the annual report of all other changes sent to the regional office. This information will be available to the local agencies. The TNRCC is willing to work with the local agencies to develop a system for communication of the facility notifications. Further, the facilities

are required to provide information regarding the change upon request of the TNRCC.

Amoco suggested TNRCC keep the notification for changes at qualified facilities as simple as possible and supported the notification process offered by TMOGA/TCC.

The TNRCC believes that these rules have a simple notification process. The TNRCC has incorporated many of the changes suggested by TMOGA/TCC.

Regarding §116.117(a), Exxon requested that operators be allowed to maintain documentation at the plant site or at the nearest manned location if the site is unmanned.

The TNRCC recognizes the difficulty of maintaining documentation at unmanned sites and has added language to §116.117(a) to accommodate this request.

TMOGA/TCC suggested language clarifying that the responsibility for maintaining documentation is upon the person or persons making the physical or operational change and that the documentation must satisfy the requirements of changes to qualified facilities.

The TNRCC agrees with TMOGA/TCC's request, and has made the appropriate changes.

Eastman also recommended that the documentation required to be kept on-site include that information relevant and necessary to demonstrate exclusion from the permit process.

The TNRCC believes the current language requires only relevant and necessary information since the rule only requires that documentation contain information associated with the change.

Regarding §116.117(b), Carbide, Phillips 66, and Eastman requested that the annual report be deleted. Eastman stated that the annual report is unjustified, since the changes included in an annual report are not considered modifications under SB 1126 and these changes will also be incorporated into the permit upon renewal or permit amendment. Phillips 66 asked that the annual report be eliminated because the records will be available at the facility and subsequently incorporated into the permit upon renewal.

The TNRCC believes that the annual report benefits both industry and the agency by setting up a mechanism to track changes in order to evaluate whether a permit action should have been required. This is intended to minimize the time both the inspector and plant personnel must spend during site investigations. The TNRCC envisions that this process will eliminate potential disagreement between the agency and the plant as to whether permit violations have occurred and that at time of permit renewal this information will be readily available for incorporation into the permit.

Carbide also requested that the documentation of a change be kept only for the life of the change and that any information regarding these changes may be obtained through a request of the plant. Carbide suggested that the annual reports be sent to the central office to avoid overburdening the regional office staff and that annual reports cover a calendar year.

The TNRCC believes that it is important to maintain documentation of the change as required in the rule to ensure that the commission has the ability to verify that facilities are making

changes appropriately. Maintaining documentation for a period longer than the life of the change will prevent not having necessary documentation if a change is questioned at a later date. The adopted rule requires that annual reports be received by the regional office by August 1 to aid in proper inspection of the facility by the TNRCC or local agencies. The August 1 deadline for annual reports has been selected to coincide as much as possible with the State Implementation Plan inspection schedule.

Phillips 66 objected to the language which makes the authorization for the change contingent upon including documentation of the change in an annual report, a future event. Phillips 66 also objected to the requirement to submit an annual report.

The rule language has been reorganized to more clearly specify which changes made pursuant to §116.116(e) require notification. However, it should be noted that the requirements in §116.117 are notification requirements only; not an authorization from the TNRCC. The annual report is necessary to maintain the ability of the agency to verify a facility's compliance during annual inspections. Changes that have been reported to the agency or that have been included in a permit action during the year do not have to be included in the annual report.

The City of Dallas suggested that the term "notification" used in this subsection be clarified with respect to the same term used in subsections (c) and (d)—that is, pre-change and post-change notifications respectively. The City of Dallas stated that the proposed rules would be a burden to field investigator activities since annual reports would need to be reviewed. The City of Dallas suggested that the annual report be submitted prior to August 1.

The TNRCC believes that the changes made in response to the previous comment clarify the notification requirements. The annual report is intended to assist the investigator by having documentation of changes for which notification was not required readily available in an annual report. The adopted rule requires this report to be submitted by August 1; however, information related to a change may be obtained upon request of the TNRCC during a site visit.

The EPA requested that TNRCC address the enforceability of any allowable emission rate established in a MAERT.

The TNRCC would like to clarify that the MAERT is not a stand-alone document. Only facilities with a permit have a MAERT. The MAERT is enforceable and verifiable from a practical standpoint in that a permit includes conditions for demonstrating initial and on-going compliance with allowable emission rates either through direct measurement or through the recording of a surrogate parameter.

Regarding §116.117(b)(2), Eastman suggested that this paragraph be changed to require documentation to be kept only for those physical or operational changes which are excluded from permitting requirements by remaining below the allowable emission rate. Eastman stated that the existing wording would require additional recordkeeping on those activities which until now have not been required to do so.

In response to other comments, §116.116 and §116.117 have been changed so that only those changes made pursuant

§116.116(e) require documentation and notification. The change alleviates the concern raised by Eastman.

Regarding §116.117(b)(3), Eastman suggested that this paragraph be changed to accommodate the exclusion from the notification requirement trades of emissions between facilities when the facilities have "relatively equivalent locations" or those which vent through a common vent system such that off-site impacts are not significantly affected.

The TNRCC feels it is appropriate to require notification of the trading of emissions between facilities. The significance of the trade will determine whether pre- or post-notification is required. The TNRCC does not know how many facilities share a common emission point and feel it is inappropriate at this time to write an exclusion as requested. If it is found to be a widespread phenomenon, it could be addressed in future rulemaking.

Regarding §116.117(c), GHASP disagreed with no notification for emission point trading of compounds below the de minimis level. GHASP stated that State Implementation Plan inspections will be much more difficult due to emission trades without notification. Carbide suggested that the de minimis level be set high enough to avoid unnecessary pre-change notifications.

In response to comments made by other commenters, the concept of de minimis levels no longer exists. Trading of emissions between facilities will require either pre- or post-change notification.

Eastman suggested the TNRCC also accept notices sent via other mail delivery methods besides certified mail.

The requirement for the receipt of notification via certified mail has been deleted. However, the adopted rule has specific time periods for actions to be taken by the owner/operator or the agency. The deletion allows an owner/operator to use any mail delivery method, but a person should be cautioned to use a method which allows the agency to determine date of receipt.

Phillips 66 requested the use of the term "de minimis" be clarified relative to the terms "De Minimis threshold test" found in §116.12 and "De minimis impacts" found in §116.10.

The use of this term has been deleted.

Regarding §116.117(d), Carbide suggested that trades below the de minimis levels not require post-change notification.

The TNRCC believes it is necessary for the agency to maintain records of all trades. The TNRCC is willing to reevaluate this requirement once the agency has some experience with trading of emissions between facilities and alter the notification requirements if appropriate.

AEA recommended that the post-change notification period be extended to 45 days and the executive director be allowed to set limits within which qualified facilities may notify the TNRCC after the change.

The TNRCC believes 30 days is adequate time to provide notice of changes.

Regarding §116.117(e), TMOGA/TCC and Brown suggested language to clarify those changes that are required to be incorporated into the permit upon amendment or renewal.

The TNRCC agrees and has added language clarifies this requirement in §116.117(e).

Amoco supported the TMOGA/TCC comment, which allows TNRCC to reissue special permit conditions to provide the necessary documentation to maintain accuracy in the TNRCC permit program.

When a change affects a permit condition, the owner/operator can use the alteration process or if the facility is qualified, the notification procedures in §116.117(d) to revise permit conditions.

Phillips commented that the use of the word "change" throughout the proposal is confusing and suggested the use of the word "modification" wherever possible.

The term "change" in this proposal refers to physical or operational change. A change may or may not be a modification (see the definition of modification). If a change to a facility is a modification, permit authorization is required. If a change is made pursuant to §116.116(e), the owner/operator is subject to notification requirements of this section.

Section 116.118 comments are as follows. TMOGA/TCC and Brown recommended that the title of the section be changed to reflect more accurately the contents of the section.

The TNRCC agrees and has renamed §116.118, Pre-change Qualification.

GHASP disagreed with adjusting a grandfathered facility's allowable emission rate once current BACT was applied. GHASP objected to the adjusted because it would allow more air pollution. GHASP requested that equivalency for control technologies be stated in terms of a percentage of what the total emissions reductions of point and fugitive emission as that which would have been obtained with established BACT. Further, GHASP indicated that BACT equivalency should not increase the toxicity of emissions. GHASP suggested that the TNRCC include language to require TNRCC approval for BACT installation.

The rate a grandfather facility can emit after the installation of controls will be adjusted downward; more pollution will not be allowed. Equivalency of controls will be determined by established BACT practices. The addition of controls generally does not increase the toxicity of emissions. The appropriateness of controls will be determined by compliance with the rule. If BACT for a facility is not readily available so that the owner or operator can self-verify that they are complying with the rule, they will be required to provide information for a case-by-case equivalency review.

Regarding §116.118(a), TMOGA/TCC and Brown recommended that this subsection be changed and suggested language to describe more clearly when it will be necessary for a facility to undergo a review of qualifications before a change is made.

The TNRCC agrees with the comment and has incorporated the suggested language. The suggested language clarifies that it is necessary for a facility to pre-qualify for purposes of demonstrating that the facility undergoing the change is qualified and to establish an allowable for an air contaminant relevant to the change.

Regarding §116.118(a)(1), the EPA requested that TNRCC address the meaning of the expression "allowable emission rate is inaccurate."

The use of the word "inaccurate" has been deleted from the rule language. The concept the word was intended to convey was that all air contaminants and all emission points relevant to a change have established allowable emissions so that a determination of whether that change results in a net increase in allowable emissions can be made.

Regarding §116.118(b), TMOGA/TCC and Brown suggested language to describe more clearly the procedure for pre-change qualification.

The TNRCC agrees and has made the suggested changes to clarify that pre-change qualification is to be submitted on a PI-E form and can occur anytime, but no later than 45 days prior to a change.

The City of Dallas suggested that this subsection would be clearer if the two sentences were reversed. Further, the City of Dallas indicated that the notification referred to in this subsection appeared to be different than the notification required under §116.117(c) and the purpose of this different notification be stated.

The language has been restructured for clarity. Notification required under §116.118 is for determining whether a facility is qualified prior to a change, while §116.117 governs notification of the change.

Regarding §116.118(c), TMOGA/TCC and an individual recommended that this subsection be deleted in conjunction with the incorporation of suggested language of §116.116(e) covering this topic.

The TNRCC agrees. The language requiring a facility to implement BACT if installing controls to become qualified is contained in §116.116(e)(5). The language concerning the allowable emission rate for a grandfather facility after implementation of controls is contained within the definition of allowable emissions for a grandfathered facility in §116.10.

Section 116.119 comments are as follows. Exxon recommended that this section be deleted, as the proposed section goes beyond the intent of this rulemaking, which is the implementation of SB 1126. Exxon stated that the TNRCC has the general authority under the TCAA to require methods of demonstrating compliance and that it could be implied by the inclusion of this section in this rulemaking that this is a new requirement for qualified facilities.

The TNRCC agrees with the comment and is withdrawing this section.

Eastman requested that the TNRCC allow companies to develop other methods of compliance demonstration rather than being held to only the five listed in the rule proposal.

The withdrawal of this section addresses the comment.

The City of Dallas requested that any information demonstrating compliance with allowable emission rates also be sent to the local agencies.

The withdrawal of this section nullifies the comment.

Subchapter A. Definitions

30 TAC §116.10

The amendment is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§116.10. General Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (TNRCC or commission), the terms used by the commission have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by the TCAA, and in §101.1 of this title (relating to General Rules), the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

Actual emissions-For the purposes of determining whether there has been a net increase in allowable emissions under §116.116(e) of this title (relating to Changes to Facilities), the highest rate of emissions of an air contaminant actually achieved from a qualified facility within the 120-month period prior to the change. This rate cannot exceed any applicable federal or state emissions limitation.

Allowable emissions-For the purpose of determining whether there has been a net increase in allowable emissions under §116.116(e) of this title, the authorized rate of emissions of an air contaminant from a facility as determined in accordance with this section. This rate cannot exceed any applicable state or federal emissions limitation.

(A) **Permitted facility**-For a facility with a preconstruction permit under this chapter, the allowable emissions shall be any emission limit established in the permit on a MAERT and any emission limit contained in representations in the permit application which was relied upon in issuing the permit, plus any allowable emissions authorized by a standard exemption.

(B) **Standard exemption facility**-For a facility operating under a standard exemption, the allowable emissions shall be the least of the emissions rate allowed in §116.211 of this title (relating to Standard Exemption List), the emissions rate specified in the applicable exemption, or a federally enforceable emissions rate established on a PI-8 form.

(C) **Grandfathered facility**-For a qualified grandfathered facility, the allowable emissions shall be the maximum annual emissions rate after the implementation of any air pollution control methods to become a qualified facility, plus 10% of the maximum annual emissions rate prior to the implementation of such control methods, but in no case shall the allowable emissions be greater than the maximum annual emissions rate prior to the implementation of such control methods. The maximum annual emissions rate is the emissions rate at the maximum annual capacity according to the physical or operational design of the facility, data from actual operations over a period of no more than 12 months that demonstrates the maximum annual capacity, or other information that demonstrates the maximum annual capacity. Except where a grandfather facility has been modified, the allowable emissions for the modification shall be determined as a permitted facility.

(D) **Standard permit facility**-For a facility authorized by standard permit, other than §116.617(2) of this title (relating to Standard Permits List), the allowable emissions shall be the maximum emissions rate represented in the registration for the standard permit.

(E) **Special exemption facility**-For a facility operating under a special exemption, the allowable emissions shall be the emissions rate represented in the original special exemption request.

(F) The allowable emissions for a qualified facility shall not be adjusted by the voluntary installation of controls.

BACT-Best Available Control Technology with consideration given to the technical practicability and the economic reasonableness of reducing or eliminating emissions from the facility.

Facility-A discrete or identifiable structure, device, item, equipment, or enclosure that constitutes or contains a stationary source, including appurtenances other than emission control equipment. A mine, quarry, well test, or road is not considered to be a facility.

Grandfathered facility-Any facility that is not a new facility since it was constructed prior to the permit requirements of this subchapter.

Maximum allowable emissions rate table (MAERT)-A table included with a preconstruction permit issued under this chapter that contains the allowable emission rates established by the permit for a facility.

Modification of existing facility-Any physical change in, or change in the method of operation of, a facility in a manner that increases the amount of any air contaminant emitted by the facility into the atmosphere or that results in the emission of any air contaminant not previously emitted. The term does not include:

(A) insignificant increases in the amount of any air contaminant emitted that is authorized by one or more TNRCC exemptions;

(B) insignificant increases at a permitted facility;

(C) maintenance or replacement of equipment components that do not increase or tend to increase the amount or change the characteristics of the air contaminants emitted into the atmosphere;

(D) an increase in the annual hours of operation unless the existing facility has received a preconstruction permit or has been exempted, pursuant to the TCAA, §382.057, from preconstruction permit requirements;

(E) a physical change in, or change in the method of operation of, a facility that does not result in a net increase in allowable emission of any air contaminant and that does not result in the emission of any air contaminant not previously emitted, provided that the facility:

(i) has received a preconstruction permit or permit amendment or has been exempted pursuant to the TCAA, §382.057, from preconstruction permit requirements no earlier than 120 months before the change will occur; or

(ii) uses, regardless of whether the facility has received a preconstruction permit or permit amendment or has been exempted pursuant to the TCAA, §382.057, an air pollution control method that is at least as effective as the BACT that TNRCC required or would have required for a facility of the same class or type as a

condition of issuing a permit or permit amendment 120 months before the change will occur;

(F) a physical change in, or change in the method of operation of, a facility where the change is within the scope of a flexible permit; or

(G) a change in the method of operation of a natural gas processing, treating, or compression facility connected to or part of a natural gas gathering or transmission pipeline which does not result in an annual emission rate of any air contaminant in excess of the volume emitted at the maximum designed capacity, provided that the facility is one for which:

(i) construction or operation started on or before September 1, 1971, and at which either no modification has occurred after September 1, 1971, or at which modifications have occurred only pursuant to standard exemptions; or

(ii) construction started after September 1, 1971, and before March 1, 1972, and which registered in accordance with the TCAA, §382.060, as that section existed prior to September 1, 1991.

New facility -A facility for which construction is commenced after August 30, 1971, and no contract for construction was executed on or before August 30, 1971, and that contract specified a beginning construction date on or before February 29, 1972.

Qualified facility -An existing facility that satisfies the criteria of either subparagraph (E)(i) or (ii) under the definition of modification of existing facility in this section.

Source -A point of origin of air contaminants, whether privately or publicly owned or operated.

This agency hereby certifies that the section 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 February 14, 1996.

TRD-9602153

Kevin McCalla

Director, Legal Services Division

Texas Natural Resource Conservation Commission

Effective date: March 7, 1996

Proposal publication date: October 10, 1995

For further information, please call: (512) 239-1955

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Subchapter B. New Source Review Permits

Permit Application

30 TAC §§116.112, 116.116-116.118

The amendments and new sections are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

§116.116. Changes to Facilities.

(a) Representations and conditions. All representations with regard to construction plans and operation procedures in an applica-

tion for a permit, special permit, or special exemption, as well as any general and special conditions attached to the permit, special permit, or special exemption itself, become conditions upon which the subsequent permit, special permit, or special exemption are issued.

(b) Permit amendments. Except as provided in subsection (e) of this section, it shall be unlawful for any person to vary from any representation or permit condition if the change will cause a change in the method of control of emissions, the character of the emissions, or will result in an increase in the discharge of the various emissions, unless application is made to the executive director to amend the permit or special permit in that regard and such amendment is approved by the executive director or the Texas Natural Resource Conservation Commission (TNRCC). Applications to amend a permit or special permit shall be submitted with a completed Form PI-1 and are subject to the requirements of §116.111 of this title (relating to General Application).

(c) Permit alterations.

(1) A permit alteration is:

(A) any change from a representation in a permit application that does not involve an increase in emission rates or a change in the character or method of control of emissions; or

(B) any change in a general or special condition of a permit that does not involve an increase in emission rates or a change in the character or method of control of emissions;

(C) a decrease in allowable emissions.

(2) All requests for permit alterations which may result in an increase in off-property concentrations of air contaminants, involve a change in permit conditions, or affect facility or control equipment performance must receive prior approval by the executive director. The executive director shall be notified in writing of all other permit alterations. Any request for permit alteration shall include information sufficient to demonstrate that the change does not interfere with the owner or operator's previous demonstrations of compliance with the requirements of §116.111(3) of this title.

(3) Permit alterations shall not be subject to the requirements of Best Available Control Technology identified in §116.111(3) of this title.

(d) Standard exemption in lieu of permit amendment or alteration. Notwithstanding subsections (b) or (c) of this section, no permit amendment or alteration is required if the changes to the permitted facility qualify for an exemption under Subchapter C of this chapter (relating to Permit Exemptions) unless prohibited by permit condition as provided in §116.115 of this title (relating to Special Conditions). All such exempted changes to a permitted facility shall be incorporated into that facility's permit at such time as the permit is amended or renewed

(e) Changes to qualified facilities. Notwithstanding any other subsection of this section, a physical or operational change may be made to a qualified facility if the change does not result in a net increase in allowable emissions of any air contaminant and does not result in the emission of any air contaminant not previously emitted.

(1) In determining whether a change to a qualified facility results in a net increase in allowable emissions or the emission of any air contaminant not previously emitted, the effect on emissions of the following shall be considered:

(A) any air pollution control method applied to the qualified facility;

(B) any decreases in allowable emissions from other qualified facilities at the same TNRCC air quality account number that have received a preconstruction permit or permit amendment no earlier than 120 months before the change will occur; and

(C) any decrease in actual emissions from other qualified facilities at the same TNRCC air quality account number that are not included in subparagraph (B) of this paragraph.

(2) The determination of whether a physical or operational change would result in a net increase in allowable emissions of any air contaminant or the emission of any air contaminant not previously emitted shall be based on the allowable emissions for air contaminant categories and any allowable emissions for individual compounds. If a physical or operational change would result in emissions of an air contaminant category or compound above the allowable emissions for that air contaminant category or compound, the amount above the allowable emissions must be offset by an equivalent decrease in emissions at the same facility or a different facility. In making this offset, the following subparagraphs apply.

(A) The offset shall be based on the same time periods (e.g., hourly and annual rates) as the allowable emissions for the facility at which the change will occur.

(B) Emissions of different compounds within the same air contaminant category may be interchanged.

(C) For allowable emissions for individual compounds, any interchange shall adjust the emission rates for the different compounds in accordance with the ratio of the effects screening levels of the compounds.

(D) For allowable emissions for air contaminant categories, interchanges shall use the unadjusted emission rates for the different compounds.

(E) The effects screening level shall be determined by the executive director of the TNRCC.

(F) An air contaminant category is a group of related compounds, such as volatile organic compounds, particulate matter, nitrogen oxides, and sulfur compounds.

(3) Persons making changes to qualified facilities under this subsection shall comply with the applicable requirements of §116.117 of this title (relating to Notification of Changes to Qualified Facilities) and §116.118 of this title (relating to Pre-change Qualification).

(4) As used in this subsection, the term "physical and operational changes" does not include:

(A) construction of a new facility; or

(B) changes to procedures regarding monitoring, determination of emissions and recordkeeping that are required by a permit. (5) If additional air pollution control methods are implemented for the purpose of making a facility a qualified facility, such additional control methods shall be at least as effective as Best Available Control Technology (BACT) required at the time the additional control methods are implemented. If additional control methods are implemented that are not at least as effective as such BACT, the facility may be determined to be a qualified facility only

if the owner or operator can demonstrate that the control methods were implemented to comply with a law, rule, order, permit, or can demonstrate that the control method was implemented to resolve a documented citizen complaint. The implementation of any additional control methods shall be subject to the requirements of this chapter.

(6) For purposes of this subsection and §116.117 of this title (relating to Documentation and Notification of Changes to Qualified Facilities), the consideration of decreases in allowable and actual emissions from other qualified facilities in accordance with paragraph (1) of this subsection shall be referred to as intraplant trading. The decreases in allowable and actual emissions shall be based on emission rates for the same time periods (e.g., hourly and annual rates) as the allowable emissions for the facility at which the change will occur and for which an intraplant trade is desired. Actual emissions shall be based on data that is representative of the emissions actually achieved from a facility during the relevant time period (e.g., hourly or annual rate). The allowable emissions from facilities that were never constructed shall not be used in intraplant trading.

(7) The existing level of control may not be lessened for a qualified facility.

§116.117. Documentation and Notification of Changes to Qualified Facilities.

(a) Persons making physical or operational changes to qualified facilities under the provisions of §116.116(e) of this title (relating to Changes to Facilities) shall maintain documentation at the plant site demonstrating that the changes satisfy the requirements of that section. If the plant site is unmanned, the regional manager may authorize an alternative site to maintain this documentation. This documentation shall include quantification of all emission increases and decreases associated with the physical or operational change, a description of the physical or operational change, a description of any equipment being installed, and sufficient information as may be necessary to demonstrate that the project will comply with the Federal Clean Air Act, Title 1, Parts C and D. This documentation shall be made available to representatives of the Texas Natural Resource Conservation Commission (TNRCC) upon request.

(b) In addition to the documentation requirements under subsection (a) of this section, persons making such changes to qualified facilities shall comply with the following notification requirements.

(1) Annual report. For changes to qualified facilities for which there is no intraplant trading in accordance with §116.116(e)(1) of this title, an annual report shall be submitted to the appropriate TNRCC regional office by August 1 of each year which shall include all changes made under §116.116(e) during the immediately preceding annual period July 1-June 30. Changes for which notification has been previously submitted by PI-E form to TNRCC under paragraphs (2) or (3) of this subsection or which have been incorporated into the permit for the facility need not be included in the annual report. The annual report shall contain a PI-E form for each change. The annual reporting period for a TNRCC air quality account and the due date of the annual report may be changed with the agreement of the TNRCC regional office.

(2) Post-change notification. For changes to qualified facilities for which there is intraplant trading below the reportable limit, notification of the change shall be submitted on a PI-E form

to the New Source Review Division of the TNRCC within 30 days after the change occurs.

(3) Pre-change notification. For changes to qualified facilities for which there is intraplant trading above the reportable limit, notification of the change shall be submitted on a PI-E form to the New Source Review Division of the TNRCC before the change may occur. The change may occur after the receipt of written notification from the TNRCC that there are no objections, or 45 days after the notification is received by the TNRCC, whichever occurs first.

(4) Reportable limit. The executive director shall establish reportable limits as follows:

(A) an emission rate that is adjusted based on a factor that accounts for a ratio of the effects screening levels of the different compounds and the difference in location of emissions involved in an intraplant trade; or

(B) an emission rate that results in a sum total of modeled ground level concentration for the account that shall not exceed two times the effects screening level.

(c) For facilities that have received a preconstruction permit, all changes for which the notification procedure of subsection (b) of this section has been used shall be incorporated into the permit at such time as the permit is amended or renewed.

(d) If a physical or operational change at a qualified facility will affect compliance with a permit special condition, notice shall be made to the TNRCC prior to the change. The notice shall identify the affected special condition and indicate the change needed or the desire to remove the special condition from the permit. The permit holder is relieved from complying with the permit special condition upon the filing of the notice provided the change complies with §116.116(e) of this title.

(e) Nothing in this section shall limit the applicability of any federal requirement

§116.118. Pre-change Qualification.

(a) If either of the following conditions exists, it will be necessary to establish that a facility is a qualified facility before a physical or operational change may be made under the notification procedure of §116.117 of this title (relating to Documentation and Notification of Changes to Qualified Facilities):

(1) the facility is a qualified facility on the basis of Best Available Control Technology and the requirement for the facility type has not been previously established by the executive director of the TNRCC;

(2) the facility does not have allowable emissions established for an air contaminant relevant to the change in a maximum allowable emissions rate table, PI-8 form or PI-E form.

(b) The pre-change qualification shall be made by submitting a PI-E form to the New Source Review Division. The facility shall be qualified in accordance with the information contained in the PI-E form after receipt of written notification from the TNRCC that there are no objections, or 45 days after the PI-E form is received by TNRCC, whichever occurs first. The pre-change qualification may be submitted at the same time as a pre-change notification under §116.117(b) of this title or at any other time prior to making a change to a qualified facility.

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 February 14, 1996.

TRD-9602155
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
Effective date: March 7, 1996
Proposal publication date: October 10, 1995
For further information, please call: (512) 239-1966

30 TAC §116.117

The repeal is adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the TNRCC with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 February 14, 1996.

TRD-9602154
Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission
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For further information, please call: (512) 239-1966

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part XV. Texas Low-Level Radioactive Waste Disposal Authority

Chapter 449. General Provisions

Subchapter F. Above and Belowground Disposal

31 TAC §449.71

The Texas Low-Level Radioactive Waste Disposal Authority adopts new §449.71, relating to above and belowground disposal of low-level radioactive waste, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 TexReg 22).

The new section is adopted to inform the public of the Authority's rationale for selecting belowground disposal instead of above-ground disposal. Belowground disposal better protects public health and the environment than does aboveground disposal based on the factors set out in the rule.

No comments were received in response to the published rule. Prior to publication, a draft of the proposed rule was circulated to interested parties. In response, Dr. Marvin Resnikoff

of Radioactive Waste Management Associates suggested in writing that without documentation supporting the rule, it is arbitrary and capricious. The board responds that the rule is fully documented by studies contained in Authority files and is supported by the expertise of Authority staff and certain board members. No changes to the published rule is proposed as a result of this comment.

The new rule is adopted under §402.054 of the Health and Safety Code, which states that the board may adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act, and §402.225 of the Health and Safety Code, which authorizes the adoption of a rule supporting belowground disposal.

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 authority.

Issued in Austin, Texas, on February 12, 1996.

TRD-9602020

Lee H. Mathews

Deputy General Manager and General Counsel

Texas Low-Level Radioactive Waste Disposal Authority

Effective date: March 4, 1996

Proposal publication date: January 2, 1996

For further information, please call: (512) 451-5292

Subchapter G. Historically Underutilized Business Program

31 TAC §§449.81-449.87

The Texas Low-Level Radioactive Waste Disposal Authority adopts new §449.81-449.87, relating to the use of historically underutilized businesses by the Authority, without changes to the proposed text as published in the January 2, 1996, issue of the *Texas Register* (21 *TexReg* 23).

The new sections are adopted to inform the public of the Authority's goals and good faith criteria for increasing the use of historically underutilized businesses (HUB'S) in contracts entered into by the Authority. The new sections also satisfy the intent of the Texas Legislature as expressed in the 1995 General Appropriations Act (House Bill No. 1), section 111, which requires agencies to adopt HUB rules.

No comments were received regarding adoption of the new sections.

The new sections are adopted under the Health and Safety Code, §402.054, which states that the board may adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act, and the 1995 General Appropriations Act (House Bill Number 1), section 111, which requires agencies to adopt HUB rules.

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

Issued in Austin, Texas, on February 12, 1996.

TRD-9602018

Lee H. Mathews

Deputy General Manager and General Counsel
Texas Low-Level Radioactive Waste Disposal Authority

Effective date: March 4, 1996

Proposal publication date: January 2, 1996

For further information, please call: (512) 451-5292

Chapter 450. Planning and Implementation Fees

Subchapter A. Assessment of Fees

31 TAC §§450.1-450.4

The Texas Low-Level Radioactive Waste Disposal Authority adopts amendments of §450.1-450.4, concerning planning and implementation fees for low-level radioactive waste generators for the state's fiscal year 1996, without changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 *TexReg* 11104).

The amendments are necessary to comply with the Health and Safety Code, § 402.2721 that authorizes the adoption by rule of planning and implementation fees for each fiscal year. Fees collected in 1996 will be applied to the Authority's costs as set out in the Authority's appropriation bill for 1996.

No comments were received regarding adoption of the new sections

The amendments are adopted under §402.1721 and §402.054 of the Health and Safety Code which states that the board may adopt rules, standards, and orders necessary to properly carry out the Texas Low-Level Radioactive Waste Disposal Authority Act.

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

Issued in Austin, Texas, on February 12, 1996.

TRD-9602018

Lee H. Mathews

Deputy General Manager and General Counsel

Texas Low-Level Radioactive Waste Disposal Authority

Effective date: March 4, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 451-5292

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

34 TAC §3.295

The Comptroller of Public Accounts adopts an amendment to §3.295, concerning natural gas and electricity, without changes to the proposed text as published in the November 14, 1995, issue of the *Texas Register* (20 *TexReg* 9379).

A clarification as to the periods affected by the waiver of a predominant use study requirement was made in the preamble.

The amendment implements legislative changes to the Tax Code, §151.317 and §151.331. Subsection (a)(5)(E) and (F) are added to reflect legislated changes effective October 1, 1995, defining as "noncommercial use" the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property, and the repair, maintenance, or restoration of rolling stock. Subsection (a)(7) is also amended to set out the comptroller's policy that repairing tangible personal property belonging to another person is a taxable service rather than processing. Subsection (a)(8) is amended to include in the definition of "residential use" the use by the owner of the dwelling, apartment, complex, or building or part of the building occupied and the use by a tenant under a contract for an initial term of more than 29 days. Subsection (e)(5) implements a policy change which waives the requirement for a predominant use study for companies that are in an industry on which an industry-wide study reflects that the natural gas or electricity used by companies in that industry will always qualify as exempt use. The waiver of the predominant use study requirement for qualifying industries is applicable to any period not barred by statute. Subsection (g)(1) is clarified, regarding the exemption of natural gas or electricity used to transport materials extracted from the earth, by adding, as examples of eligible materials, crushed stone, sand and gravel, and water.

No comments were received regarding adoption of the amendment.

This 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.

The amendment implements the Tax Code, §151.317.

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 February 15, 1996.

TRD-9602160

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: March 7, 1996

Proposal publication date: November 14, 1995

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, with changes to the proposed text as published in the October 31, 1995, issue of the *Texas Register* (20 TexReg 8989).

The amendment implements legislative changes resulting from Senate Bill 640, 74th Legislature, 1995, and a policy change, in subsection (b)(2), restating the qualifications for "original producer" to mean a person who produces at least 50% of the products which are ultimately processed, packed, or marketed. Subsection (b)(3) and (4) are added to describe actions that will result in disqualification as an original producer, the period

to be reviewed to determine if the 50% requirement is met and the basis for tax assessment if the requirement is not met. The policy changes are retroactive.

Legislative amendments to this section include adding subsection (a)(6)(B) to exempt containers, bins, or cages used exclusively to transport poultry for processing, packing, or marketing. Subsection (b) is amended to include an exemption for pollution control equipment required for the processing, packing, or marketing of agriculture products by the original producer. Subsection (b)(1) defining "original producer" replaces subsection (b)(4) which previously listed three tests to be met in order to be an original producer. Subsection (b)(2)(B) is amended to allow an original producer to process, pack, or market for consideration agricultural products belonging to another, not to exceed 5.0% of total products processed, packed, or marketed. Subsection (b)(5) is added to define other entities that may qualify as an original producer. Subsection (f) is clarified to include poultry farms in the definition of farm or ranch. With the exception of the clarification in subsection (f), the changes due to legislative amendments are prospective.

Comments were received from an Austin attorney suggesting minor wording changes to subsections (b)(4)(A) and (c), which were implemented. A third suggestion to strike the option in subsection (d) that allows sellers, after accepting a blanket farm exemption certificate, to stamp subsequent invoices to that customer with the wording "Exempt agricultural purposes" and have the customer sign the invoice in lieu of completing another exemption certificate, was not implemented.

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.

The amendment implements the Tax Code, §151.316 and §151.342.

§3.296. *Agriculture, Animal Life, Feed, Seed, Plants, and Fertilizer.*

(a) Sales tax is not due on the receipts from sales of, and the storage, use or consumption of, the following:

(1) Horses, mules, work animals, and any form of animal life of a kind the products of which ordinarily constitute food for human consumption.

(A) Sales tax is not due on the sale, lease, or rental of horses and mules except when sold, leased, or rented as a part of an amusement service.

(B) The term "work animals" shall include any animal exclusively used in the following:

(i) The production of food for human consumption or other agricultural products held for sale in the regular course of business. Examples: plow animals or sheep dogs.

(ii) The aiding of handicapped individuals or the performance of protective services, providing that the animal has been professionally trained for that specific purpose.

(C) "Work animals" shall not include animals raised, trained, or held as pets or for sport or show.

(D) Exemption certificates are not required on sale of horses, mules, or any form of animal life of a kind, the products of

which ordinarily constitute food for human consumption. Sales tax is due on the sale of all other animals unless the purchaser provides a valid and properly completed resale or exemption certificate.

(2) Hay, corn, oats, and any other type of feed normally consumed by farm and ranch animals, animals that are held for sale in the regular course of business, and wildlife.

(A) Included in this section is feed for animals covered by paragraph (1) of this subsection, feed for animals held for breeding purposes whose offspring are held for sale in the regular course of business, and wildlife. Feed purchased for an animal that might normally be kept as a pet is taxable. Pets normally include, but are not limited to, dogs, cats, rabbits, hamsters, and tropical fish.

(B) All persons selling the type of feed that is normally consumed by farm and ranch animals or wildlife may sell the feed tax free without an exemption certificate. Persons selling food for an animal that might normally be kept as a pet should collect sales tax or accept a valid and properly completed resale or exemption certificate from the purchaser.

(3) Seeds and annual plants, the products of which ordinarily constitute food for human consumption, are used to produce feed for animals exempted by this section, or are to be sold in the regular course of business. An exemption certificate is not required when purchasing these items.

(4) Fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on farms or ranches in the production of food for human consumption, feed for any form of animal life, or other agricultural products to be sold in the regular course of business. However, when these particular items are used in commercial storage facilities or other storage facilities that are not operated exclusively by the owner or are not located on the farm or ranch, the exemption is lost and the tax must be remitted on the sales price of the items. Fertilizer is taxable if sold for use on lawns, home gardens, or for any uses other than those listed in this paragraph. See subsection (d) of this section regarding exemption certificates.

(5) Machinery or equipment used or employed on farms or ranches exclusively in:

(A) the production of food for human consumption, production of grass, production of feed for any form of animal life, or other agricultural products to be sold in the regular course of business; and

(B) the building or maintaining of roads and water facilities.

(6) Containers, bins, or cages used exclusively to transport:

(A) fruit or vegetables from the field or place of harvest to a location where the items are processed, packaged, or marketed; or

(B) poultry from a poultry farm to a location where the poultry is processed, packaged, or marketed.

(b) Sales tax is not due on machinery and equipment exclusively used in, and pollution equipment required as a result of, the processing, packing, or marketing of agricultural products by an original producer at a location operated by the original producer exclusively for processing, packing, or marketing the original producer's own products.

(1) "Original producer" means a person who:

(A) brings an agricultural product into being and is the owner of the agricultural product from the time it is brought into being until it is processed, packed, or marketed; or

(B) is the grower of an agricultural product, exercises predominant operational control over the raising of the agricultural product, and bears a risk of loss of investment in the agricultural product.

(2) In order to qualify as an original producer:

(A) 50% or more of the agricultural products processed, packed, or marketed at or from the location must be actually produced by the original producer and not purchased or acquired from others; and

(B) agricultural products belonging to others, in an amount greater than 5.0% of the total agricultural products processed, packed, or marketed by the producer, may not be processed, packed, or marketed for consideration at or from the location.

(3) If a person purchases agricultural products from a grower, processes those products, and subsequently sells the processed products back to the same grower for the purpose of circumventing paragraph (2)(B) of this subsection, the person will not qualify as an original producer.

(4) For purposes of determining if 50% or more of the agricultural products were actually grown by the original producer, the period to be reviewed will be the most recently completed calendar year.

(A) A producer will be liable for sales tax based on the fair market rental value of machinery and equipment purchased tax free if the producer grew less than 50% of the agricultural products it processed, packed, or marketed. The period of assessment shall be the entire one-year period following the calendar year in which the producer did not meet the 50% criteria, and the assessment will be on the fair market rental value of machinery and equipment used during the period of assessment. The fair market rental value is the amount that a purchaser would pay on the open market to rent the item for use. If the item has no fair market rental value, sales tax is due based upon the purchase price.

(B) At any time the producer may stop paying tax on the fair market rental value of the machinery and equipment and instead pay sales tax on the original purchase price. When the person elects to pay sales tax on the original purchase price, credit will not be allowed for taxes previously paid on the fair market rental value.

(5) Two or more corporations that operate agricultural activities on the same tract or adjacent tracts of land and that are entirely owned by an individual or a combination of the individual, the individual's spouse, and the individual's children may qualify as an original producer for the purposes of paragraph (1) of this subsection.

(6) Machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by an agricultural cooperative organized under the Agriculture Code, Chapter 52, are not exempt unless the comptroller determines that:

(A) the cooperative itself is the original producer of all the agricultural products being processed, packed, or marketed; and

(B) the processing, packing, or marketing is being accomplished at a location operated by the cooperative.

(c) Persons purchasing trees, shrubs, and ornamental plants for resale are presumed to be marketing these products rather than fostering their growth. The presumption may be overcome by showing that actions were taken that did more than maintain the products prior to sale. An example would be replanting a shrub in a bigger container to encourage growth. Machinery, equipment, and other tangible personal property purchased to maintain the plants prior to sale are taxable.

(d) All persons engaged in the business of selling items that are exempt from the sales tax must obtain an exemption certificate from their customers as provided in the Tax Code, §151.155 and §3.287 of this title (relating to Exemption Certificates). The certificate may be a blanket certificate covering all purchases only when the items being sold are of a type or quantity that would not generally be used except on a farm or ranch. An example is farm machinery or fertilizer purchased in bulk. When a seller sells taxable items and items that may qualify for exemption under this section, the seller may either obtain an exemption certificate for each item that qualifies for exemption or obtain a certificate at the time the customer makes an exempt purchase initially and keep that certificate on file. When subsequent exempt purchases are made, the invoice must be stamped with the words, "Exempt agricultural purposes" and the customer must sign the invoice.

(e) All medications, tonics, restoratives, or other therapeutic preparations for farm and ranch animals that are used exclusively on a farm or a ranch are exempt from sales and use tax. See subsection (d) of this section regarding exemption certificates.

(f) A farm or ranch is defined as one or more tracts of land used, either wholly or in part, in the production of crops, livestock, and/or other agricultural products held for sale in the regular course of business. This includes feed lots, dairy farms, poultry farms, commercial orchards, commercial nurseries, and similar commercial agricultural operations. Farm or ranch does not include home gardens or timber operations.

(g) The terms machinery or equipment include:

(1) expendable supplies, such as hand tools, baling wire and binders twine;

(2) lubricants for farm machinery and for motor vehicles not licensed for highway use;

(3) nuts, bolts, washers, and other hardware. It also includes materials used on or in buildings, structures, or structural components that are classified as machinery or equipment;

(4) repair or replacement parts used exclusively on farm or ranch machinery or equipment. This includes tractor tires, tires used on motor vehicles not licensed for highway use, and tires specifically designated by the manufacturer for farm use or off-highway use only;

(5) machinery and equipment used exclusively to maintain equipment that qualifies for exemption under this section;

(6) those items specifically designed to be assembled into a machine, such as parts of a pumping system or portable irrigation systems;

(7) tangible personal property sold for use as a component of an underground irrigation system;

(8) fenceposts, cattleguards, gates, and chutes. However, fenceposts, gates and cattleguards used to enclose private driveways, home lawns, gardens, pools, etc., do not qualify for exemption from tax. These items purchased by persons operating commercial nurseries and greenhouses and similar commercial operations for the purpose of preventing trespassing by the public do not qualify for exemption from tax; and

(9) the following items and the materials used to build, construct, or fabricate these items (these items are classified as equipment and are therefore exempt), provided they meet the qualifications set out in this section and have not been previously excluded:

(A) fences, pens, gates, cattleguards, and chutes used in connection with raising livestock or production of agricultural products;

(B) storage facilities specifically designed for and that can be used only to store bulk fungible commodities regardless of whether the facilities are of a portable or fixed nature. Typical facilities on farms or ranches include petroleum products storage tanks, grain storage bins, refrigerated storage structures for unprocessed fruit, silos, and vehicle-mounted fertilizer spreaders or feed mills (not licensed for highway use). General purpose facilities that are used to store bulk fungible commodities, farm produce or equipment do not qualify for exemption from tax. Only those facilities that cannot be used for any purpose other than the storage of fungible goods qualify as farm equipment;

(C) a building or structure that is essentially an item of equipment or machinery necessary for agricultural production if it is specifically designed for such use and cannot be economically used for any other purpose. For example, automated laying houses, farrowing houses, and commercial greenhouses.

(h) Sales tax is due on the sale of computer hardware for use on farms and ranches unless specifically designed as a part of production equipment, such as a computer-operated feed mixing device. Computer software that is designed specifically to aid in the production, processing, packing, or marketing of agricultural products of the original producer qualifies for exemption. Computer software used for, but not limited to, household budgeting, payrolls, bookkeeping, educational, or recreational purposes is taxable.

(i) Buildings and structural components and/or the materials used to build, construct, or fabricate the following facilities are not exempt from the limited sales and use tax.

(1) Buildings include any structures or edifices enclosing a space within their walls, and usually covered by a roof, the purpose of which may be to provide storage, shelter, or housing, or to provide working, office, or sales space (for example, houses, offices, barns, storage facilities, warehouses, garages, and stores).

(2) Structural components include those parts of a building or machinery in, on, or adjacent to a building, relating to the operation or maintenance of the building (for example, air conditioning or heating systems). However, if the sole justification for installation is to meet humidity or temperature requirements essential for the operation of other machinery or the processing of plants, animals, or foodstuffs, the structural component is exempt.

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

Issued in Austin, Texas, on February 13, 1996.

TRD-9602075

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: March 5, 1996

Proposal publication date: October 31, 1995

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

Chapter 9. Property Tax Administration

Subchapter C. Appraisal District Administration

34 TAC §9.405

The Comptroller of Public Accounts adopts an amendment to §9.405, concerning exemption applications for residence homesteads, without changes to the proposed text and the Application for Residential Homestead Exemption form adopted by reference with non-substantive changes as published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10750).

The amendment deals with the continuation of a school tax ceiling or the over-65 homestead exemption for an over-55 surviving spouse of a person who died while entitled to the specific tax ceiling or exemption. This rule will implement recently adopted amendments to Property Tax Code, §11.13, (House Bill 1127, 74th Legislature, 1995).

The comptroller received only two comments concerning the proposed amendment. Both an attorney and the Harris County Central Appraisal District commented that the homestead exemption form, adopted by reference in the rule, limited the applicability of the over-65 homestead exemption and asked the agency to consider removing certain language from the form. The comptroller agreed to modify the form as requested.

The amendment is proposed under the Tax Code, §11.43(f), which requires the comptroller to prescribe the contents and form for each type of property tax exemption.

The amendment implements the Property Tax Code, §11.13 and §11.143.

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 February 13, 1996.

TRD-9602077

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: March 5, 1996

Proposal publication date: December 15, 1995

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

Subchapter D. Appraisal Review Board

34 TAC §9.801

The Comptroller of Public Accounts adopts an amendment to §9.801, concerning notice of protest, without changes to the proposed text as published in the December 12, 1995, issue of the *Texas Register* (20 TexReg 10576).

The amendment deals with the ability of a lessee of property to protest the appraised value of that property if the lessor fails to do so under the terms of Property Tax Code, §41.44 and §41.413 (Senate Bill 783, 74th Legislature, 1995). The lessees will now have standing to contest the tax assessment on property that they lease, thereby assuring that they will not have pay "pass-through" property taxes without an opportunity to protest the underlying valuation of the leased property.

The comptroller received only one comment concerning the proposed amendment. The Williamson County Appraisal District commented that the comptroller should modify Step 1 in the Model Form #50-132, the "Property Tax-Notice of Protest" form, proposed for adoption by reference, to include an additional space to show the lessee's name as well as the property owner's name. The comptroller rejected this suggestion because the property description required by this form will serve as a suitable manner to identify property which is subject to two protests—one by the owner and one by the lessee.

This amendment is adopted under the Tax Code, §41.44, which requires the comptroller to prescribe the contents of the notice of protest form.

The amendment implements the Property Tax Code, §41.44 and §41.413.

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 February 13, 1996.

TRD-9602076

Martin Cherry

Chief, General Counsel

Comptroller of Public Accounts

Effective date: March 5, 1996

Proposal publication date: December 12, 1995

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part I. Texas Department of Public Safety

Chapter 16. Commercial Driver's License

Sanctions and Disqualifications

37 TAC §§16.103-16.105

The Texas Department of Public Safety adopts new §§16.103-16.105, concerning sanctions and disqualifications, without changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 TexReg 11104).

The justification for the sections will be to keep unsafe drivers and vehicles from operating on Texas highways.

The new sections are necessary to implement 49 Code of Federal Regulations (CFR), Part 383, and Texas Transportation Code, §522.071 and §522.090. The new sections establish the disqualifications and penalties pertaining to violations of out-of-service orders for drivers and employers.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Transportation Code, §522.005, which provides the department may adopt rules necessary to carry out this chapter and the federal act; and Texas Civil Statutes, Article 6675d, §3(a), which provide that the department may adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial motor vehicles.

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 February 8, 1996.

TRD-9602174

James R. Wilson

Director

Texas Department of Public Safety

Effective date: March 7, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 424-2890

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Chapter 21. Equipment and Vehicle Standards

Equipment and Vehicle Standards

37 TAC §21.7

The Texas Department of Public Safety adopts an amendment to §21.7, concerning equipment and vehicle standards, without changes to the proposed text as published in the December 22, 1995, issue of the *Texas Register* (20 *TexReg* 10981).

The justification for this section will be a reduction in traffic accidents involving trailer, semitrailer or house trailer disconnecting from the towing vehicle while being towed.

The amendment is necessary to implement the provisions of House Bill 3208, 74th Legislature, 1995, which took effect September 1, 1995. The rule is amended to require passenger cars, light trucks, and semitrailers to have safety chains of a type approved by the department and attached in a manner approved by the department. Paragraph (2) and (3) are deleted from subsection (e).

No comments were received regarding adoption of the amendment.

The amendment is adopted pursuant to Texas Transportation Code, Chapter 545, §545.410, which provides the Texas Department of Public Safety with the authority to adopt rules which set forth the type of safety chains required to be used based on the weight of the trailer, semitrailer, or house trailer being towed.

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 authority.

Issued in Austin, Texas, on February 8, 1996.

TRD-9602172

James R. Wilson

Director

Texas Department of Public Safety

Effective date: March 7, 1996

Proposal publication date: December 22, 1995

For further information, please call: (512) 424-2890

Chapter 27. Crime Records

Juvenile Justice Information System

37 TAC §§27.51-27.64

The Texas Department of Public Safety adopts new §§27.51-27.64, concerning juvenile justice information systems, without changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 *TexReg* 11105).

The justification for these sections will be enhanced protection to the public and public safety and to promote the concept of punishment for criminal acts.

The new sections are necessary to implement the juvenile justice information system provisions of House Bill 327, 74th Legislature, Regular Session, 1995 "the Act", part of which was codified as the Texas Family Code, Title 3 §58.001-58.113. The Act makes the Texas Department of Public Safety (department) responsible for recording data and maintaining a database for a computerized juvenile justice information system. These new sections set forth procedures and implementation for the reporting of juvenile offender processing data by the agency responsible for the data from the time a juvenile offender is initially taken into custody, detained, or referred until the time a juvenile offender is released from the jurisdiction of the juvenile justice system.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Family Code, Title 3, Chapter 58, §58.001-58.113 and Texas Government Code, §411.006(4), which provide the director with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

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 authority.

Issued in Austin, Texas, on February 8, 1996.

TRD-9602171

James R. Wilson

Director

Texas Department of Public Safety

Effective date: March 7, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 424-2890

Active Protective Orders

37 TAC §§27.71-27.76

The Texas Department of Public Safety adopts new §27.71-27.76, concerning active protective orders, without changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 *TexReg* 11106).

The justification for these sections will be enhanced protection to the public and public safety.

The new sections are necessary to implement the active protective order provisions of Senate Bill 130, 74th Legislature, Regular Session, 1995 codified, in part, as the Texas Family Code, Chapter 71, §71.17(b)(1) and §71.18(c) and Texas Government Code, §411.042(b)(5)(A)-(G) and (g). "The Act" creates a state-wide computerized file of active protective orders to be searched by chief law enforcement officers in Texas upon their receipt from licensed firearms dealers of requests for background records checks of prospective transferees under the Brady Handgun Violence Prevention Act. The Act requires the Department of Public Safety to collect specified information into the file and establish rules which ensure that information relating to the issuance and dismissal of an active protective order is reported to the local law enforcement agency at the time of the order's issuance or dismissal and entered into the file by the local law enforcement agency. These sections set forth procedures and implementation for the reporting of active protective orders and the access to information regarding active protective orders.

No comments were received regarding adoption of the new sections.

The new sections are adopted pursuant to Texas Family Code, Chapter 71, §71.17(b)(1) and §71.18(c) and Texas Government Code, §411.006(4), and §411.042(b)(5)(A)-(G) and (g), which provide the director with the authority to adopt rules, subject to commission approval, considered necessary for the control of the department.

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 authority.

Issued in Austin, Texas, on February 8, 1996.

TRD-9602173

James R. Wilson

Director

Texas Department of Public Safety

Effective date: March 7, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 424-2890

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part IV. Texas Commission for the Blind

Chapter 163. Vocational Rehabilitation Program

Subchapter C. Vocational Rehabilitation Services

40 TAC §§163.25, 163.28, 163.32

The Texas Commission for the Blind adopts amendments to §§163.25, 163.28 and 163.32, concerning services available through the commission's Vocational Rehabilitation Program. Section 163.25 and §163.28 are being adopted without changes to the proposed text as published in the December 26, 1995, issue of the *Texas Register* (20 *TexReg* 11113). Section 163.32 is being adopted with changes. The commission adopts these sections to clarify the agency's use of comparable services and benefits, to remove a reference to the Texas Education Agency that is no longer valid, to clarify the agency's use of interpreters, and to respond to consumer requests that the agency remove certain probationary rules and apply individual university standards in providing academic services.

The Commission received comments regarding the proposed rule from the Texas Commission for the Deaf and Hard of Hearing, the Texas Society of Interpreters for the Deaf, and the Travis Council for the Deaf, Inc. Each organization pointed out the need to incorporate the Texas Commission for the Deaf and Hard of Hearing into §163.32. The Commission agrees with the comments. The omission was an oversight, and the section has been revised accordingly.

The amendments are adopted under the Human Resources Code, Title 5, Chapter 91, §91.011(g), which authorizes the commission to adopt rules prescribing the policies and procedures followed by the commission in the administration of its programs.

§163.32. *Interpreter Services and Note-taking Services for Individuals Who are Deaf and Tactile Interpreting for Individuals Who are Deaf-Blind.*

If available, the Commission uses interpreters certified by the Texas Commission for the Deaf and Hard of Hearing or by the Registry of Interpreters in the delivery of services to persons who are deaf or deaf-blind.

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

Issued in Austin, Texas, on February 13, 1996.

TRD-9602105

Pat D. Westbrook

Executive Director

Texas Commission for the Blind

Effective date: March 5, 1996

Proposal publication date: December 26, 1995

For further information, please call: (512) 459-2611

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Name: Delores Cancales
Grade: 12
School: PSJA North High School, PSJA ISD

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 before 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 listed 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. All emergency meeting notices filed by 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 a 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).

State Office of Administrative Hearings

Wednesday, June 19, 1996, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits will be held at the above date and time in SOAH Docket Number 473-96-0210-Petition of Texas Utilities Electric Company, Inc. for a reconciliation of fuel costs and for an accounting order to include certain other costs pursuant to Public Utility Commission Substantive Rule 23.23(b)(2)(B)(v). (PUC Docket Number 15195)

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: February 15, 1996, 1:05 p.m.

TRD-9602198

Monday, March 25, 1996, 10:00 a.m.

7800 Shoal Creek Boulevard

Austin

Utility Division

AGENDA:

A hearing on the merits will be held at the above date and time in SOAH Docket Number 473-96-0334-Application of Sam Rayburn G&T Electric Cooperative, Inc. for authority to change rates. (PUC Docket Number 14893.)

Contact: J. Kay Trostle, P.O. Box 13025, Austin, Texas 78711-3025, (512) 936-0728.

Filed: February 20, 1996, 3:40 p.m.

TRD-9602418

Texas Department of Agriculture

Monday, February 26, 1996, 1:30 p.m. (Rescheduled from February 12, 1996.)

Room 300, Uvalde County Courthouse

Uvalde

Wintergarden Spinach Producers Board

AGENDA:

Call to order

Call to order

Discussion and action: Read and approve minutes of last meeting; expenses; Advisory Committee report; set date and time for next meeting.

Report: On collections from processors.

Discussion: Identification of projects.

Adjourn

Contact: Don Laffere, P.O. Box 305, Batesville, Texas 78829, (210) 376-4385.

Filed: February 16, 1996, 1:31 p.m.

TRD-9602299

Tuesday, March 5, 1996, 1:15 p.m.

Soil and Crop Science Building, Texas A&M University
College Station

Texas Peanut Producers Board

AGENDA:

Roll call

Discussion of research proposals

Adjourn

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817)
734-2853.

Filed: February 15, 1996, 3:06 p.m.

TRD-9602225

Wednesday, March 6, 1996, 9:00 a.m.

Fairfield Inn, 4613 South Texas Avenue

Bryan

Texas Peanut Producers Board

AGENDA:

Discussion and action on minutes; preliminary budget.

Discussion of research proposals; other business.

Adjourn

Contact: Mary Webb, P.O. Box 398, Gorman, Texas 76454, (817)
734-2853.

Filed: February 15, 1996, 3:06 p.m.

TRD-9602226

Thursday, March 28, 1996, 9:00 a.m.

300 West 15th Street, Suite 502

Austin

AGENDA:

Administrative hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Agriculture vs. Joe Coleman to hear alleged violation of Texas Pesticide Laws, SOAH Docket Number 551-96-0304.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas
78711, (512) 463-7583.

Filed: February 15, 1996, 4:13 p.m.

TRD-9602236

Monday, March 18, 1996, 1:00 p.m.

300 West 15th Street, Suite 502

Austin

AGENDA:

Administrative hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Agriculture vs. Glenn Kipper to hear alleged violations of Texas Pesticide Laws, SOAH Docket Number 551-96-0286.

Contact: Dolores Alvarado Hibbs, P.O. Box 12847, Austin, Texas
78711, (512) 463-7588.

Filed: February 15, 1996, 4:13 p.m.

TRD-9602237

Texas Commission on Alcohol and Drug Abuse

Tuesday, February 27, 1996, 10:30 a.m.

Austin Marriott at the Capitol, 701 East 11th Street

Austin

Joint Meeting of the Conservatorship Board and the Board of Commissioners

AGENDA:

Call to order; introductions; TCADA staff; presentation by the conservators on key issues; and adjourn.

Contact: Sharon F. Logan, 710 Brazos, Austin, Texas 78701, (512)
867-8147.

Filed: February 16, 1996, 3:46 p.m.

TRD-9602353

Wednesday, February 28, 1996, 9:00 a.m.

710 Brazos, Perry Brooks Building

Austin

Board of Commissioners

AGENDA:

Call to order; election of vice-chair; election or designation of secretary; comments by the chair; report of the interim executive director; budget and financial issues, public entity legal issues and report on scope and status of General Investigating Committee Task Force; presentation and recommendation on the strategic planning process; presentation on the Sunset process; discussion of the process of selecting an executive director; action on proposed rules; 40 Texas Administrative Code, Chapter 144. Funding; public comment; board operating procedures; set date(s) for the next meeting(s); and discussion and decision on travel reimbursement; and adjourn.

Contact: Sharon F. Logan, 710 Brazos, Austin, Texas 78701, (512)
867-8147.

Filed: February 16, 1996, 3:46 p.m.

TRD-9602354

Tuesday, March 5, 1996, 1:00 p.m.

400 East Gravis, Duval County Courthouse, County Attorney's Library

San Diego

Regional Advisory Consortium (RAC), Region 11

AGENDA:

Call to order; roll call; introduction of visitors; reading and approval of minutes; old business; new business; and adjournment.

Contact: Miguel Lopez, 3804 Casa Blanca Road, Laredo, Texas
78041, (210) 718-0297.

Filed: February 20, 1996, 8:50 p.m.

TRD-9602384

Texas Alcoholic Beverage Commission

Monday, February 26, 1996, 1:30 p.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

1:30 p.m.-Call to order.

Convene in open meeting.

Announcement of executive session.

1. Executive session:

- a. briefing regarding operations of the general counsel's office; and
- b. Sampson v. Board.

Continue open meeting.

2. Take action, including a vote, if appropriate on topics listed for discussion under executive session.

3. Approval of minutes of January 29, 1996, meeting; discussion, comment, possible veto.

4. Recognition of agency employees with 20 or more years of service.

5. Administrator's report.

6. Amend 16 TAC 37.45 as published 20 TexReg 10947, December 22, 1995 and 21 TexReg 273, January 9, 1996; discussion, comment and possible vote. (The Record)

7. Staff recommendations to the Senate Interim Committee on Juvenile Driving While Intoxicated Laws; discussion, comment and possible vote.

8. Public comment.

Adjourn

Contact: Doayne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: February 15, 1996, 9:56 a.m.

TRD-9602166

Texas Commission on the Arts

Friday, March 8, 1996, 10:00 a.m.

San Antonio Public Library, Central Library Auditorium, 600 Soledad Plaza

San Antonio

Commission Meeting

AGENDA:

I. Call to order

II. Roll call

III. Public hearing

IV. Items for commission consent

A) Approval of minutes for December 8, 1995 meeting

B) Financial statement fiscal year 1996

C) Resolutions

D) Strategic planning and legislative appropriations request development task force

E) Other business

V. Items for individual consideration

A) 30th Anniversary Task Force

B) Other business

VI. Items for information only

A) Cultural Trust Council update

B) National Endowment for the Arts update

C) National Endowment for the Arts applications update

D) Fiscal year 1997 grant applications update

E) 1996 advisory panels update

F) TCAnet update

G) State of the Arts license plate and Alamo Rent A Car update

H) General meetings schedule

I) Other business

VII. Adjournment

Contact: Deborah Cole, P.O. Box 13406, Austin, Texas 78711-3406, (512) 463-5535.

Filed: February 15, 1996, 1:04 p.m.

TRD-9602197

The State Bar of Texas

Friday, February 23, 1996, 1:30 p.m.

The Texas Law Center, 1414 Colorado, Room 204

Austin

Executive Committee

AGENDA:

Call to order/roll call/approval of minutes/reports from: President; president-elect; executive director; Office of General Counsel; Grant Review Committee; Professionalism Committee; Texas Young Lawyers' Association President; immediate past president; Supreme Court liaison/adjourn.

Contact: Pat Hiller, P.O. Box 12847, Austin, Texas 78711, 1-800-204-2222.

Filed: February 15, 1996, 3:50 p.m.

TRD-9602235

Texas Bond Review Board

Thursday, February 22, 1996, 10:00 a.m.

300 West 15th Street, Committee Room #5, Clements Building, Fifth Floor

Austin

AGENDA:

I. Call to order

II. Approval of minutes

III. Consideration of proposed issues

A. Texas A&M University System-Revenue Financing System Bonds

B. Texas Water Development Board-Tax-Exempt General Obligation Texas Water Development Bonds, Series 1996A and 1996B

C. Texas Water Development Board-State Revolving Fund Senior Lien Revenue Bonds, Series 1996A

D. Midwestern State University-Municipal lease purchase agreement for energy improvements

E. Texas Department of Housing and Community Affairs-Variable Rate Demand Multi-Family Housing Revenue Refunding Bonds (Dallas-Oxford Development) Series 1996B

IV. Other business

A. Report by Texas Agricultural Finance Authority regarding the loan program approved by the Board in April 1995

C. Discussion of staff recommendation regarding approval of applications

V. Adjourn

Contact: Albert L. Bacarisse, 300 West 15th Street, Suite 409, Austin, Texas 78701, (512) 463-1741.

Filed: February 14, 1996, 12:43 p.m.

TRD-9602127

Coastal Coordination Council

February 17, 1996, 8:30 a.m.

1700 Congress Avenue, Stephen F. Austin Building, Room 831

Austin

AGENDA:

I. Call to order and opening remarks

II. Adoption of amendments to Coastal Coordination Council (Council) rule proposed in the December 18, 1995, issue of the Texas Register

III. Proposal of technical corrections to Council rules

IV. Report on meeting with federal Office of Ocean and Coastal Resource Management (OCRM) regarding federal approval process

V. Report on federal Coastal Zone Management grants

a) Discussion of appointments to and formation of the Executive Committee

b) Discussion of process and criteria for distributing federal funds on the Texas coast

VII. Report on mineral access issues relating to the Houston Ship Channel project

VIII. Adjourn

Contact: Janet Fatheree, 1700 North Congress Avenue, Room 617, Austin, Texas 78701, (512) 463-5385.

Filed: February 15, 1996, 3:38 p.m.

TRD-9602228

Conservatorship Board

Monday, February 26, 1996, 1:30 p.m.

710 Brazos, Perry Brooks Building

Austin

AGENDA:

Call to order; approval of February 6, 1996 minutes; action on HIV outreach services request for proposals; action on early intervention fiscal year 1996 funding; action on services budget increases in fiscal year 1996 funds; update on developmental funding; action on declaration regarding conservatorship; and adjourn.

Contact: Sharon F. Logan, 710 Brazos, Austin, Texas 78701, (512) 867-8147.

Filed: February 16, 1996, 3:46 p.m.

TRD-9602352

Texas Department of Criminal Justice

Tuesday, March 5, 1996, 10:00 a.m.

Reagan Building, Room 101

Austin

Ad Hoc Committee on the Inmate Telephone System

AGENDA:

I. Approval of December 19, 1995, meeting minutes

II. Discussion: Selection of consultant

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact Amanda Ogden (512) 463-9472 at least two work days prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 463-9693.

Filed: February 15, 1996, 8:22 a.m.

TRD-9602157

State Board of Dental Examiners

Friday-Saturday, March 8-9, 1996, 8:00 a.m.

William Hobby Building, 333 Guadalupe, HPC Conference Room, Tower Two, Second Floor

Austin

Board Meeting

AGENDA:

I. Call to order II. Roll call III. Approval of past minutes

IV. Appearance before the board-Topek, Naylor, Mosley

V. Public hearing and possible adoption of rules-107.100-107.103, 109.177, 109.10, 107.200, 109.144

VI. Enforcement-Approval of settlement orders/committee report

VII. Administration-Committee report; legislative report

VIII. Executive session to discuss pending litigation, pursuant to Texas Government Code §551.071(1)(A), Vernon Supplement, 1995-Dorsey vs. TSBDE #93-03846, 152nd District Court Harris County Texas; Beck vs. TSBDE #SA94CA0279 U. S. District Court Western District San Antonio Division; TSBDE vs. Hernandez #54-077-B, 119th District Court, Tom Green County Texas.

IX. Discuss and consider proposed changes to Rule 101.1 as petitioned by the deans of the Texas Dental Schools.

X. Licensing and examination-Approval of permits; Examination, Continuing Education, Credentials committee reports and approval of credentials applications; Dental Hygiene Advisory Committee report.

XI. President's report XII. Executive director's report

XIII. Election of officers XIV. Announcements XV. Adjourn

Contact: Douglas A. Beran, 333 Guadalupe, Tower Three, Suite 800, Austin, Texas 78701, (512) 463-6400.

Filed: February 21, 1996, 9:47 p.m.

TRD-9602452

Texas Council on Purchasing from People with Disabilities

Tuesday, February 27, 1996, 10:00 a.m.

Capitol Extension, Suite E2.026, 1400 North Congress Avenue

Austin

Pricing Subcommittee

AGENDA:

Introduction of subcommittee members and guests;

Acceptance of minutes from January 24, 1996 meeting;

Discussion and recommendation for action on:

New services;

Renewal services;

New products; and

Product changes and revisions.

Contact: Rose-Michel Munguia, 1711 San Jacinto, Austin, Texas 78701, (512) 463-6472.

Filed: February 15, 1996, 11:31 a.m.

TRD-9602178

Texas Education Agency

Monday, February 26, 1996, 8:30 a.m.

4545 West John Carpenter, Conference Room

Irving

Texas Task Force on Electronic Textbook Accessibility

AGENDA:

Major topics on the agenda include the following: (1) use of electronic textbooks to teach blind, visually impaired and other students with disabilities; (2) overview of computer system access problems for blind and visually impaired students; (3) strategies for building connection points to facilitate use of programs with third party software; (4) development of electronic textbook systems; (5) strategies for building accessibility features directly into electronic textbooks; (6) how multimedia materials must be prepared to ensure accessibility for disabled students; and (7) future directions for the task force.

Contact: Charles B. Mayo, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9606.

Filed: February 15, 1996, 9:30 a.m.

TRD-9602163

Texas State Board of Registration for Professional Engineers

Friday, March 1, 1996, 10:00 a.m.

1917 IH-35 South, Board Room

Austin

Ad Hoc Committee on Operations

AGENDA:

1. Meeting called to order by Committee Chair Pillar at 10:00 a.m.

2. Discuss agency's strategic plan for the period 1997-2001.

3. Adjourn.

Contact: John R. Speed, P.E., 1917 IH-35 South, Austin, Texas 78741, (512) 440-7723.

Filed: February 16, 1996, 1:49 p.m.

TRD-9602302

General Services Commission

Tuesday, February 27, 1996, 9:30 a.m.

Central Services Building, 1711 San Jacinto, Room 402

Austin

AGENDA:

1) Consideration of proposed amendments to §125.27 concerning the state travel management program; 2) Consideration of publication of procedure for setting open meeting agendas; 3) Consideration of publication of proposed amendments to 1 Texas Administrative Code §123.15 relating to selection of architect/engineers for professional services; 4) Program issues; executive session to consider personnel matters pursuant to the provisions of Texas Government Code §551.074; executive session to consider the status of the purchase of real property pursuant to the provisions of Texas Government Code §551.072; executive session to consult with legal counsel concerning pending litigation pursuant to the provisions of Texas Government Code §551.071.

Contact: David Ross Brown, 1711 San Jacinto, Texas 78701, (512) 463-3446.

Filed: February 16, 1996, 9:43 a.m.

TRD-9602265

Texas Department of Health

Saturday-Sunday, March 9-10, 1996, 1:00 p.m. and 8:30 a.m., respectively. (The meeting will be continued on Sunday only if necessary.)

Ebony Room, Dallas Medallion Hotel, 4099 Valley View Lane

Dallas

Medical Radiologic Technologist Advisory Committee, Rules Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on: approval of the minutes from the October 3, 1995 meeting; approval of the minutes from the October 13, 1995 meeting; comments made concerning proposed amendments to 25 Texas Administrative Code (TAC) §§143.1-143.9, 143.11, 143.13, and 143.14; comments made con-

cerning new sections (§143.16-dangerous or hazardous procedures; §143.17-mandatory training programs for non-certified technicians; §143.18-registry of non-certified technicians; and §143.19-hardship exemptions); action on final rules §§143.1-143.19; public comment; and announcement of next meeting date.

Contact: Donna Hardin Flippin, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6617. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 21, 1996, 8:40 a.m.

TRD-9602433

Sunday, March 10, 1996, 10:00 a.m.

Ebony Room, Dallas Medallion Hotel, 4099 Valley View Lane
Dallas

Medical Radiologic Technologist Advisory Committee

AGENDA:

The board will discuss and possible act on: approval of the minutes from the October 14, 1995 meeting; timetables for publication and adoption of amendments and new sections; report from Rules Subcommittee; action on final rules to 25 Texas Administrative Code (TAC) §§143.1-143.9, 143.11, 143.13, and 143.14; action on final rules (§143.16-dangerous or hazardous procedures; §143.17-mandatory training programs for non-certified technicians; §143.18-registry of non-certified technicians; and §143.19-hardship exemptions); public comment; and announcement of next meeting date.

Contact: Donna Hardin Flippin, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6617. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 21, 1996, 8:40 a.m.

TRD-9602434

Texas Department of Health

Thursday, February 12, 1996, 9:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Human Resources Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the January 25, 1996 meeting; final adoption of rules concerning Osteoporosis Advisory Committee; appointments to the Respiratory Care Practitioners Advisory Committee; and appointments to the Wholesale Drug Advisory Committee.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1996, 4:05 p.m.

TRD-9602145

Thursday, February 22, 1996, 10:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Health and Clinical Services Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the January 26, 1996 meeting; proposed rule concerning reimbursement methodology for hemophilia factor in the Chronically Ill and Disabled Childrens' Services Program (CIDC); proposed rules concerning occupational disease reporting; proposed rules concerning reportable diseases and notification to certain public safety personnel of possible exposure to disease under the Communicable Disease Prevention and Control Act; presentation of Texas Diabetes Council report; minimum standards for diabetes care under managed care in Texas; HIV/STD Medication Program review and status report; report-"Healthy Children Are Prepared to Learn-School Health: Programs in Action"; and Title V futures update.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1996, 4:05 p.m.

TRD-9602144

Thursday, February 22, 1996, 11:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health Luncheon

AGENDA:

The Texas Board of Health will hold a luncheon to discuss issues relating to children's health and safety initiatives.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1996, 4:05 p.m.

TRD-9602143

Thursday, February 22, 1996, 1:30 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Strategic Management Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the January 25, 1996 meeting; contract management report; presentation on local health department issues; congressional update; and monthly financial report (historically underutilized businesses; Chronically Ill and Disabled Children's program; FTEs; new laboratory; monthly financial update); and border health update.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil

Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1996, 4:04 p.m.

TRD-9602142

Thursday, February 22, 1996, 4:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Regulatory Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes from the January 25, 1996 meeting; proposed rules concerning establishing a registry for the occupation of kinesiotherapy; proposed rules concerning minimum standards for approved narcotic treatment programs; proposed repeal of existing rules and proposed new rules concerning the regulation of health maintenance organizations; final adoption of rules concerning the licensure of device distributors and manufacturers; approval of final adoption of rules of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; update on fish contamination in Texas; discussion on proposed rules concerning the licensing of end stage renal disease facilities; discussion of proposed rules concerning licensure of tattoo studios; and announcements and comments not requiring committee action.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 14, 1996, 4:05 p.m.

TRD-9602146

Friday, February 23, 1996, 8:00 a.m.

Room M-741, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Board Briefing

AGENDA:

The board will receive a briefing by the commissioner on the current activities of the Texas Department of Health; and concerning procedural and/or administrative issues of the Board of Health.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 15, 1996, 3:40 p.m.

TRD-9602232

Friday, February 23, 1996, 9:30 a.m.

Room T-609, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health

AGENDA:

The Texas Board of Health will receive a demonstration on the distance learning and telemedicine capabilities.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 15, 1996, 3:40 p.m.

TRD-9602233

Friday, February 23, 1996, 10:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health, Health Financing Committee

AGENDA:

The committee will discuss and possibly act on: approval of the minutes of the January 25, 1996 meeting; recommendation to the State Medicaid Director concerning final adoption of rules relating to optometric services; recommendation to the State Medicaid Director concerning final adoption of rules for reimbursement of outpatient rehabilitation facilities; recommendation to the State Medicaid Director concerning final adoption of rules relating to removing the physician attestation requirement; and comments concerning participation in a historically underutilized business in the Medicaid Managed RFA.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 15, 1996, 3:40 p.m.

TRD-9602234

Friday, February 23, 1996, 1:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Texas Board of Health

AGENDA:

The board will meet to discuss approval of the minutes of the January 26, 1996 meeting; and discuss and possibly act on: commissioner's report (recognition of Patti Patterson, M.D., for receiving the 1996 Pediatric Alumni Award from UTMB; and presentation of the "Golden Peach Awards"); Strategic Management Committee report; Health Financing Committee report (recommendation to the State Medicaid Director concerning final adoption of rules relating to the optometric services; recommendation to the State Medicaid Director concerning final adoption of rules for reimbursement of outpatient rehabilitation facilities; and recommendation to the State Medicaid Director concerning final adoption of the rules relating to removing the physician attestation requirement); Health and Clinical Services Committee report (proposed rules concerning reimbursement methodology for hemophilia factor in the Chronically Ill and Disabled Children's Services Program (CIDC); proposed rules concerning occupational disease reporting; proposed rules concerning reportable diseases and notification to certain public safety personnel of possible exposure to disease under the Communicable Disease Prevention and Control Act); Human Resources Committee report (final adoption

of rules concerning Osteoporosis Advisory Committee; appointments to the Respiratory Care Practitioners Advisory Committee; and appointments to the Wholesale Drug Advisory Committee); Regulatory Committee report (proposed rules concerning establishing a registry for the occupation of kinesiotherapy; proposed rules concerning minimum standards for approved narcotic treatment programs; proposed repeal of existing rules and proposed new rules concerning the regulation of health maintenance organizations; final adoption of rules concerning the licensure of device distributors and manufacturers; and approval of final adoption of rules of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments); public comments not requiring Board of Health action; and meeting date for March 1996.

Contact: Kris Lloyd, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7484. To request an accommodation under the ADA, please contact Renee Rusch, ADA coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 15, 1996, 3:40 p.m.

TRD-9602231

Statewide Health Coordinating Council

Thursday, February 29, 1996, 2:30 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

AGENDA:

The council will discuss and possibly act on: approval of the minutes from the January 10, 1996 meeting; report of meeting with the Health and Human Services Commission, Commissioner Mike McKinney; federal update; 1115 waiver/request for application update; Plan Development Committee report; council members attendance; Texas Health Care Information Council; follow-up to publication of Statewide Health Coordinating Council (SHCC/SHCC expenditures); and determine the next meeting date.

Contact: Trish O'Day, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7261. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 16, 1996, 2:14 p.m.

TRD-9602304

Texas Department of Housing and Community Affairs

Monday-Tuesday, February 26-27, 1996, 9:30 a.m.

601 South First Street, City Council Chambers

Lamesa

Board Meeting

AGENDA:

The board will meet to consider and possibly act on following: minutes of January 16, 1996; Rensselaerville Institute for STEP Program; issuance of multi-family mortgage bonds for Harbors, Blantyre, Dallas/Fort Worth Apartments Pool, Dallas Oxford Development; request for proposal for bond trustee; 1996 multi-family maximum income limits; extending bond call dates for 1994 single family

bonds; HOME Program awards for rental project assistance to foster and housing innovation to City of Victoria; establish a regional office in Lubbock; transfer of TRC properties to the corporation; conveyance of Terrace Apartments to Corporation, assignment of liabilities; amend administrative services agreement with Corporation; amendment to grant agreement of November 13, 1995 with corporation to provide administrative fees to corporation; strategic plan; executive session-consultation with executive session-personnel matters; executive director's report. Tours of Lamesa projects; and adjourn.

Contact: L. P. Manley, 811 Barton Springs, Austin, Texas 78704, (512) 475-3934.

Filed: February 16, 1996, 3:35 p.m.

TRD-9602348

Texas State Affordable Housing Corporation

Monday, February 26, 1996, 2:00 p.m.

601 South First Street, City Council Chambers

Lamesa

Board

AGENDA:

The Board of the Texas State Affordable Housing Corporation will meet to consider and possibly act on: Approval of minutes of December 15, 1995; amendment and restatement of articles of incorporation to change name; transfer of Resolution Trust Corporation contracts to Corporation; acceptance of conveyance of Terrace Apartment and assumption of liabilities; amendment to administrative services agreement with Texas Department of Housing and Community Affairs; amendment to grant agreement dated November 13, 1995 between Corporation and Texas Department of Housing and Community Affairs to provide administrative fees; investment policy; transfer of funds to Corporation for purchase of properties under contract with the FDIC Affordable Housing Disposition Program; executive session-Consultation with attorney under §551.071(2) of the Texas Government Code; and adjourn.

Contact: Larry Paul Manley, 811 Barton Springs Road, Suite 500, Austin, Texas 78704, (512) 475-3934.

Filed: February 16, 1996, 3:54 p.m.

TRD-9602257

Texas Department of Human Services

Tuesday, February 27, 1996, 1:00 p.m.

701 West 51st, Third Floor, Room 305, East Tower

Austin

Services to Persons with Disabilities Subcommittee

AGENDA:

1. Welcome and introductions. 2. Public comment. 3. Approval of minutes. 4. Announcements from SSPD members. 5. February TDHS board agenda update. 6. Long term care integrated model managed care pilot. 7. ADAC agenda update. 8. Director's update: follow-up action items, increasing public awareness, OSPD brochure, OSPD "Focal Point" newsletter. 8. Next meeting scheduled for May 1, 1996. 9. Adjournment.

Contact: D. J. Johnson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3533.

Filed: February 16, 1996, 9:41 a.m.

TRD-9602262

Tuesday, February 27, 1996, 1:00 p.m.

701 West 51st, Third Floor, Room 305, East Tower

Austin

Revised Agenda

Services to Persons with Disabilities Subcommittee

AGENDA:

1. Welcome and introductions. 2. Public comment. 3. Approval of minutes. 4. Announcements from SSPD members. 5. February TDHS board agenda update. 6. Long term care integrated model managed care pilot. 7. ADAC agenda update. 8. Director's update: follow-up action items, increasing public awareness, OSPD brochure, OSPD "Focal Point" newsletter. 9. Client's rights workgroup report. 10. Next meeting scheduled for May 1, 1996. 11. Adjournment.

Contact: D. J. Johnson, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3533.

Filed: February 16, 1996, 10:42 a.m.

TRD-9602268

Texas Incentive and Productivity Commission

Friday, March 1, 1996, 8:30 a.m.

Clements Building, Fifth Floor, Committee Room #5, 15th and Lavaca

Austin

AGENDA:

I. Call to order and roll call

II. Approval of minutes of previous meeting

III. Consideration of employee suggestions for approval

IV. Consideration of 1996 productivity bonus plans for approval

V. Consideration of approval to publish for comment revisions to State Employee Incentive Program rules

VI. Consideration of approval to publish for comment revisions to Productivity Bonus Program rules

VII. Consideration of possible changes to the administration of the State Employee Incentive Program and the Productivity Bonus Program

VIII. Adjournment

Contact: M. Elaine Powell, P.O. Box 12482, Austin, Texas 78711, (512) 476-2393.

Filed: February 15, 1996, 9:12 a.m.

TRD-9602162

Texas Department of Insurance

Thursday, March 7, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-1780.c

To consider whether disciplinary action should be taken against Wesley A. Boyd, Houston, Texas, doing business as Boyd's Mortuary, who holds a Group I Legal Reserve Life Insurance Agent's License, and a Group II Insurance Agent's License issued by the Texas Department of Insurance (reset from January 22, 1996).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: February 20, 1996, 9:23 a.m.

TRD-9602390

Thursday, March 7, 1996, 1:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-0195.c

To consider whether disciplinary action should be taken against Charles C. Walker, Petal Mississippi, who holds a Group I, Legal Reserve Insurance Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: February 20, 1996, 9:23 a.m.

TRD-9602389

Friday, March 8, 1996, 2:00 p.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

454-95-1722

Prehearing conference in request by Bankers Protective Life for an appeal hearing in connection with examination report (continued from February 20, 1996).

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code #113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: February 20, 1996, 9:23 a.m.

TRD-9602388

Board of Law Examiners

Saturday-Sunday, February 24-25, 1996, 8:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street

Austin

AGENDA:

The board will: consider requests for excused absences; hold public hearings; consider approval of minutes, financial reports, and investment reports; ratify actions taken at January 1996 board meeting; review examination questions; consider reports of staff,

members, and of Supreme Court liaison; meet with legal counsel; discuss bar admission workshop; consider special requests for waivers and interpretation of rules; consider adoption of policy prohibiting handguns; hear communications from the public; and adjourn.

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: February 14, 1996, 5:03 p.m.

TRD-9602150

Texas State Board of Medical Examiners

Thursday, February 22, 1996, 9:00 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Texas State Board of Physician Assistant Examiners Long Range Planning Committee

AGENDA:

1. Call to order
2. Roll call
3. Discussion and possible action on legislative funding request, and other budgetary matters
4. Update from Public Information Office-Leslie Brown

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, fax (512) 35-7008.

Filed: February 14, 1996, 3:09 p.m.

TRD-9602151

Thursday, February 22, 1996, 10:00 a.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Texas State Board of Physician Assistant Examiners Licensure Committee

AGENDA:

1. Call to order
 2. Roll call
 3. Review of licensure applicants referred to the Licensure Committee by the executive director for determinations of eligibility for licensure.*
- 10:00 a.m. Brian Powell, Thomas French, Dan Hutchins
4. Review of Physician Assistance applications for permanent licensure.*

* Executive session under the authority of the Open Meetings Act, 551.071 of the Government Code and Article 4495b, and Article 4495b-1 4(h), Texas Civil Statutes and Article 22 of the Texas Administrative Code, Chapter 185.3(h).

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, fax (512) 35-7008.

Filed: February 14, 1996, 3:09 p.m.

TRD-9602152

Thursday, February 22, 1996, 1:30 p.m.

333 Guadalupe, Tower Three, Suite 610

Austin

Texas State Board of Physician Assistant Examiners

AGENDA:

1. Call to order
2. Roll call
3. Executive session under the authority of the Open Meetings Act, 551.071 of the Government Code and the Physician Assistant Licensing Act, Article 4495b-1, Texas Civil Statutes, 4(b) and Article 22 of the Texas Administrative Code, Chapter 185.3(h) regarding pending or contemplated litigation.

4. Proposal for decision.

1:30 p.m. Paul Wilde

5. Probation appearances

1:30 p.m. Reynaldo Flores, PA, Lucio Mares, PA

6. Approval of committee appointments: Tony G. Hedges D.O. to Licensure Committee.

7. Executive director's report

8. Report and recommendations from the Long Range Planning Committee.

9. Recommendation from the Licensure Committee related to approval of physician assistant applications for permanent licensure.

10. Discussion and possible action regarding the issuance of temporary licenses to physician assistants.

11. Election of board secretary.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 305-7016, fax (512) 35-7008.

Filed: February 14, 1996, 3:09 p.m.

TRD-9602136

Texas Board of Licensure for Professional Medical Physicists

Wednesday, February 28, 1996, 8:00 a.m.

Room S-402, The Exchange Building, 8407 Wall Street

Austin

Credentials Committee

AGENDA:

The committee will discuss and possibly act on applicants under 22 Texas Administrative Code, 601.6. Application procedures with regard to application numbers (240; 274; 380; 401; 405; 5001; 5013; 5023; 5046; 5055; and 5060).

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 16, 1996, 3:36 p.m.

TRD-9602349

Wednesday, February 28, 1996, 10:30 a.m.
Room S-402, The Exchange Building, 8407 Wall Street
Austin

AGENDA:

The committee will discuss and possibly act on: approval of minutes from November 1, 1995 meeting; chairman's report; executive director's report; Continuing Education Committee report (implementation of continuing education); Bureau of Radiation Control rules (current rules and interpretation, and future rules); discussion on formal hearing process; discussion on unlicensed practice of medical physics; ethical standards relating to the practice of medical physics; proposed rules pertaining to the licensure of professional medical physicists, 22 Texas Administrative Code, Chapter 601; review of "Guidelines for Delineating the Practice of Medical Physics"; ratification of applications approved by executive secretary; ratification of applications approved by the Credentials Committee; and setting of next meeting date.

Contact: Jeanette A. Hilsabeck, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6655. To request an accommodation under the ADA, please contact Renee Rusch, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Filed: February 16, 1996, 3:36 p.m.

TRD-9602350

Texas National Research Laboratory Commission

Wednesday, February 28, 1996, 11:00 a.m.
Conference Room A, Second Floor, Love Field Airport Terminal Building, 8008 Cedar Springs Road
Dallas

Commission

AGENDA:

Call to order and administrative actions

Chairman's report-J. Fred Bucy

Executive director's report-Edward C. Bingler

Action items

Public comment

Adjourn

Contact: Dixie Eoff, 2275 North Highway 77, Suite 100, Waxahachie, Texas 75165, (214) 935-7810.

Filed: February 20, 1996, 8:49 a.m.

TRD-9602383

Texas Natural Resource Conservation Commission

Thursday, February 22, 1996, 1:30 p.m.
12118 North Interstate 35, Building E, Room 201S
Austin

AGENDA:

This meeting is a work session for discussion between commissioners and staff. No public testimony or comment will be accepted by invitation of the commission.

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78755, (512) 239-3317.

Filed: February 14, 1996, 3:20 p.m.

TRD-9602137

Wednesday, February 28, 1996, 9:30 a.m.

12118 North Interstate 35, Building E, Room 201S

Austin

AGENDA:

The commission will consider approving the following matters: Superfund; water utility matter; agency report; hearing request; resolution; affirm, modify, set aside emergency order; industrial hazardous waste enforcement; agricultural enforcement; municipal waste discharge enforcement; public water supply enforcement; air quality enforcement; petroleum storage tank enforcement; motion for rehearing; State Implementation Plan; contract; executive session; the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 agenda starts 8:45 until 9:25.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: February 16, 1996, 4:16 p.m.

TRD-9602358

Wednesday, February 28, 1996, 10:00 a.m.

Hall of St. Jerome Church, 7955 Real Road

San Antonio

AGENDA:

On an application by Browning-Ferris, Inc., proposed permit amendment Number NSW1410-B, authorizing a vertical expansion of their existing Type I municipal solid waste management facility permit. The total site covers approximately 265 acres of land, of which approximately 106 acres are involved in the vertical expansion. The site is located at 7790 Tessman Road, approximately two miles south of the intersection of FM Road 1516 and Interstate Highway 10 East, at the termination of Tessman Road in the City of San Antonio, Bexar County, Texas.

Contact: Susan Janek, P.O. Box 13087, Austin, Texas 78711, (512) 239-6781.

Filed: February 15, 1996, 3:00 p.m.

TRD-9602221

Friday, March 8, 1996, 10:00 a.m.

Texas City City Hall, Council Room, 1801 Ninth Avenue North

Texas City

AGENDA:

Notice of public hearing on a petition for revocation of permits issued to Malone Service Company. The permittee operates a commercial industrial solid and hazardous waste storage, processing and disposal facility located on an 150-acre tract of land, of which 75 acres have been developed for waste management. The facility location is at 5300 Campbell Bayou Road, approximately 1.6 miles east-southeast

of the intersection of Loop 197 and State Highway 3, within the city limits of Texas City, Galveston County, Texas. Pursuant to 30 Texas Administrative Code, Chapters 305, 331, 335 and 337; Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361; and Texas Water Code, Chapters 5, 26, and 27 and the commission may revoke these permits for the reasons specified in these statutes and rules. The TNRCC commissioners have referred the matter to the State Office of Administrative Hearings (SOAH) for a hearing. (SOAH Docket Number: 582-95-1654)

Contact: H. Glenn Hall, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-9600.

Filed: February 15, 1996, 11:53 a.m.

TRD-9602179

Monday, March 18, 1996, 10:00 a.m.

Hall of St. Jerome Church, 7955 Real Road

San Antonio

AGENDA:

On an application by Browning-Ferris, Inc., proposed permit amendment Number MSW1410-B, authorizing a vertical expansion to their existing Type I municipal solid waste management facility permit. The total site covers approximately 265 acres of land, of which approximately 106 acres are involved in the vertical expansion. The site is located at 7790 Tessman Road, approximately two miles south of the intersection of FM Road 1516 and Interstate Highway East, at the termination of Tessman Road in the City of San Antonio, Bexar County, Texas.

Contact: Susan Janek, P.O. Box 13087, Austin, Texas 78711, (512) 239-6781.

Filed: February 15, 1996, 3:02 p.m.

TRD-9602223

Monday, May 6, 1996, 1:30 p.m.

El Paso Water Utilities Public Service Board, Fourth Floor, 1154 Hawkins Boulevard

El Paso

AGENDA:

Notice is given pursuant to §11.306, Texas Water Code, and 30 Texas Administrative Code §275.12(c), that all claims of water rights in the Upper Rio Grande (above Fort Quitman) segment of the Rio Grande Basin will be adjudicated pursuant to §11.301, et seq, Texas Water Code, and the commission order of August 5, 1994. Notice is further given pursuant to §11.308, Texas Water Code, and 30 Texas Administrative Code §275.12(e), of the commencement of hearings to receive evidence on all claims of water rights filed or asserted in accordance with §11.307, Texas Water Code, in the Upper Rio Grande (above Fort Quitman) Segment. The hearing on May 6, 1996, conducted by State Office of Hearing Examiners (SOAH), will be to establish jurisdiction and to explain the adjudication process and the procedure to be followed at the individual evidentiary hearings. Individual hearings to receive evidence substantiating claims will continue thereafter at a specific time and place. The evidence received at the hearings will form the basis for the commission's determination of all claims of water rights in the described adjudication area. (SOAH Docket Number 582-96-0144)

Contact: Herman Settermeyer, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4707.

Filed: February 14, 1996, 12:46 p.m.

TRD-9602128

Texas State Board of Physical Therapy Examiners

Friday, March 1, 1996, 10:00 a.m.

1900 American Drive

Lago Vista

Revised Agenda

Education Committee

AGENDA:

I. Call to order

II. Consideration and possible recommendation relating to requiring application to and licensees to take a board exam covering rules of the Texas Board of Physical Therapy Examiners

III. Consideration and possible recommendation regarding passing scores for the Test of Spoken English

IV. Consideration and possible recommendations relating to Chapter 341 of the Texas Board of Physical Therapy Examiners rules

V. Consider and possible recommendations relating to Chapter 329 of the Texas Board of Physical Therapy Examiners rules

VI. Consideration and possible recommendations relating to the strategic plan of the Executive Council of Physical Therapy and Occupational Therapy Examiners

Contact: Gerard Swain, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: February 15, 1996, 2:58 p.m.

TRD-9602205

Friday-Saturday, March 1-2, 1996, 6:00 p.m.

1900 American Drive

Lago Vista

Revised Agenda

Rules Committee

AGENDA:

I. Call to order.

II. Consideration and possible recommendations relating to public comment received on rules, Chapter 321 as posted in the Texas Register Volume 20 Number 87 November 21, 1995

III. Consideration and possible recommendation regarding fees and charging practices of physical therapists

IV. Consideration and possible recommendations relating to Chapter 321 of the Texas Board of Physical Therapy Examiners rules

V. Consider and possible recommendations relating the Chapter 329 of the Texas Board of Physical Therapy Examiners rules

VI. Consider and possible recommendations relating to Chapter 347 of the Texas Board of Physical Therapy Examiners rules

VII. Consideration and possible recommendations relating to the strategic plan of the Executive Council of Physical Therapy and Occupational Therapy Examiners

VIII. Adjourn

Contact: Gerard Swain, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: February 15, 1996, 2:58 p.m.

TRD-9602206

Saturday, March 2, 1996, 9:00 a.m.

1900 American Drive

Lago Vista

Investigations Committee

AGENDA:

I. Call to order

II. Review and possible action regarding the following cases: 95156, 95175, 96006, 95177, 95178, 95179, 95186, 96009, 96016, 96017, 96037, 95038, 96040, 96044, 96048, 96052, 96053, 96054, 96058, 96066, 96068, 06069, 06071, 96075, 96081, 96096, 96097, 96098, 96099, 96100, 96112, 96114, 96116

III. Review and possible action on miscellaneous correspondence

IV. Adjourn

Contact: Gerard Swain, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: February 15, 1996, 2:04 p.m.

TRD-9602202

Texas State Board of Plumbing Examiners

Wednesday, February 28, 1996, 9:00 a.m.

929 East 41st Street

Austin

Board Personnel Committee

AGENDA:

1. Roll call, 9:00 a.m.
2. Recognize visitors and staff
3. Review and approve Personnel Manual
4. Any other business
5. Adjournment

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78711, (512) 458-2145, Ext. 222.

Filed: February 19, 1996, 10:07 a.m.

TRD-9602371

Wednesday, February 28, 1996, 1:00 p.m.

929 East 41st Street

Austin

Board Field Utilization Committee

AGENDA:

1. Roll call, 1:00 p.m.

2. Recognize visitors and staff

3. Discuss and approve boundaries for field representatives

4. Any other business

5. Adjournment

Contact: Mary Lou Lane, 929 East 41st Street, Austin, Texas 78751, (512) 458-2145, Ext. 222.

Filed: February 19, 1996, 10:07 a.m.

TRD-9602372

Public Utility Commission of Texas

Thursday, February 22, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: Docket Number 15328, 15102, Project Number 14949, 14045, 15000, 15001, 15002, 14941; Docket Number 15145 (SOAH Number 473-95-1714); Docket Numbers 14686, 12817 (SOAH Number 473-95-1570); Docket Number 15101, 15116, 15332, 14439, 14978, 15012, 15021, 14633, (SOAH Number 473-95-1201); 14634 (SOAH Number 473-95-1197); Docket Numbers 14665 and 14666; Project; Project Number 15345; Docket Number 14447 (SOAH Number 473-95-1003); Project Number 12853, 14559, 14423; Federal Telecommunications Act of 1996; document retention policy revision; project assignments, staff reports and agency administrative procedure, budget, fiscal matters and strategic planning; adjournment for closed session to consider litigation and personnel matters; reconvene for discussion and decisions on matters considered in closed.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0241.

Filed: February 14, 1996, 2:16 p.m.

TRD-9602134

Thursday, February 22, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

Revised Agenda

AGENDA:

In addition to the previously submitted agenda, the commission will also consider the appeal of Order Number 5 in Docket Number 14561 Southwestern Bell Telephone Company's application for approval of personalized ring per line-residence business, et al, pursuant to Public Utility Commission Substantive Rule 23.91.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: February 14, 1996, 4:24 p.m.

TRD-9602148

Railroad Commission of Texas

Friday, February 23, 1996, 2:00 p.m.

1701 North Congress Avenue, 12th Floor Conference Room 12-126
Austin

Revised Agenda

AGENDA:

The commission will consider, pursuant to Statewide Rule 84, whether, and to what duration, a gas shortage may exist or have existed and what commission response is warranted.

Contact: Kathy Way, P.O. Box 12967, Austin, Texas 78711, (512) 463-6837.

Filed:

TRD-9602168

Tuesday, February 27, 1996, 9:30 a.m.

1701 North Congress Avenue, First Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The commission may meet in executive session on any items listed above as authorized by the Open Meetings Act.

Contact: Lindil C. Fowler, Jr., P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: February 16, 12:43 p.m.

TRD-9602279

Texas Residential Property Insurance Market Assistance Program

Monday, February 26, 1996, 9:15 a.m. (This meeting will only be held if the Executive Committee does not complete its business on February 23, 1996.)

333 Guadalupe, Tower I, Room 1250A

Austin

Executive Committee

AGENDA:

General meeting (Room #1250A till Noon; Room #216 at 1:00 p.m.)

Anti-trust statement

Public input forum

General administrative matters

Discussion and finalization of plan of operation and related forms to be recommended to the commissioner by the Executive Committee

Contact: Lyndon Anderson, 333 Guadalupe Street, Austin, Texas 78701, (512) 322-2235.

Filed: February 16, 1996, 1:59 p.m.

TRD-9602303

State Securities Board

Tuesday, February 27, 1996, 9:30 a.m.

State Treasury Building, 200 East Tenth Street, Room 227

Austin

Board

AGENDA:

(1) November 21, 1995 meeting minutes. (2)(A) Published proposal to create new 139.17. (2)(B) New rule proposal to create new Chapter 129, Administrative Guidelines for Registration of Asset-Backed Securities. (3) Agency's participation in pilot program for state coordinated review of investment company offerings. (4) Staff review of rules for possible repeals. (5) Discussion of Securities Registration Division procedures for processing U-7 forms. (6) Report on the upcoming Texas Center Capital Conference. (7) Update on House Rule 2131, Capital Markets Deregulation and Liberalization Act of 1995, and other congressional matters. (8) Strategic planning update. (9) New business items for subsequent board meetings. (10) General update on agency operations from securities commissioner and senior staff.

Contact: Denise Voigt Crawford, 200 East Tenth Street, Fifth Floor, Austin, Texas 78701, (512) 305-8300.

Filed: February 16, 1996, 8:24 p.m.

TRD-9602256

Sunset Advisory Commission

Wednesday, February 28, 1996, 9:00 a.m.

1400 North Congress Avenue, Room E1032, Capitol Extension

Austin

AGENDA:

Call to order, approval of minutes, presentation of staff reports and public testimony on: department of information resources, Adjutant General's Department and National Guard Armory Board, discussion of review schedule, next meeting date, and adjourn.

Contact: Susan Kinney, 1400 North Congress Avenue, Austin, Texas 78701, (512) 463-1300.

Filed: February 16, 1996, 1:05 p.m.

TRD-9602280

Teacher Retirement System of Texas

Thursday, February 22, 1996, 2:30 p.m.

1000 Red River, Room 229E

Austin

Board of Trustees Budget Committee

AGENDA:

Consideration of procedures for development of fiscal years 1997, 1998, and 1999 operating budgets.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik (512) 397-6400 or T.D.D. (512) 397-6444 or 1-800-841-1497 at least two days prior to the meeting.

Filed: February 14, 1996, 4:04 p.m.

TRD-9602140

Friday, February 23, 1996, 8:00 a.m.

1000 Red River, Room 514E

Austin

Board of Trustees Real Estate Committee

AGENDA:

Approval of minutes of January 26, 1996, meeting; consideration of restructure on James Center I, James Center II, and James Center III loans; consideration of restructure on 440 North Wabash loan transaction; consideration of sale of assets of TRST Plantation, Inc.; consideration of disposition by TRST Congress, Inc. of ground lease on lot located at 901-909 Lavaca Street, Austin, Texas; and update on mortgage risk ratings.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik (512) 397-6400 or T.D.D. (512) 397-6444 or 1-800-841-1497 at least two days prior to the meeting.

Filed: February 15, 1996, 3:38 p.m.

TRD-9602229

Friday, February 23, 1996, 9:30 a.m.

1000 Red River, Fifth Floor Boardroom

Austin

Board of Trustees

AGENDA:

Roll call of board members; presentation of appreciation awards for employees retiring February 29, 1996; public comments; approval of minutes of January 26, 1996, board meeting; consideration of benchmarks for the TRS investment portfolios; review of member enrollment and reporting improvement and transformation project; report of the executive director; and comments by board members.

Contact: Mary Godzik, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6400. For ADA assistance, contact Mary Godzik (512) 397-6400 or T.D.D. (512) 397-6444 or 1-800-841-1497 at least two days prior to the meeting.

Filed: February 15, 1996, 3:39 p.m.

TRD-9602230

The Texas State University System

Wednesday-Friday, February 21-23, 1996, 5:00 p.m., 8:00 a.m., and 8:30 a.m., respectively.

Wednesday: Lake Conference Center, Angelo State University;
Thursday-Friday: Conference Center, Houston Harte University Center, Angelo State University

San Angelo

Board of Regents

AGENDA:

Review of matters of the board and the universities in the System including: all matters reviewed by the Curriculum Committee (see Curriculum Committee agenda) and the Construction and Planning Committee (see Construction and Planning Committee agenda), the Finance Committee (see Finance Committee agenda) and minority issues as submitted to the full board for review and approval; personnel actions including new employees, reemployment of existing employees, promotions, resignations, retirements, terminations, tenure, com-

missioning of police officers, salaries/salary supplements and special appointment or interim appointment of any system employee including staff, faculty, presidents and the Chancellor; discussion of litigation; bond sales, budgetary changes, operating budgets and contract approvals for each university and the system administration; acceptance of gifts; admission requirements and fees; room and board rates; land leases, purchases, easements and sales, consideration of Aquarena Springs management contracts and presentation by Doris Fontaine (where appropriate and permitted by law, executive sessions may be held for the above listed subjects).

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 16, 1996, 8:20 a.m.

TRD-9602252

Friday, February 23, 1996, 11:00 a.m.

Conference Center, Houston Harte University Center, Angelo State University

San Angelo

Curriculum Committee

AGENDA:

Review of matters of the board and the universities in the System including: all matters of curriculum, including revised Class Day reports, substantive and non-substantive program changes, additions, deletions and retention of courses, addition and deletions of degree programs, name changes of programs and departments, extension of provisional admissions options and approval of out-of-state and out-of-country studies. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 16, 1996, 8:20 a.m.

TRD-9602253

Friday, February 23, 1996, 11:30 a.m.

Conference Center, Houston Harte University Center, Angelo State University

San Angelo

Planning and Construction Committee

AGENDA:

Review of construction projects and documents for the universities in the System including: Angelo State University; engineer selection for wiring and electronic equipment, preliminary plans for the Education Center and Fine Arts Museum, contract award for the covered basketball pavilion and purchase order for Water Line Replacement; Lamar University-Beaumont; final acceptance of the Biology Building roof replacement and authorization for the plan for use of the former Chancellor's residence; Lamar University-Orange; change order for the renovation of the Allied Health Building; Lamar University-Port Arthur; architect selection for the Child Care and Development Center and for the renovation of the Nursing Building; Lamar University Institute of Technology: contract award for the roof replacement of the Technical Arts-1 building; Sam Houston State University: engineer selection for the golf facility, the water pump replacement, the turf replacement in Bowers Stadium and the electrical distribution system upgrades, approval of preliminary plans

for the renovation of the University Corner, contract awards for the renovation of Belvin and Smith dining facilities, renovation of space for TRIES and renovation of the Estill Classroom Building, final acceptance of the Roy Adams Residence Hall Renovation and the Art Complex ventilation project, purchase orders for the renovation of Colony Apartments Phase I and Jackson Shaver Apartments and a purchase order the Chiller at the West Central Plant; Southwest Texas State University: architect selection for the Student Recreation Center-Phase II, contract award for the renovation of the General Classroom Building, the Matthews Street extension and the utility system expansion, purchase orders for the replacement of Strahan Coliseum Floor, access control equipment, painting and remodeling of Lantana and Sterry halls, change order for the LBJ Student Center and approval of a hunting and grazing lease agreement; and, Sul Ross State University; purchase orders for duplex demolition, re-roofing of Graves-Pierce complex and Warnock Science Building, seal coating of streets and parking lots and Phase I of the campus irrigation system. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 16, 1996, 8:20 a.m.

TRD-9602254

Friday, February 23, 1996, 1:00 p.m.

Conference Center, Houston Harte University Center, Angelo State University

San Angelo

Finance Committee

AGENDA:

Review of financial matters of the System office and the universities in the System including approval of expenditures, adjustment of budgets, approval of rates and fees, internal audit reports and the System universities' depository contracts. (Where appropriate and permitted by law, executive sessions may be held for the above listed subjects.)

Contact: Lamar Urbanovsky, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701, (512) 463-1808.

Filed: February 16, 1996, 8:20 a.m.

TRD-9602255

Texas Tech University and Texas Tech University Health Sciences Center

Friday, February 23, 1996, 3:00 p.m.

Board of Regents Suite, Administration Building, Campus

Lubbock

Board of Regents

AGENDA:

Authorization for the chair of the Board of Regents or his designees to proceed with the action required by Board of Regents Policy 01.04, Selection of a New President, in the selection of a president for Texas Tech University and Texas Tech University Health Sciences Center.

Note: This telephone conference call meeting is necessary due to it being difficult or impossible to convene a quorum in one location to address matters requiring immediate action.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: February 20, 1996, 2:49 p.m.

TRD-9602413

Friday, February 23, 3:00 p.m.

Board of Regents Suite, Administration Building, Campus

Lubbock

Executive Session

AGENDA:

V.T.C.A. Government Code 551.074--Discussion regarding the appointment and employment of an individual to the position of president and chief executive officer of Texas Tech University and Texas Tech University Health Sciences Center.

V.T.C.A. Government Code 551.076--Confer with university employees regarding Board of Regents Policy 01.04, Selection of a New President, concerning the process and procedure required for the selection of a president.

Contact: Donna Davidson Kittrell, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: February 20, 1996, 2:49 p.m.

TRD-9602414

Texas State Treasury

Tuesday, February 27, 1996, 9:00 a.m.

200 East Tenth Street, Room 227

Austin

State Depository Board

AGENDA:

1. Approval of minutes from the December 12, 1995, meeting.
2. Approval of state depository applications.
3. Discussion of agenda for the next meeting.

Contact: Ellen Rathgeber, 200 East Tenth Street, Austin, Texas 78701, (512) 463-5971.

Filed: February 16, 1996, 10:43 a.m.

TRD-9602269

University Interscholastic League

Friday, February 16, 1996, 3:00 p.m.

3001 Lake Austin Boulevard, Suite 4.102H

Austin

Emergency Meeting

Waiver Review Board

AGENDA:

AA. Request for retroactive waiver of Parent Residence Rule for Jerome LaGrange, McNeil High School, Round Rock, Texas.

Reason for emergency: Player's eligibility has been challenged. School needs a waiver decision immediately.

Contact: Sam Harper, 23001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: February 16, 1996, 9:29 a.m.

TRD-9602261

Wednesday, February 21, 1996, 9:00 a.m.

3001 Lake Austin Boulevard

Austin

Emergency Revised Agenda

Assignment Appeals Committee

AGENDA:

ABC Business meeting

D. Written appeals of decisions of State Assignment Review Board

E. Committee deliberation

FG Business

Reason for emergency: To correct error in agenda.

Contact: Charles Breithaupt, 3001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: February 19, 1996, 2:31 p.m.

TRD-9602377

University of North Texas/University of North Texas Health Science Center

Thursday, February 22, 1996, 11:15 a.m.

Avenue C at Chestnut, Administration Building, Suite 201, University of North Texas

Denton

Board of Regents

AGENDA:

UNT: Purchase of property; general use fee hearing.

Contact: Jana K. Dean, P.O. Box 13737, Denton, Texas 76203, (817) 369-8515.

Filed: February 16, 1996, 3:35 p.m.

TRD-9602345

University of Texas Health Science Center at San Antonio

Wednesday, February 28, 1996, 3:00 p.m.

7703 Floyd Curl Drive, Room 422A

San Antonio

Institutional Animal Care and Use Committee

AGENDA:

1. Approval of minutes
2. Protocols for review
3. Subcommittee reports

4. Other business

Contact: Molly Greene, 7703 Floyd Curl Drive, San Antonio, Texas 78284-7822, (210) 567-3717.

Filed: February 20, 1996, 8:04 a.m.

TRD-9602381

University of Texas M. D. Anderson Cancer Center

Tuesday, February 20, 1996, 9:00 a.m.

1515 Holcombe Boulevard, Room AW7.707

Houston

Institutional Animal Care and Use Committee

AGENDA:

Review of protocols for animal care and use and modifications thereof.

Contact: Anthony Mastromarino, Ph.D., 1515 Holcombe Boulevard, Box 101, Houston, Texas 77030, (713) 792-3220.

Filed: February 14, 1996, 12:48 p.m.

TRD-9602129

Texas Workers' Compensation Insurance Fund

Tuesday, February 27, 1996, 8:00 p.m.

Four Seasons, 98 San Jacinto

Austin

Board of Directors

AGENDA:

The Board of Directors of the Texas Workers' Compensation Insurance Fund (Fund) will have an informal dinner at 8:00 p.m. on Tuesday, February 27, 1996. The dinner is intended to be a social event, and there is no formal agenda. No formal action will be taken, but it is possible that discussions could occur which could be construed to be "deliberations" within the meaning of the Open Meetings Act; therefore, the dinner will be treated as an "open meeting" and the public will be allowed to observe. However, dinner will be provided only for the Board of Directors of the Fund, and certain staff of the Fund. No dinner or refreshments will be provided for members of the public who may wish to attend.

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: February 19, 1996, 3:11 p.m.

TRD-9602379

Wednesday, February 28, 1996, 1:00 p.m.

100 Congress Avenue, Suite 600

Austin

Board of Directors

AGENDA:

Call to order; roll call; review and approval of the minutes of the January 31, 1996, board meeting; action items; consideration of proposed amendments to the fund's plan of operations; consideration of amendments to Board Committee compositions and jurisdictions; consideration of amendments to START policies and procedures; financial report; fund status report; informational items; update on

service improvement system and complaint handling process; report of the Administration Committee; report of the Audit Committee; report of the Finance Committee; report of the Operations Committee; public participation; executive session; action items resulting from executive session deliberations; announcements; and adjourn.

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: February 20, 1996, 3:40 p.m.

TRD-9602417

Texas Workers' Compensation Insurance Facility

February 29, 1996, 9:45 a.m.

Doubletree Guest Suites Hotel, 303 West 15th Street

Austin

Governing Committee Meeting

AGENDA:

Approval of minutes from the January 8, 1996 Governing Committee meeting. Executive session(s) regarding personnel matters and pending legal matters. Following the closed executive session(s), the Governing Committee will reconvene in open and public session and take any action as may be desirable or necessary as a result of the closed deliberations, including possible approval of settlements of potential or existing litigation, possible approval of facility transition plans and personnel policies. Report on 1995 investment results. Progress report from the Facility Transition Subcommittee. Consideration and possible action on recommendations from the Appeals Committee and/or hearings officer. Consideration and possible action on servicing company request for reimbursement of legal fees and expenses. Executive director's report.

Contact: Peter E. Potemkin, 8303 MoPac Expressway North, Suite 310, Austin, Texas 78759, (512) 345-1222.

Filed: February 14, 1996, 4:40 p.m.

TRD-9602149

Texas Workforce Commission

Tuesday, February 27, 1996, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Texas Employment Commission Docket 9; consideration and possible final adoption of rule regarding waivers for independent staffing and separate service provider requirements for local workforce development boards, and for a person that provides on-stop services to also provide development services such as basic education and skills training; consideration and possible final adoption of rule regarding planning guidelines for use by local workforce development boards; discussion, consideration, and possible action with regard to transfer of programs pursuant to House Bill 1863; and set date of next meeting.

Contact: C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

Filed: February 16, 1996, 3:54 p.m.

TRD-9602356

Regional Meetings

Meetings Filed February 14, 1996

The Cash Water Supply Corporation. Board of Directors met at the Corporation Office, Fm 1564 at Highway 34, Greenville, February 19, 1996, at 7:00 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129. TRD-9602132.

The Dallas Central Appraisal District. Appraisal Review Board will meet at 2949 North Stemmons Freeway, Second Floor Community Room, February 28, 1996, at 10:00 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9602139.

The Golden Crescent Quality Work Force Planning. Full Committee met at the Victoria College Student Center, 2200 East Red River, Victoria, February 21, 1996, at 3:30 p.m. Information may be obtained from Carol Matula, 2200 East Red River, Victoria, Texas 77901, (512) 572-6487. TRD-9602121.

The Guadalupe-Blanco River Authority. Audit Committee met at 933 East Court Street, Seguin, February 20, 1996, at 1:00 p.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9602122.

The Guadalupe-Blanco River Authority. Policy Committee met at 933 East Court Street, Seguin, February 20, 1996, at 2:30 p.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9602123.

The Guadalupe-Blanco River Authority. Board of Directors met at in the Seguin ISD Board Room, 1221 East Kingsbury, Seguin, February 21, 1996, at 10:00 a.m. Information may be obtained from W. E. West, Jr., 933 East Court Street, Seguin, Texas 78155, (210) 379-5822. TRD-9602124.

The Gulf Bend MHMR Center. MidCoast Community Management Team met at 1502 East Airline, Suite 25, Victoria, February 21, 1996, at Noon. Information may be obtained from Judy Bolton, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9602126.

The Liberty County Central Appraisal District. Board of Directors will meet at 315 Main Street, Liberty, February 28, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9602147.

The Lower Rio Grande Valley Development Council. Hidalgo County Metropolitan Planning Organization met at the TxDOT District Office, 600 West Expressway US 83, Pharr, February 22, 1996, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas 78501-4705, (210) 682-3481. TRD-9602125.

The North Central Texas Council of Governments. Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, February 22, 1996, at 12:45 p.m. Information may be obtained from Edwina J. Shires, P.O. Box 6888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9602138.

The North Texas Private Industry Council. Nortex Regional Planning Commission will meet at 4309 Jacksboro Highway, Suite 200, Wichita Falls, February 28, 1996, at 12:15 p.m. Information may

be obtained from Kelly Couch, 3917 Texas, Vernon, Texas 76384, (817) 322-5281. TRD-9602135.

The Trinity River Authority of Texas. Administration Committee met at 5300 South Collins Street, Arlington, February 21, 1996, at 10:30 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9602131.

Meetings Filed February 15, 1996

The Bandera County Appraisal District. Board of Directors met at the Bandera County Appraisal District, 1116 Main Street, Bandera, February 22, 1996, at 3:00 p.m. Information may be obtained from P. H. Coates, IV, P.O. Box 1119, Bandera, Texas 78003, (210) 796-3039 or Fax: (210) 796-3672. TRD-9602167.

The Bell County Tax Appraisal District. Board of Directors met at 411 East Central Avenue, Belton, February 21, 1996, at 7:00 p.m. Information may be obtained from Mike Watson, P.O. Box 390, Belton, Texas 76513, (817) 939-5841. TRD-9602203.

The Coastal Bend Council of Governments. Membership/Board met at 2910 Leopard Street, Corpus Christi, February 23, 1996, at 1:30 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9602164.

The Deep East Texas Council of Governments. Joint Budget and Executive Committee met at Loop 304, Crockett Inn, Crockett, February 22, 1996, at 10:00 a.m. Information may be obtained from Bill Nichols, P.O. Box 342, Woodville, Texas 75951, (409) 283-5952. TRD-9602177.

The Education Service Center, Region III. Board of Directors met at 3901 Houston Highway, Victoria, February 19, 1996, at 11:30 a.m. Information may be obtained from Julius D. Cano, 1905 Leary Lane, Victoria, Texas 77901, (512) 573-0731. TRD-9602239.

The Education Service Center, Region XV. Board of Directors met at 612 South Irene Street, San Angelo, February 22, 1996, at 1:30 p.m. Information may be obtained from Clyde Warren, P.O. Box 5199, San Angelo, Texas 76902, (915) 658-6571. TRD-9602220.

The Golden Crescent Private Industry Council. Oversight Committee met at 2401 Houston Highway, Victoria, February 19, 1996, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9602222.

The Golden Crescent Private Industry Council. Executive Committee met at 2401 Houston Highway, Victoria, February 21, 1996, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9602224.

The Houston-Galveston Area Council. Projects Review Committee met at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, February 20, 1996, at 9:30 a.m. Information may be obtained from Rowena Ballas, 3555 Timmons Lane, Suite 500, Houston, Texas 77027, (713) 627-3200. TRD-9602159.

The Houston-Galveston Area Council. Board of Directors met at 3555 Timmons Lane, Conference Room A, Second Floor, Houston, February 20, 1996, at 10:00 a.m. Information may be obtained from Cynthia Marquez, P.O. Box 22777, Houston, Texas 77227, (713) 627-3200. TRD-9602158.

The Lower Neches Valley Authority. Board of Directors met at 7850 Eastex Freeway, Beaumont, February 20, 1996, at 10:30 a.m. Information may be obtained from A. T. Hebert, Jr., P.O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9602170.

The Panhandle Regional Planning Commission. Board of Directors met at 415 West Eighth Avenue, Amarillo, February 22, 1996, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105, (806) 372-3381. TRD-9602169.

The Riceland Regional Mental Health Authority. Finance Committee met at 4910 Airport Boulevard, Rosenberg, February 22, 1996, at 11:30 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9602227.

Meetings Filed February 16, 1996

The Alamo Area Council of Governments. Management Committee met at 118 Broadway, Suite 400, San Antonio, February 21, 1996, at 10:00 a.m. Information may be obtained from Al J. Notzon III, 118 Broadway, Suite 400, San Antonio, Texas 78205, (210) 225-5201. TRD-9602264.

The Archer County Appraisal District. Board of Directors met at 101 South Center, Hap Burkett Building, Archer City, February 21, 1996, at 5:00 p.m. Information may be obtained from Edward H. Trigg, III, P.O. Box 1141, Archer City, Texas 76351, (817) 574-2172. TRD-9602300.

The Austin-Travis County MHMR Center. Planning and Operations Committee met at 1430 Collier Street, Board Room, Austin, February 23, 1996, at Noon. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9602328.

The Burke Center. Board of Trustees will meet at 4101 South Medford Drive, Lufkin, February 27, 1996, at 1:00 p.m. Information may be obtained from Sandra J. Vann, 4101 South Medford Drive, Lufkin, Texas 75901, (409) 639-1141. TRD-9602267.

The Capital Rural Transportation System (CARTS). CARTS Board of Directors met in the CARTS Conference Room, 2010 East Sixth Street, Austin, February 22, 1996, at 9:00 a.m. Information may be obtained from Edna M. Burroughs, P.O. Box 6050, Austin, Texas 78702, (512) 389-1011. TRD-9602327.

The Central Plains Center for MHMR and SA. Board of Trustees met at 208 South Columbia, Plainview, February 22, 1996, at 6:00 p.m. Information may be obtained from Ron Trusler, 2700 Yonkers, Plainview, Texas 79072, (806) 293-2636. TRD-9602270.

The Central Texas Council of Governments. Executive Committee met at 302 East Central Avenue, Belton, February 22, 1996, at 11:30 a.m. Information may be obtained from A. C. Johnson, P.O. Box 729, Belton, Texas 76513, (817) 939-1801. TRD-9602266.

The Community Action Committee of Victoria, Texas. Met at 1501 North DeLeon, Suite A, Victoria, February 22, 1996, at 7:00 p.m. Information may be obtained from Lisa Least, 1501 North DeLeon, Victoria, Texas 77902-2142, (512) 578-2989. TRD-9602369.

The Coryell City Water Supply District. Board of Directors met at FM 929, Coryell City, February 22, 1996, at 7:00 p.m. Information may be obtained from Helen Swift, Route 2, Box 93, Gatesville, Texas 76528, (817) 865-6089. TRD-9602259.

The Dallas Housing Authority. Board of Commissioners met at the Dallas Housing Authority, Dale V. Kesler Board Room, 3939 North Hampton Road, Dallas, February 22, 1996, at 4:00 p.m. Information may be obtained from Mattye Jones, 3939 North Hampton Road, Dallas, Texas 75212, (214) 951-8301. TRD-9602260.

The Deep East Texas Private Industry Council, Inc. Planning and Worker Adjustment will meet in Room 102, Lufkin City Hall, 300 East Shepherd Street, Lufkin, February 27, 1996, at 1:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkins, Texas 75901, (409) 634-4432. TRD-9602347.

The Deep East Texas Private Industry Council, Inc. will meet in Room 102, Lufkin City Hall, 300 East Shepherd Street, Lufkin, February 27, 1996, at 2:30 p.m. Information may be obtained from Charlene Meadows, P.O. Box 1423, Lufkins, Texas 75901, (409) 634-4432. TRD-9602346.

The Education Service Center, Region VIII (Revised Agenda). Board of Directors met at the Hot Biscuit Restaurant, 2501 Ferguson Road, Mt. Pleasant, February 22, 1996, at 6:30 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456-1894, (903) 572-8551. TRD-9602301.

The Edwards Central Appraisal District. Board of Directors meet at 408 Austin Street, County Annex Building, Rocksprings, February 22, 1996, at 1:00 p.m. Information may be obtained from Kelley Vernor, P.O. Box 378, Rocksprings, Texas 78880, (210) 883-4189. TRD-9602298.

The Grayson Appraisal District. Board of Directors will meet at 205 North Travis, Sherman, February 28, 1996, at Noon. Information may be obtained from Angie Keeton, 205 North Travis, Sherman, Texas 75090, (903) 893-9673. TRD-9602311.

The Johnson County Rural Water Supply Corporation. Board (Regular Meeting) met at the Corporation Office, 2849 Highway 171 South, Cleburne, February 20, 1996, at 6:00 p.m. Information may be obtained from Peggy Johnson, P.O. Box 509, Cleburne, Texas 76033, (817) 645-6646. TRD-9602263.

The Lee County Appraisal District. Board of Directors will meet at 218 East Richmond Street, Giddings, February 28, 1996, at 9:00 a.m. Information may be obtained from Roy L. Holcomb, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9602251.

The Lower Colorado River Authority. Board of Directors met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602337.

The Lower Colorado River Authority. Policy and Public Policy Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602338.

The Lower Colorado River Authority. Energy Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602339.

The Lower Colorado River Authority. Land and Water Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602340.

The Lower Colorado River Authority. Finance and Administration Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602341.

The Lower Colorado River Authority. Audit Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602342.

The Lower Colorado River Authority. Regional Development Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, and reconvening if necessary, February 22, 1996, at 9:00 a.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602343.

The Lower Colorado River Authority. Land and Water Operations Committee met at 3701 Lake Austin Boulevard, Hancock Building, Board Room, Austin, February 21, 1996, at 3:00 p.m. Information may be obtained from Glen E. Taylor, P.O. Box 220, Austin, Texas 78767, (512) 473-3304. TRD-9602344.

The Lower Rio Grande Valley Development Council. Hidalgo County Metropolitan Planning Organization met at the TxDot District Office, 600 West Expressway US 83, Pharr, February 22, 1996, at 7:00 p.m. Information may be obtained from Edward L. Molitor, 311 North 15th Street, McAllen, Texas 78501-4705, (210) 682-3481. TRD-9602271.

The Middle Rio Grande Development Council (Emergency Meeting.). Private Industry Council met at the Kincaid Hotel, On the Square, Uvalde, February 21, 1996, at 1:00 p.m. (Reason for emergency: Late developments on agenda items to be precluded on a timely submission relative to the posted deadline of 4:30 p.m.) Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533 or Fax: (210) 876-9415. TRD-9602368.

The North Texas Regional Library System. Board of Directors will meet at 1111 Foch Street, Fort Worth, February 29, 1996, at 1:30 p.m. Information may be obtained from Marsha K. Anderson, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD-9602257.

The South Plains School Workers' Compensation Program. Board of Directors met at 801 Avenue Q, Lubbock, February 21, 1996, at 10:30 a.m. Information may be obtained from Russ Edwards, 1205 Lakeshore Drive, Marble Falls, Texas 78654, (210) 693-2508. TRD-9602326.

Meetings Filed February 19, 1996

The Brazos Valley Development Council. Brazos Valley Local Workforce Development Board met at 1706 East 29th Street, Bryan, February 22, 1996, at 3:00 p.m. Information may be obtained from

Paul Hillers, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9602378.

The Education Service Center, Region IX. Board of Directors will meet at 301 Loop 11, Wichita Falls, February 28, 1996, at 12:30 p.m. Information may be obtained from Jim O. Rogers, 301 Loop 11, Wichita Falls, Texas 76305, (817) 322-6928. TRD-9602374.

The Education Service Center, Region XX. Board of Directors will meet at 1314 Hines Avenue, San Antonio, February 28, 1996, at 2:00 p.m. Information may be obtained from Dr. Judy M. Castleberry, 1314 Hines Avenue, San Antonio, Texas 78208-1899, (210) 299-2471. TRD-9602375.

The Johnson County Central Appraisal District. Appraisal Review Board met at 109 West Main, Suite 201, Room 202, Cleburne, February 26, 1996, at 9:15 a.m. Information may be obtained from Don Gilmore, 109 West Main, Cleburne, Texas 76031, (817) 645-3986. TRD-9602380.

The Lamb County Appraisal District. Appraisal Review Board will meet at 331 LFD Drive, Littlefield, March 5, 1996, at 8:00 a.m. Information may be obtained from Vaughn E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950, (806) 385-6474. TRD-9602373.

The Southwest Milam Water Supply Corporation. Board met at 114 East Cameron, Rockdale, February 26, 1996, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9602376.

Meetings Filed February 20, 1996

The Brazos River Authority. Lake Management Committee will meet at 4400 Cobbs Drive, Waco, February 28, 1996, at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD-9602397.

The Education Service Center, Region VII. Board of Directors will meet at 440 Highway 79 South, Henderson, February 29, 1996, at Noon. Information may be obtained from Eddie J. Little, 818 East Main Street, Kilgore, Texas 75662, (903) 984-3071. TRD-9602387.

The Education Service Center, Region XVI (Revised Agenda). Board of Directors met at the Amarillo Club, Bank One Center, Seventh and Tyler, Expire Room, Amarillo, February 23, 1996, at Noon. Information may be obtained from Darrell L. Garrison, P.O. Box 30600, Amarillo, Texas 79120, (806) 376-5521. TRD-9602399.

The Gulf Bend Center. Board of Trustees will meet at 1502 East Airline, Victoria, February 27, 1996, at Noon. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9602410.

The LRGV Development Council (LRGVDC). Board of Directors and Membership will meet at the Harlingen Chamber of Commerce, 311 East Tyler, Harlingen, February 29, 1996, at 1:30 p.m. Informa-

tion may be obtained from Kenneth N. Jones, Jr., 4900 North 23rd Street, McAllen, Texas 78504, (210) 682-3481. TRD-9602415.

The Middle Rio Grande Development Council. Texas Review and Comment System will meeting in the Bluebonnet Room, SWTJC, Garner Field Road, Uvalde, February 28, 1996, at 4:00 p.m. Information may be obtained from Erma Alejandro, 209 North Getty Street, Uvalde, Texas 78801, (210) 278-4151, Ext. 10 or Fax: (210) 278-2929. TRD-9602412.

The Northeast Texas Municipal Water District. Board of Directors met at Highway 250 South, Hughes Springs, February 26, 1996, at 10:00 a.m. Information may be obtained from J. W. Dean, P.O. Box 955, Hughes Springs, Texas 75656, (903) 639-7538. TRD-9602398.

The San Antonio-Bexar County Metropolitan Planning Organization. Transportation Steering Committee met at 600 Soledad, Central Library Auditorium, San Antonio, February 26, 1996, at 5:00 p.m. Information may be obtained from Charlotte A. Roszelle, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD-9602411.

Meetings Filed February 21, 1996

The Coleman County Water Supply Corporation (Emergency Meeting). Board of Directors met at 214 Santa Anna Avenue, Coleman, February 22, 1996, at 9:00 a.m. (Reason for emergency: The stand-pipe has been taken out of service and we need to have it repaired as soon as possible and the contractor has to know something by next Monday.) Information may be obtained from Davey Thweatt, 214 Santa Anna Avenue, Coleman, Texas 76834, (915) 625-2133. TRD-9602435.

The Lubbock Regional MHMR Center. Board of Trustees-Program Committee met at 1602 Tenth Street-Board Room, Lubbock, February 26, 1996, at 11:00 a.m. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9602442.

The Lubbock Regional MHMR Center. Board of Trustees met at 1602 Tenth Street-Board Room, Lubbock, February 26, 1996, at Noon. Information may be obtained from Gene Menefee, P.O. Box 2828, Lubbock, Texas 79408, (806) 766-0202. TRD-9602441.

The Middle Rio Grande Development Council. Board of Directors will meet at Gardner Field Road, Bluebonnet Conference Room, SWTJC, Uvalde, February 28, 1996, at 1:00 p.m. Information may be obtained from Leodoro Martinez, Jr., P.O. Box 1199, Carrizo Springs, Texas 78834, (210) 876-3533. TRD-9602438.

The Sharon Water Supply Corporation. Board of Directors met at the Office of Sharon Water Supply Corporation, Route 5, Box 50361, Winnsboro, February 26, 1996, at 7:00 p.m. Information may be obtained from Gerald Brewer, Route 5, Box 50361, Winnsboro, Texas 75494, (903) 342-3325. TRD-9602437.

Name: Chance LaCaze

Grade: 5

School: Sheridan Elementary School, Cypress Fairbanks ISD



IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Department of Commerce

Request for Proposals

This request for proposals for consultant services is filed pursuant to Texas Government Code, Chapter 2254, Subchapter B.

The Texas Department of Commerce (Commerce) requests proposals from qualified companies or organizations for consulting services to prepare the final fiscal year 1995 and 1996 OMB Cost Allocation Plan based on actual expenditures for the fiscal year ending August 31, 1995 and the six month period ending February 29, 1996.

During fiscal year 1995 and to date in fiscal year 1996, Commerce has administered millions of dollars of federal funds for the U.S. Department of Labor Job Training Partnership Act (JTPA) program. In addition, Commerce received federal funds from the U.S. Department of Commerce. Commerce recouped its indirect costs from the program based on provisional rates approved by the U.S. Department of Labor. Currently, Commerce has a policy board, several ancillary boards, and 17 operating divisions, three of which are primarily program divisions: Work Force, Business Development, and Tourism. Pursuant to House Bill 1863 of the 74th Legislature, administration of the JTPA program will transfer from Commerce to the Texas Workforce Commission on or before September 1, 1996. This transition is scheduled to be completed March 1, 1996. The Work Force program division will cease to exist at Commerce after the transfer of the JTPA program to the Texas Workforce Commission.

The offeror selected to prepare the Cost Allocation Plan must demonstrate the necessary qualifications and experience listed below in the Qualifications section and will be required to perform the various services and generate the reports listed in the Scope of Services section. The acceptance of an offer made in response to this request by Commerce will be based on the demonstrated competence,

knowledge and qualifications of the offeror, and the reasonableness of the offeror's proposed fee, in addition to other factors described as follows.

Scope of Services-Cost Allocation Plan

The successful candidate will be required to develop detailed cost allocation plans, and render the following services and reports: 1. Identify the sources of financial information to be used. 2. Classify all Commerce divisions and boards. 3. Inventory all Federal and other programs administered by Commerce. 4. Determine administrative departments. 5. Determine allocation bases for allocating costs to benefiting divisions. 6. Develop allocation data for each allocation base. 7. Prepare cost allocation worksheets based upon actual expenditures for FY 1995 and FY 1996. 8. Identify in a separate schedule the federally reimbursable indirect costs. 9. Summarize costs by benefiting division. 10. Collect cost data for all of the programs included in the inventory of Federal programs and other programs administered by Commerce. 11. Determine indirect cost rates throughout Commerce on an annual basis. 12. Formalize plan and present to the U.S. Department of Labor. 13. Negotiate final plan and secure approval from the U.S. Department of Labor. 14. Provide indoctrination session for assigned personnel.

Consultant staff will accumulate and analyze all required data. Commerce is not expected to provide any staff time, no time sheets will be required, and no accounting methods or records need be changed. The cost allocation plan must be completed and submitted to the U.S. Department of Labor no later than February 28, 1996, or an extension must be obtained from the U.S. Department of Labor authorizing a later date of submission.

Qualifications.

Each company or organization submitting an offer must present evidence or otherwise demonstrate to the satisfaction of Commerce that such entity: 1. Has experience and/or the ability to prepare and negotiate a Cost Allocation Plan. 2. Has an understanding of cost allocation issues and preparation of Cost Allocation Plans for governmental entities. 3. Can execute such a proposition within the required time frame.

Instructions/Requested Information.

Offeror will provide evidence of the previously listed qualifications and a proposal which includes: 1. A detailed work plan incorporating all requirements described in the Scope of Services. 2. Resumes for each individual to be assigned to the project. Each resume must contain, at a minimum, a description of the individual's educational and professional experience relevant to this project. 3. Qualifications of the firm, including company size, number of offices, number of personnel, and general areas of expertise, etc. 4. The proposed total fee for providing the desired services. 5. The geographic location of offeror's principal place of business and/or office where services are to be performed. 6. Three references from former clients for whom similar services have been provided. 7. The offeror's affirmative action policy including equal opportunity goals, and information regarding internal recruitment efforts for minority and women employees, sub-contractors, and joint ventures. The offeror shall also provide an employee profile showing the number and percentage of male, female and minority employees by job category, and describe the degree of ownership and control of the organization by minorities and women. The offeror shall describe the degree to which certified minority and/or women-owned businesses (historically underutilized businesses) will participate in this contract. 8. Describe the organization's past experience in cost allocation issues. 9. Provide a brief description of those characteristics that make the organization particularly qualified to carry out the requirements of this RFP including experience with cost allocation issues, negotiations of cost allocation plans, etc.

Evaluation and Award Criteria

Evaluation of proposals will include contacting references, review of the information requested above and review of the following: 1) Qualifications of Personnel— Experience and/or ability to develop cost allocation plans for governmental entities. 2) Work Plan— Clarity and completeness of the work plan demonstrating an accurate understanding of project requirements. 3) Cost to complete all tasks associated with this project.

Conflict of Interest.

The offeror shall identify in its proposal any officer or employee of Commerce who has a financial interest, directly or indirectly, in the offeror's firm or who is related within the second degree of consanguinity (blood) or affinity (marriage) to a person having such a financial interest, together with a full disclosure of the nature of such financial interest, and the relationship if applicable. If there is no such person, the offeror shall so state in the proposal submitted in response to this Request for Proposals. The offeror must disclose and identify on the face of the proposal whether: 1) an officer, employee, or paid consultant of the offeror is a member of the policy board, the executive director, or an employee of Commerce; 2) an officer, manager, or paid consultant of the offeror is married to a member of the policy board, the executive director, or an employee of Commerce; 3) a member of the policy board, the executive director or an employee of Commerce directly or indirectly owns or controls

more than a ten percent interest in the offeror; 4) a member of the policy board, the executive director or employee of Commerce receives compensation from the offeror for lobbying activities as defined in the Texas Government Code, Chapter 305; and 5) it has donated anything of value within the preceding two years to Commerce or to any other state agency. If so, the disclosure shall include the nature and value of the donation and the date the donation was made. If the donation is ongoing, the last date that the donation was available to the agency shall be used to determine the date of the donation.

If none of the previously listed apply, the offeror shall so state in the proposal submitted in response to this RFP. PLEASE NOTE THAT YOUR PROPOSAL MAY BE DISQUALIFIED BASED ON THE RESPONSE TO THE previously listed. Governmental entities are exempt from completing this section.

Prior State Employment.

The offeror shall disclose whether any of the personnel whom the offeror proposes to use in performing the requested services have been employed by an agency of the State of Texas at any time during the two years preceding the date of submission of this proposal. If such employment has existed, the offeror shall disclose (i) the agency and the nature of the previous employment with such agency; (ii) the date of termination of the employment; and (iii) the annual rate of compensation for the employment at the time of termination. If such employment has not existed then the offeror shall so state in the proposal.

A hand delivered response must be received no later than 5:00 p.m. Central Standard Time, March 25, 1996, in the office of Kathy Hartensteiner, Finance Director, Texas Department of Commerce, Stephen F. Austin Building, 1700 North Congress Avenue, Third Floor, Austin, Texas 78711. Any questions related to this RFP may be directed to Ms. Hartensteiner at (512) 936-0147. Responses received after 5:00 p.m. Central Standard Time, March 25, 1996, will not be considered by Commerce. We anticipate entering into the resulting contract on or about March 28, 1996.

Commerce reserves the right to accept or reject any or all offers submitted in response to this request and to negotiate modifications necessary to improve the quality or cost effectiveness of any offer received. Selected candidates may be asked to make oral presentations to Commerce. Commerce is under no legal obligation to enter into a contract with any offeror on the basis of this request and intends any material provided herein only as a means of identifying the scope of services requested.

The Cost Allocation consultant services sought by Commerce relate to services previously performed by the private consultant David M. Griffith and Associates, LTD.

Neither Commerce nor the State assume any responsibility for expenses incurred in preparing responses to this RFP.

Issued in Austin, Texas, on February 20, 1996.

TRD-9602429
Brenda F. Arnett
Executive Director
Texas Department of Commerce
Filed: February 20, 1996

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State Council on Competitive Government

Notice of Vendor Forums

BACKGROUND: Legislative directives from the Texas Legislature's 74th Regular Session have given the Texas Health and Human Services Commission (HHSC) and the Council on Competitive Government (CCG) the opportunity to explore ways to make government processes more efficient and cost effective. In particular, House Bill 1863 and Senate Bill 1675 direct HHSC to "integrate and streamline" the various health and human service eligibility determination processes. To encourage cost effectiveness, the Legislature directed CCG to analyze the costs and benefits of competitively bidding certain functions of health and human services.

To that end, HHSC and CCG have entered into an agreement with Deloitte & Touche to plan for the integration of health and human service enrollment processes and analyze the costs and benefits of procuring certain functions through a competitive bidding process.

VENDOR FORUMS: In order to facilitate an open process, HHSC and CCG are sponsoring monthly Vendor Forums during the planning phase of this effort. If the planning phase indicates that competitively bidding certain health and human service functions will result in cost savings and efficiencies for the State of Texas, then HHSC and CCG want to make sure that the competitive bidding instrument will reflect a fair request for what the market will be able to provide.

AGENDAS: The Vendor Forums will be oriented to providing the vendor community information about the planning effort. If a competitive instrument (or instruments) is recommended, HHSC and CCG will be seeking input from the vendor community about how to make the instrument as fair, open and realistic as possible.

SECOND VENDOR FORUM: Wednesday, February 28, 1996, from 10:00 a.m. to 12:00 noon in Conference Room E2.026 of the Capitol Extension in Austin, Texas.

For further information, please contact Mr. Andy Slack, Project Manager, Texas Integrated Enrollment System Planning Project, (512) 502-3226.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602351

David Ross Brown

Assistant General Counsel

State Council on Competitive Government

Filed: February 16, 1996

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Comptroller of Public Accounts

Local Sales Tax Changes Effective April 1, 1996

The 1.0% city sales tax will become effective April 1, 1996, in the cities of Alton (Hidalgo County), City Code 2105086, New Rate 0.01000, Total Rate 0.07750.

An additional 1.0% sales tax for improving and promoting industrial and economic development will become effective April 1, 1996, in the cities of Alton (Hidalgo County), City Code 2108172, New Rate 0.02000, Total Rate 0.08250; Donna (Hidalgo County), City Code 2108047, New Rate 0.02000, Total Rate 0.08250.

An additional 0.5% sales tax for improving and promoting industrial and economic development will become effective April 1, 1996, in the following cities.

026 - Local Sales Tax Changes Effective April 1, 1996 - figure 1.

026 - Local Sales Tax Changes Effective April 1, 1996 - figure 1.

<u>City Name</u>	<u>City Code</u>	<u>New Rate</u>	<u>Total Rate</u>
Bandera (Bandera County)	2010017	0.01500	0.08250
Columbus (Colorado County)	2045016	0.01500	0.08250
Eden (Concho County)	2048013	0.01500	0.08250
Ennis (Ellis County)	2070032	0.01500	0.07750
Ganado (Jackson County)	2120023	0.01500	0.08250
Groves (Jefferson County)	2123039	0.01500	0.08250
Karnes City (Karnes County)	2128016	0.01500	0.08250
Monahans (Ward County)	2238013	0.01500	0.07750
Port Aransas (Nueces County)	2178024	0.01500	0.08250
Port Arthur (Jefferson County)	2123020	0.01500	0.08250
Quinlan (Hunt County)	2116065	0.01500	0.08250
Roanoke (Denton County)	2061131	0.01500	0.07750
Rockwall (Rockwall County)	2199029	0.01500	0.07750
Tyler (Smith County)	2212013	0.01500	0.08250
Victoria (Victoria County)	2235016	0.01500	0.08250
White Oak (Gregg County)	2092054	0.01500	0.08250
Windthorst (Archer County)	2005050	0.01500	0.08250
Windthorst (Clay County)	2005050	0.01500	0.07750

An additional 0.375% sales tax for improving and promoting economic development will become effective April 1, 1996, in the city of Sherman (Grayson County), City Code 2091028, New Rate 0.01375, Total Rate 0.07625.

An additional 0.25% sales tax for improving and promoting industrial and economic development will become effective April 1, 1996, in the City of Haltom City (Tarrant County), City Code 2220255, New Rate 0.01250, Total Rate 0.07750. SPECIAL NOTE: The City of Haltom City also adopted a 0.25% special purpose district tax for the Haltom City Crime Control District. Both taxes become effective April 1, 1996.

A 0.5% special purpose district sales tax will become effective April 1, 1996, in the special purpose district of Winkler County Health Services, SPD Code 5248501, New Rate 0.00500, Note:

The boundaries for Winkler County Health Services are the same boundaries as Winkler County.

The Cities of Kermit and Wink currently have a 0.01000 city sales tax and their total rate will be 0.07750.

The unincorporated areas of Winkler County will have a total rate of 0.06750. A 0.25% special purpose district sales tax will become effective April 1, 1996, in the special purpose districts of 1) Eules Crime Control District, SPD Code 5220521, New Rate 0.00250, Note: The boundaries of the Eules Crime Control District are the same boundaries as the City of Eules. The total rate in the City of Eules will be 0.08000; 2) Haltom City Crime Control District, SPD Code 5220530, New Rate 0.00250, Total Rate Note: The boundaries of the Haltom City Crime Control District are the same boundaries as the City of Haltom City. The total rate in the City of Haltom City will be 0.07750. SPECIAL NOTE: The City of Haltom City also adopted

a 0.25% tax for industrial and economic development. Both taxes become effective April 1, 1996.

Issued in Austin, Texas, on February 15, 1996.

9602161

Martin Cherry
Comptroller of Public Accounts
Chief, General Law
Filed: February 15, 1996

Office of Consumer Credit Commissioner

Interpretations

Under provisions of §10, Article 2.02A, Title 79, Revised Statutes (Vernon's Texas Civil Statutes, Article 5069-2.02A) the Consumer Credit Commissioner has issued the following interpretation of Title 79, Revised Statutes (Texas Civil Statutes, Article 5069-1.0 et). The interpretation was approved by the Finance Commission of Texas on February 9, 1996.

Request Number 95-1. Request from Stephanie Bluher; Liddell, Sapp, Zivley, Hill & LaBoon, L.L.P., inquiring whether a bank violates any state statute by accepting an unenforceable lien on the homestead in order to permit interest deductions by the borrower for federal income tax purposes.

Request Number 95-2. Request from Robert R. Wisner; O'Connor, Wisner & Craig P.C., inquiring as follows:

1) May a lender, under the authority of Chapters 1, 3, 4, 5, or 15 of the Texas Credit Code, extend a loan if the borrower executes and records an invalid and unenforceable lien against the borrower's homestead property, which lien is waived and not taken by the lender?

2) If such a loan may be made under the authority of Chapters 3, 4, 5, or 15, then are there any additional limits on such a loan with respect to authorized charges or other matters which would not apply to a loan that is secured by a valid and enforceable lien?

3) For such loans subject to Chapters 1 or 15 may a lender include a "demand feature"?

4) In addition to a failure to make payments under the terms of the loan, may a lender provide that any of various events is a default under such a loan and is the holding affected by the relevant Chapter of the Texas Credit Code.

Summary of Response to Interpretation Request 95-1 and 95-2:

Interpretation Letter 86-6 relied upon an interpretation of the Texas Deceptive Trade Practices Act, the Internal Revenue Code, Texas Credit Code, Texas Constitution, and Texas property laws and is hereby withdrawn. The issue of the executing and recording of an unenforceable lien by a borrower on their homestead is not contemplated in the enactment of Texas credit laws. The ability to establish this "lien" is important only to establish whether the interest on a loan is "qualified residence interest" as defined in the Internal Revenue Code. This definition and its treatment is extraneous to compliance issues under the Texas Credit Code. The propriety of creating an unenforceable lien and "securing" a loan is a question outside of the scope of Title 79. This practice is clearly prohibited as a Chapter 5 loan, since a lien under Chapter 5 requires a secured interest in real property. Notwithstanding the express prohibition for taking a lien on real estate in Chapters 3, 4, or 15, no other express prohibition or permission exists in Chapters 1, 3, 4, or 15 to authorize or impede lenders and borrowers from structuring this type of transaction. I decline to interpret the statute to permit this practice, and in effect, legislate by administrative interpretation.

Issued in Austin, Texas, on February 15, 1996.

9602258

Leslie L. Pettijohn

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
Houston	Gamma Laboratories	L04895	Houston	0	02/14/96
McAllen	Medcath of McAllen, L.L.P. McAllen Heart Hospital	L04902	McAllen	0	02/06/96
Midland	Allison Cancer Center	L04905	Midland	0	02/09/96
Mission	Valley Caliche Products, Incorporated	L04931	Mission	0	02/06/96
Throughout Texas	Granite Construction Company	L04923	DFW Int'l Airport	0	02/05/96

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
Athens	East Texas Medical Center-Athens	L02470	Athens	22	02/07/96
Athens	Adams Brothers, Inc.	L04771	Athens	3	01/31/96
Austin	Syncor International Corporation	L02117	Austin	55	02/05/96
Austin	IDM Corporation	L04113	Austin	19	02/06/96
Austin	Austin Heart, P.A.	L04623	Austin	4	02/12/96
Austin	Austin Diagnostic Medical Center	L04910	Austin	1	02/07/96
Austin	Abbott Laboratories, Inc.	L03340	Austin	9	01/31/96
Baytown	Bayer Corporation	L01577	Baytown	40	01/31/96
Beaumont	Exell, Incorporated	L04782	Beaumont	2	02/01/96

Commissioner
Office of Consumer Credit Commissioner
Filed: February 16, 1996

State Employee Charitable Campaign Policy Committee

Notice of Application

Legal Notice: The State Policy Committee (SPC) for the State Employee Charitable Campaign (SECC) is accepting applications from statewide federations/funds desiring to participate in the 1996 SECC. To receive an application, call (512) 450-0840.

Completed applications must be received by the SPC, 505 East Huntland Drive, #455, Austin 78752, no later than 5:00 p.m. on February 27, 1996. Applications received after that time, will not be accepted.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602310

Mary Ellen Burns

Senior Vice President

State Employee Charitable Campaign Policy Committee

Filed: February 16, 1996

Texas Department of Health

Licensing Actions for Radioactive Materials

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

Borham	Northeast Medical Center	L03331	Borham	12	02/14/96
Corpus Christi	Memorial Medical Center	L00265	Corpus Christi	59	02/13/96
Corpus Christi	Hoechst Celanese Corporation	L00409	Corpus Christi	56	02/08/96
Corpus Christi	Radiology Associates	L04169	Corpus Christi	16	02/14/96
Dallas	Presbyterian Hospital of Dallas	L01586	Dallas	62	02/09/96
Dallas	Texas Instruments Incorporated	L04096	Dallas	11	01/31/96
El Paso	Columbia Diagnostic Center	L03395	El Paso	25	02/05/96
El Paso	IsoMedix Incorporated	L04268	El Paso	8	02/07/96
El Paso	The University of Texas at El Paso	L00159	El Paso	35	01/31/96
El Paso	El Paso Inspection	L04599	El Paso	6	01/31/96
Fort Worth	Osteopathic Medical Center of Texas	L00730	Fort Worth	42	02/14/96
Fort Worth	Harris Methodist Fort Worth	L01837	Fort Worth	61	02/13/96
Fort Worth	Huguley Memorial Medical Center	L02920	Fort Worth	16	02/08/96
Fort Worth	Carter Blood Center	L03676	Fort Worth	7	02/13/96
Fort Worth	Cook Children's Medical Center	L04518	Fort Worth	6	02/08/96
Grand Prairie	MetroTech Inspection & Testing Services, Inc.	L04913	Grand Prairie	3	01/31/96
Hondo	Medina Community Hospital	L03323	Hondo	9	02/09/96
Houston	University of Texas M.D. Anderson Cancer Center	L00466	Houston	60	02/07/96
Houston	Kooney X-Ray, Incorporated	L01074	Barker	77	02/13/96
Houston	Lyndon B. Johnson General Hospital	L04412	Houston	12	02/13/96
Houston	Simpro, Inc.	L04419	Houston	4	02/14/96
Houston	Hermann Hospital	L04655	Houston	7	02/14/96
Houston	Proportional Technologies Incorporated	L04747	Houston	1	02/13/96
Houston	Imaging Institute of Texas Incorporated	L04893	Houston	1	02/14/96
Houston	Spring Branch Memorial Hospital	L02473	Houston	31	01/31/96
Houston	Tuboscope Vetco International	L00287	Houston	96	01/31/96
Irving	Corning Clinical Laboratories	L01253	Irving	16	02/12/96
Lake Jackson	Non-Destructive Inspection Corporation	L02712	Lake Jackson	43	01/31/96
Longview	Texas Eastman Division	L00301	Longview	80	01/31/96
Lubbock	Texas Tech University Health Sciences Center	L01869	Lubbock	51	02/12/96
Lubbock	Joe Arrington Cancer Research and Treatment Center	L04881	Lubbock	3	02/13/96
Lufkin	Texas Foundries, Inc.	L00357	Lufkin	26	02/06/96
Midland	G. Murthy Gollapudi, M.D., Ph.D	L03238	Midland	8	02/13/96
Nacogdoches	AMI Nacogdoches Medical Center Hospital	L02853	Nacogdoches	14	02/14/96
Odessa	Medical Center Hospital	L01223	Odessa	52	02/13/96
Pasadena	Technical Welding Laboratory, Inc.	L02187	Pasadena	108	01/31/96
Perryton	Midwest Inspection Service	L03120	Perryton	43	02/13/96
San Antonio	Baptist Memorial Hospital System	L00455	San Antonio	68	02/13/96
San Antonio	Santa Rosa Health Care Corporation	L02237	San Antonio	38	02/09/96
San Antonio	Cancer Therapy & Research Foundation of South Texas	L03350	San Antonio	15	02/09/96
San Antonio	South Texas Blood & Tissue Center	L04381	San Antonio	6	02/08/96
San Antonio	RW Environmental Services, Inc.	L04814	San Antonio	1	01/31/96
Throughout Texas	Nordion International, Inc.	L00721	KANATA ONTARIO	40	02/13/96
Throughout Texas	Longview Inspection	L01774	La Porte	103	02/07/96
Throughout Texas	City of Fort Worth	L01928	Fort Worth	15	02/01/96
Throughout Texas	Halliburton Energy Services	L02113	Houston	82	02/13/96
Throughout Texas	Geotest Engineering, Incorporated	L02735	Houston	32	02/01/96
Throughout Texas	Royal Wireline, Incorporated	L03110	Riviera	20	02/06/96
Throughout Texas	Qualitest X-Ray, L.L.C.	L03326	Corpus Christi	35	02/13/96
Throughout Texas	Guardian NDT Services, Inc.	L04099	Corpus Christi	39	02/13/96
Throughout Texas	Wilson Inspection X-Ray Services, Inc.	L04469	Corpus Christi	25	02/06/96
Throughout Texas	Pitt-Des Moines, Inc.	L04502	Pittsburgh, PA	9	02/13/96
Throughout Texas	International Radiography and Inspection Services	L04769	Wichita Falls	4	02/01/96
Throughout Texas	Coppell Construction Company, Incorporate	L04916	Lewisville	1	02/14/96
Waco	Hillcrest Baptist Medical Center	L00845	Waco	56	02/08/96
Waco	Providence Health Center	L01638	Waco	36	01/31/96
Wichita Falls	Bethania Regional Health Care Center	L01844	Wichita Falls	44	02/06/96
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Carrollton	Philips Lighting Company	L03823	Carrollton	9	02/01/96
Houston	Barry L. Morowitz M.D.	L02001	Houston	6	02/08/96
Houston	Aprogenex, Inc.	L04358	Houston	2	02/12/96
Pearland	Pro Technologies	L03708	Pearland	6	01/31/96
Richmond	Worden Gravity Meter Company	L04407	Richmond	1	01/31/96
Tyler	Logtech Wireline Services, Inc.	L02501	Tyler	24	01/31/96
Tyler	H & h X-Ray Services, Inc.	L02516	Tyler	24	01/31/96

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Fort Worth	Plaza Medical Center	L02207	Fort Worth	27	02/12/96
Houston	ICO Tubular Services, Inc.	L02490	Houston	8	02/12/96
Port Arthur	Chevron U.S.A., Inc.	L00054	Port Arthur	41	01/31/96

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Throughout Texas	D-Arrow Inspection, Incorporated	L03816	Houston	0	02/01/96

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and

experience to use the material in question for the purposes requested in accordance with *Texas Regulations for Control of Radiation* in such a manner as to minimize danger to public health and safety or

property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment; and the applicants satisfy any applicable special requirements in the *Texas Regulations for Control of Radiation*.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county; and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing Richard A. Ratliff, P.E., Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, Exchange Building, 8407 Wall Street, Austin, Texas, from 8:00 a.m. to 5:00 p.m., Monday-Friday (except holidays).

Issued in Austin, Texas, on February 16, 1996.

TRD-9602424
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 20, 1996

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Notice Of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Impoundment Order issued January 5, 1996, to Timothy W. Lykke, D.P.M., 12114 Greenspoint Drive, Houston, Texas 77060, holder of Certificate of Registration Number R07601.

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 February 16, 1996.

TRD-9602307
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 16, 1996

Request for Proposals

Background. Since 1985, the Texas Primary Health Care Services Act, V.T.C.A., Health and Safety Code, §31.001 et seq, has provided for the delivery of comprehensive preventive and primary health

care services to low income individuals who are not eligible for other programs. The Texas Department of Health is responsible for implementing this Act.

The purpose of this Request For Proposal (RFP) is to solicit grant applications to provide Primary Health Care Program services and to promote and support the development of Community Oriented Primary Care (COPC) in local communities. For fiscal year 1997, approximately \$14,000,000 is available for contract services.

General Information.

Application packets will be available March 1, 1996. Completed applications must be postmarked by April 17, 1996, and sent to the Texas Department of Health, John Dombroski, Director of Primary Health Care, Bureau of Community Oriented Primary Care, 1100 West 49th Street, Austin, Texas 78756. Applicants must also submit one copy each to the local council of governments and to the Texas Department of Health regional office.

Amount of Funding Request.

Applicants may apply for a minimum of \$10,500 and not more than \$650,000.

Duration of Funding.

The initial funding period will be 12 months starting September 1, 1996, and ending August 31, 1996. Applicants approved for funding will be notified no later than July 1, 1996. After the grant awards have been made, contracts will be negotiated between the Texas Department of Health and the selected providers.

Qualifications of Applicants.

Potential contractors must demonstrate that they have the community support, fiscal solvency, legal authority to apply and implement, capability, facilities and all required special resources readily available within the community to meet and to satisfactorily perform the requirements identified in their proposal. Each contractor must provide documentation of its ability to establish a comprehensive community oriented health care system which will ensure both the provision of and access to the following services:

- social services, including case management, financial eligibility screening and referrals;
- preventive health services, including immunizations and health screening;
- diagnosis & treatment;
- family planning;
- health education including community health education;
- diagnostic tests: lab, x-ray, nuclear medicine; and
- emergency services.

Optional services which can be funded if the above services are provided or ensured:

- prescription drugs, devices and durable supplies;
- transportation;
- dental care;
- podiatry services;
- home health care;

- nutrition services;
- environmental health services;

Application Procedure.

More detailed information may be obtained from Demetria Montgomery, M.D., Chief, Bureau of Community Oriented Primary Care or John Dombroski, Director of Primary Health Care, Bureau of Community Oriented Primary Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7771.

Review of Proposals.

Each application will be evaluated independently on the following proposal sections:

- (1) Agency Narrative;
- (2) Community Development Plan;
- (3) Community Assessment Narrative;
- (4) Service Provider Table;
- (5) Provider Detail Table;
- (6) Service Delivery Plan Narrative;
- (7) Quality Assurance Plan;
- (8) Advisory Committee Plan; and
- (9) Budget and Fiscal Information.

Applications that do not include all required components will not be considered. Disqualified applications will not be returned, nor will applicants be notified until the review process is complete on July 1, 1996.

Review of applications will be completed by staff at the area council of governments, the Texas Department of Health Public Health regional offices, and the Texas Department of Health central office.

Issued in Austin, Texas, on February 20, 1996.

TRD-9602416
 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed: (512) 458-7236



Notice of Emergency Cease and Desist Order

Notice is hereby given that the Bureau of Radiation Control (bureau) ordered R. D. Dwyer, M.D. (registrant-R19906) of Houston to cease and desist using the Profexray x-ray unit (Model Number R300-1; Serial Number 01011172009) until all the health-related violations found during a recent inspection of the facility are corrected. The bureau determined that continued radiation exposure to patients in excess of that required to produce a diagnostic image constitutes an immediate threat to public health and safety, and the existence of an emergency. The registrant is further required to provide evidence satisfactory to the bureau regarding the actions taken to correct the violations and the methods used to prevent their recurrence.

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 February 16, 1996.

TRD-9602305
 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed: February 16, 1996



Notice of Preliminary Report for Assessment of Administrative Penalties and Notice of Violation

Notice is hereby given that the Bureau of Radiation Control (bureau) issued a notice of violation and proposal to assess an administrative penalty to Raba-Kistner Consultants, Inc. (licensee-L02337) of El Paso. A penalty of \$4,000 is proposed to be assessed the licensee for violations of the Texas Regulations for Control of Radiation. The violations created a potential threat to the health and safety of the public and the environment, and facilitated possession of the radioactive material by an individual who was not knowledgeable in radiation safety and was not authorized to possess the radioactive material.

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 February 16, 1996.

TRD-9602306
 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed: February 16, 1996



Notice Of Rescission of Order

Notice is hereby given that the Bureau of Radiation Control, Texas Department of Health, rescinded the following order: Emergency Impoundment Order issued January 5, 1996, to Timothy W. Lykke, D.P.M., 12114 Greenspoint Drive, Houston, Texas 77060, holder of Certificate of Registration Number R07601.

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 February 16, 1996.

TRD-9602307
 Susan K. Steeg
 General Counsel
 Texas Department of Health
 Filed: February 16, 1996



Notice Of Revocation 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: Harry J. Blanek, D.D.S., Inc., San Angelo, R04625, February 8, 1996; Al D. Lowe, D.D.S., Amarillo, R06480, February 8, 1996; Polk Clinic, Inc., Dallas, R06920, February 8, 1996; Richard J. Montoya, D.D.S., El Paso, R07069, February 8, 1996; Mark G. Gonzales, D.D.S., San Antonio, R08752, February 8, 1996; B. J. Jones, D.D.S., Dallas, R09859, February 8, 1996.

8, 1996; Buckner Foot Clinic, Dallas, R11249, February 8, 1996; William J. Clouse, D.P.M., San Antonio, R11313, February 8, 1996; Ronnie Elmore, D.D.S., Houston, R13175, February 8, 1996; Almeda Clinic, Houston, R14801, February 8, 1996; Edwin Roy Hamlett, D.C., Houston, R18949, February 8, 1996; Commerce Station Family Clinic, Crowley, R19623, February 8, 1996; Joseph C. Wytovak, Texas City, R19666, February 8, 1996; Medical & Surgical Specialists of Southeast Texas, Bridge City, R19791, February 8, 1996.

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 February 16, 1996.

TRD-9602308
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 16, 1996

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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: Heights Hospital, Houston, L01782, February 8, 1996; Ace Perforators, Inc., Odessa, L03559, February 8, 1996; B & W Equipment Sales and Manufacturing, Inc., Odessa, L04762, February 8, 1996.

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 February 16, 1996.

TRD-9602309
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 16, 1996

Texas Department of Health

Public Hearing

The Texas Department of Health and the Strategic Management Committee of the Texas Board of Health will be conducting a public hearing to seek public input on strategic priorities for 1997-2001 and the Texas Department of Health Strategic Plan for 1995-1999. After a review of the strategic priorities and the strategic plan, comments will be received from the public.

The hearing will begin at 1:30 p.m. on Wednesday, March 6, 1996 in Room M-739 at the Texas Department of Health, 1100 West 49th Street, Austin, Texas.

Issued in Austin, Texas, on February 21, 1996.

TRD-9602439
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: February 21, 1996

Texas Department of Insurance

Insurer Services

The following applications have been filed with the Texas Department of Insurance and are under consideration:

Application for incorporation in Texas for Aviation & Marine Insurance Company of America, a domestic fire and casualty company. The home office is in Dallas, Texas.

Application for a name change in Texas for Great Central Insurance Company, a foreign fire and casualty company. The proposed new name is Argonaut Great Central Insurance Company. The home office is in Peoria, Illinois.

Any objections must be filed within 20 days after this notice was filed with the Texas Department of Insurance, addressed to the attention of Cindy Thurman, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

Issued in Austin, Texas on February 19, 1996.

TRD-9602396
Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: February 20, 1996

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Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2206 on March 14, 1996, at 10:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendment to 28 TAC §5.4501, concerning the adoption by reference of a revised manual of rules governing the writing of windstorm and hail insurance by the Texas Catastrophe Property Insurance Association (TCPIA).

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §5.4501 were published in the January 16, 1996 issue of the 5.4501 were published in the January 16, 1996 issue of the

Issued in Austin, Texas, on February 19, 1996.

TRD-9602396
Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance
filed: February 19, 1996

Insurer Services

The Commissioner of Insurance will hold a public hearing under Docket Number 2206 on March 14, 1996, at 10:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendment to 28 TAC §5.4501, concerning the adoption by reference of a revised manual of rules governing the writing of windstorm and hail insurance by the Texas Catastrophe Property Insurance Association (TCPIA).

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §5.4501 were published in the January 16, 1996 issue of the *Texas Register* (21 TexReg 427).

Issued in Austin, Texas on February 19, 1996.

TRD-9602394
Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: February 20, 1996

Insurer Services

The Commissioner of Insurance will hold a public hearing under Docket Number 2207 on March 14, 1996, at 10:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendment to 28 TAC §5.4201, concerning the adoption by reference of a new endorsement form-TCPIA Form Number 525, Dwelling Optional Large Deductible Clause (One or Two-Family Dwellings) for attachment to a windstorm and hail insurance policy issued by the Texas Catastrophe Property Insurance Association (TCPIA).

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §5.4201 were published in the January 16, 1996 issue of the *Texas Register* (21 TexReg 426).

Issued in Austin, Texas on February 19, 1996.

TRD-9602393
Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: February 20, 1996

Third Party Administrator Applications

The Commissioner of Insurance will hold a public hearing under Docket Number 2208 on March 14, 1996, at 10:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, to consider the adoption of proposed amendment to 28 TAC §5.4001, concerning the plan of operation of the Texas Catastrophe Property Insurance Association (TCPIA).

The proposed amendments and the statutory authority for the proposed amendments to 28 TAC §5.4001 were published in the January 16, 1996 issue of the *Texas Register* (21 TexReg 424).

Issued in Austin, Texas, on February 19, 1996.

TRD-9602392
Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance
Filed: February 20, 1996

Extension of Consultant Proposal Request

This consultant proposal extension is filed under the provisions of the Government Code, Chapter 2254. The Texas Natural Resource Conservation Commission (commission) requested offers for consultant services in the January 16, 1996 issue of the *Texas Register* (21 Tex. Reg. 457).

The deadline for proposals has been extended from 5:00 CDT on February 15, 1996 to 5:00 CDT on February 29, 1996. All correspondence (including offers) should be mailed to Alicia Reinmund, Water

Planing and Assessment Division, MC 150, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, or delivered in a sealed envelope to TNRCC, Water Planning and Assessment Division, Room 2202, C-185, Second Floor, Building F, 12015 Park 35 Circle, Austin, Texas 78753.

Issued in Austin, Texas on February 18, 1996.

TRD-9602453
Kevin McCalla
Director, Legal Division
Texas Natural Resource Conservation Commission
Filed: February 18, 1996

Texas Natural Resource Conservation Commission

Provisionally-Issued Temporary Permits to Appropriate State Water
Listed below are permits issued during the period of February 13, 1996.

Application Number TA-7618 by T. L. James & Company, Inc. for diversion of seven acre-feet in a six-month period for industrial (highway construction) use. Water may be diverted from the FM 3178 crossing of an unnamed tributary of North Creek, approximately 13.4 miles northeast of Centerville, Leon County, Texas, Trinity River Basin.

Application Number TA-7619 by T. L. James & Company, Inc. for diversion of nine acre-feet in an eight-month period for industrial (highway construction) use. Water may be diverted from the FM 488 crossing of Tehuacana Creek, approximately 13.5 miles north of Fairfield, Freestone County, Texas, Trinity River Basin.

Application Number TA-7620 by Smith & Company for diversion of two acre-feet in a one-year period for industrial (highway construction) use. Water may be diverted at the stream crossing of FM 1791 and West Sandy Creek, approximately 13.3 miles southwest of Huntsville, Walker County, Texas, San Jacinto River Basin.

Application Number TA-7621 by Smith & Company for diversion of two acre-feet in a one-year period for industrial (highway construction) use. Water may be diverted at the stream crossing of FM 2989 and the South Fork Bedias Creek, approximately 13.8 miles northwest of Huntsville, Walker County, Texas, Trinity River Basin.

Application Number TA-7627 by T. L. James and Company, Inc. for diversion of eight acre-feet in a one-year period for industrial purposes. Water may be diverted from Turtle Creek at a location approximately 18.7 miles southwest Bay City on SH 35, Matagorda County, Texas, Colorado-Lavaca Coastal Basin.

The Executive Director of the TNRCC has reviewed each application for the permits listed and determined that sufficient water is available at the proposed point of diversion to satisfy the requirements of the application as well as all existing water rights. Any person or persons who own water rights or who are lawful users of water on a stream affected by the temporary permits listed above and who believe that the diversion of water under the temporary permit will impair their rights may file a complaint with the TNRCC. The complaint can be filed at any point after the application has been filed with the TNRCC and the time the permit expires. The Executive Director shall make an immediate investigation to determine whether there is a reasonable basis for such a complaint. If a preliminary investigation determines that diversion under the temporary permit

will cause injury to the complainant the commission shall notify the holder that the permit shall be cancelled without notice and hearing. No further diversions may be made pending a full hearing as provided in §295.174. Complaints should be addressed to Water Rights Permitting Section, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-4433. Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602361

Gloria A. Vasquez
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: February 16, 1996



Notice of Commission Action

The following matters have reached settlement agreements of all issues in controversy. Therefore, they have been remanded by the State Office of Administrative Hearings (SOAH) to the Executive Director of the TNRCC for administrative disposition. Information concerning these matters may be obtained by contacting the TNRCC Chief Clerk's Office MC105, P.O. Box 13087, Austin, Texas 78711, or by telephone at (512) 239-3300.

W. C. Morris doing business as Western Water system; TNRCC Docket Number 95-1538-UCR; SOAH Docket Number 582-95-1642; CCN Number 12720 (Application Number 30966-G).

C & C Waterworks, Inc.; TNRCC Docket Number 95-1539-UCR; SOAH Docket Number 582-95-1639; CCN Number 11028; (Application Number 30922-G).

Jakie Long doing business as Jakie Long Water; TNRCC Docket Number 95-0932-UCR; SOAH Docket Number 582-95-1104; Application Number 30770-C.

Elaine Rogers Palance; TNRCC Docket Number 95-0131-UCR; SOAH Docket Number 582-95-1109.

Steiner Utility Company; TNRCC Docket Number 94-0573-UCR; SOAH Docket Number 582-95-1119.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602362

Gloria A. Vasquez
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: February 16, 1996



Notice of Opportunity to Comment on Permitting Actions

The following applications will be signed by the Executive Director in accordance with 30 TAC §263.2, which directs the Commission's Executive Director to act on behalf of the Commission and issue final approval of certain uncontested 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 10 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 the Chief Clerk's Office (Mail Code 105), Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Consideration of the petition of Elaine Rogers Palance to Cease Operation and Discontinue Providing Retail Water Utility Service in Denton County, Texas (Application Number 30631-Q, Vera Poe)

Consideration of the application of City of Edinburg to Purchase Facilities and Transfer a Portion of Water CCN Number 10558 from Sharyland Water Supply Corporation; Amend Water CCN Number 12106 and CCN Number 10558; in Hidalgo County, Texas (Application Number 30964-S, Vera Poe).

APPLICATION NUMBER 23-339C BY CONNECTICUT MUTUAL LIFE INSURANCE COMPANY FOR AN AMENDMENT TO CERTIFICATE OF ADJUDICATION NUMBER 23-339, AS AMENDED, PURSUANT TO TEXAS WATER CODE, §11.122. Applicant seeks to amend Certificate Number 23-339, as amended, to authorize diversion of the 200 acre-feet of industrial water rights already authorized under this certificate from any point on the Rio Grande in Cameron, Hidalgo, Starr and Zapata counties, and to change the place of use to these four counties (RENEE' TUGGLE).

EVEREST EXPLORATION, INC. for a minor amendment to Radioactive Material License Number RW3626. The minor amendment would delete the Gruy-7B (Site 002) and Las Palmas (Site 004) Mine Sites from License Number RW3626. The authorized locations for these sites is on the Duval-Jim Hogg county line on agricultural/ranch land near the Town of Hebronville, Texas.

COGEMA MINING, INC. for an amendment to the production area authorization for Production Area Number 2 under existing Permit Number R02156-021 (Holiday Mine Site-H-2 Wellfield). The proposed amendment would revise restoration values for calcium, magnesium, sodium, bicarbonate, TDS, conductivity, alkalinity, and radium-226. The proposed values will not change the use category of the water. Prior to mining, the water in the production area was used for livestock. COGEMA Mining, Inc. has met the following criteria set forth in 30 TAC §331.107(f)(2) for an amendment to restoration table values: a) reasonable efforts have been taken by the company to restore the aquifer; b) the formation water in the aquifer is suitable for any use to which it was suitable prior to mining; and c) further

restoration efforts would consume energy, water, or other natural resources of the state without providing a corresponding benefit to the state. The Holiday site is approximately 4.5 miles east of Bruni in Duval County, Texas and 45 miles east of Lardeo.

Consideration of the application of 1464 Corporation doing business as Hidden Lake Estates Water System for a Rate/Tariff Change in Fort Bend County, CCN Number Pending (Application Number 30992-G, Darrell Nichols).

Issued in Austin, Texas, on February 16, 1996.

TRD-9602363
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: February 16, 1996.

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Applications for Sludge Registrations

Notices of Receipt of Applications and Declaration of Administrative Completeness for sludge registrations issued during the period of February 12-16, 1996 .

CITY OF CLIFTON; located adjacent to the southeastern corporate limits of the City of Clifton and bound on the west by State Highway 6 and on the east by the Bosque River in Bosque County, Texas; new; 710729 .

ALBERT C. JURASEK; located south of the City of Wharton on FM 3012 and approximately 3-1/2 miles from the Town Square in Wharton County, Texas; new; 710733 .

These applications have been determined to be administratively complete, and will now be subject to a technical evaluation by the staff of the Texas Natural Resource Conservation Commission. Persons should be advised that these applications are subject to change based on evaluations of the proposed treatment levels, treatment processes and site specific conditions as they relate to the protection of the environment and public health.

Persons desiring to comment on these applications should submit their written comments to the Chief Clerk of the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711. The comments should include: the name, mailing address, and phone number of the person making the request; applicant's name and registration number. The deadline for submitting the comments is 30 days from the date which the notice was mailed.

If you wish to appeal a registration 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 registration.

Information concerning these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602364
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation Commission

Filed: February 16, 1996

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Enforcement Orders

An agreed enforcement order was entered regarding FRED PALACIOS, Docket Number 96-0111-PST-E (TNRCC Facility ID 33816; Enforcement ID E10879) on February 1, 1996, assessing \$7,600 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Patricia Capps, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0682.

An agreed enforcement order was entered regarding THRIFTWAY MARKETING CORPORATION, Docket Number 96-0169-PST-E (TNRCC Facility ID 8530; Enforcement ID E10876) on February 1, 1996, assessing \$5,250 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Raymond C. Winter, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0477.

An agreed enforcement order was entered regarding ELDORADO CHEMICAL COMPANY INC, Docket Number 96-0115-IHW-E (SWR Number 31164) on February 1, 1996, assessing \$75,000 in administrative penalties with \$25,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Laura Ray, Staff Attorney, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-0674.

Issued in Austin, Texas, on February 11, 1996.

TRD-9602365
Gloria A. Vasquez
Chief Clerk
Texas Natural Resource Conservation Commission
Filed: February 16, 1996

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Notice of Applications for Waste Disposal Permits

Notices of applications for waste disposal permits were issued during the period of February 12-15, 1996.

The Executive Director will issue these permits unless one or more persons file written protests and/or a request for a hearing within 30 days after newspaper publication of this notice. If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the permit number or other recognizable reference to this application; the statement "I/we request a public hearing"; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; a description of the location of your property relative to the applicant's operations; and your proposed adjustment to the application/permit which would satisfy your concerns and cause you to withdraw your request for hearing. If one or more protests and/or requests for hearing are filed, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where a hearing may be held. In the event a hearing is held, the Office of Hearings Examiners will submit a recommendation to the Commission for final

decision. If no protests or requests for hearing are filed, the Executive Director will sign the permit 30 days after newspaper publication of this notice or thereafter. If you wish to appeal a permit issued by the Executive Director, you may do so by filing a written Motion for Reconsideration with the Chief Clerk of the Commission no later than 20 days after the date the Executive Director signs the permit.

Information concerning any aspect of these applications may be obtained by contacting the Texas Natural Resource Conservation Commission, Chief Clerks Office-MC105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number and type of application-new permit, amendment, or renewal.

AGRICULTURE COMPANY, INC., Lubbock Feed Lot, P.O. Box 1679, Lubbock, Texas 79408; the cattle feedlot is on the east side of SPUR 331 approximately 0.25 mile northwest of the intersection of SPUR 331 and U.S. Highway 84 in Lubbock, Lubbock County, Texas; amendment 01439.

DRILLING SPECIALTIES COMPANY, P.O. Box 2567, Conroe, Texas 77305-2567; the oil field chemical manufacturing plant is approximately one mile south of the intersection of FM 1485 and Jefferson Chemical Road and west of the Texaco Chemical Plant and east of the City of Conroe, Montgomery County, Texas; renewal; 02475.

HOUSTON LEAD COMPANY, INC., P.O. Box 35375, Houston, Texas 77235; the applicant formerly operated a secondary lead smelter for the smelting and refining of scrap lead, including lead batteries. The facility is no longer involved in lead smelting and refining activities. The only buildings remaining include the office building and the metal building east of the office; the facility is located at 300 Holmes Road in the City of Houston, Harris County, Texas; renewal; 02706.

CITY OF PEARLAND, 3519 Liberty Drive, Pearland, Texas 77581; the Longwood Wastewater Treatment Facilities are on Dixie Farm Road at Myrtle Wood Drive, immediately south of Clear Creek and immediately west of Brazoria and Galveston County common boundary in Brazoria County, Texas; amendment; 10134-03 .

CITY OF RANKIN, P.O. Box 61, Rankin, Texas 79778-0061; the wastewater treatment facilities and disposal site are located approximately 1.5 miles southwest of the intersection of U.S. Highway 67 and FM Road 349 in Upton County, Texas; renewal; 10601-01.

CITY OF THORNDALE, P.O. Box 308, Thorndale, Texas 76577; the Thorndale Sanitary Disposal Plant is approximately 0.5 mile south of the intersection of U.S. Highway 79 and FM Road 486, adjacent to FM Road 486 in Milam County, Texas; renewal; 10302-01.

TEXAS UTILITIES MINING COMPANY, the applicant operates the Martin Lake and Oak Hill Mining Areas, The Martin Lake Mining Area is adjacent to north and east of Martin Lake; the Oak Hill Mining Area is approximately two miles north of the City of Henderson in Panola and Rusk Counties, Texas, renewal, 02644.

STAR ENTERPRISE, GENERAL PARTNERSHIP, the applicant will operate a bulk fuel storage and distribution facility, the plant site is at 3900 Singleton Boulevard in the City of Dallas in Dallas County, Texas, new, 03850.

STAR ENTERPRISE, GENERAL PARTNERSHIP, the applicant will operate a bulk fuel storage and distribution facility, the plant site is at 510 Petroleum Drive in the City of San Antonio in Bexar County, Texas, new, 03851.

CITY OF WEATHERFORD, the wastewater treatment facilities are at 1327 Eureka Street; approximately 4,000 feet north-northwest of the intersection of Interstate Highway 20 and FM Road 2552 in Parker County, Texas, amendment, 10380-01 .

VALUE FROZEN FOODS, INC., the applicant operates a vegetable processing plant where vegetables are washed, blanched, cooled, frozen and packaged, the plant site is approximately one-fourth mile west of FM Road 88, adjacent to the abandoned Missouri Pacific Railroad Track in the community of Monte Alto in Hidalgo County, Texas, amendment, 02803.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602366

Gloria A. Vasquez
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: February 16, 1996

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Notice of Application for Municipal Solid Waste Management Facility Permits for the Week Ending February 16, 1996

APPLICATION BY BROWNING-FERRIS, INC., Proposed Permit Amendment Number MSW241B, authorizing their Type I (Landfill) municipal solid waste management facility. The proposed permit amendment authorizes the existing solid waste management facility to upgrade to Subtitle D standards as well as to vertically expand the currently permitted area by approximately 30 feet. The existing site covers approximately 65.3 acres of land. The average waste acceptance rate is projected to be 25,000 cubic yards per month (247 tons per day). The maximum waste acceptance rate for disposal or other processing is projected to be 3,000 cubic yards per day (900 tons per day). The operating hours of this facility shall be any time between the hours of 4:00 a.m. and 8:00 p.m., Monday-Saturday. The facility is located approximately 0.8 miles north of County Road 66 and approximately three miles northeast of the town of Itasca, in Hill County, Texas.

The Executive Director will issue the permit unless one or more persons file written protests and/or requests for hearing within 30 days of the date of newspaper publication of this notice. If you wish to request a public hearing, you must submit your request in writing. You must state your name, mailing address, and daytime phone number; the application number, TNRCC docket number or other recognizable reference to the application; the statement "I/we request an evidentiary public hearing."; a brief description of how you, or the persons you represent, would be adversely affected by the granting of the application; and a description of the location of your property relative to the applicant's operations.

If one or more protests and/or requests for hearing are filed on an application, the Executive Director will not issue the permit and will forward the application to the Office of Hearings Examiners where an evidentiary hearing may be held. If no protests and/or requests for hearing are filed on an application, the Executive Director will approve the application. 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 or questions concerning procedures should be submitted in writing to the TNRCC, Chief Clerk's Office, P.O. Box 13087, Mail Code 105, Building F, Room 4301, Texas Natural Resource Conservation Commission, Mail Code 105, P.O. Box 13087, Austin, Texas 78711, (512) 239-3300.

Issued in Austin, Texas, on February 12, 1996.

TRD-9602367

Gloria A. Vasquez
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: February 16, 1996



Public Notice

The Executive Director of the Texas Natural Resource Conservation Commission has issued a public notice of the selection of a proposed remedial action for a State Superfund Site which may constitute an imminent and substantial endangerment due to a release or threatened release of hazardous substances into the environment. A copy of the notice appeared in the Valley Morning Star on Tuesday, February 27, 1996.

In accordance with 30 Texas Administrative Code (TAC) §335.349(a), concerning requirements for the remedial action and the Texas Health and Safety Code, Chapter 361.187, Solid Waste Disposal Act as amended by Senate Bill 43, Sixth Called Session 1990, concerning the proposed remedial action, a public meeting regarding the proposed remedy for the Niagara Chemical Site must be held at least 45 days after publishing a notice in the *Texas Register* and a local newspaper. The public meeting is scheduled at the Zavala Elementary School Cafeteria in Harlingen, Texas on Tuesday, April 16, 1996 at 7:00 p.m.

The site for which a proposed remedy has been selected is the Niagara Chemical site that was originally placed on the State Superfund list on January 16, 1987 (volume 13, Texas Register, pages 427-428).

Niagara is located at 421 North C street in downtown Harlingen, Texas. The site is part of an industrial area bounded on all sides by Missouri-Pacific railroad tracks. In 1970, all on-site buildings were razed, leaving only concrete slab foundations at the site.

Niagara Chemical formulated dry liquid pesticides from 1946 until 1962. In 1962, Niagara Chemical ceased pesticide formulation activities and removed the liquid formulation equipment, but continued to use the facility to blend and store fertilizer until 1968.

A remedial investigation was conducted during three phases of investigation (initial remedial investigation, first and second supplemental investigations). The investigations confirmed the presence of contamination at levels which may threaten human health and the environment. A baseline risk assessment concluded that further action was warranted to eliminate potential imminent and substantial endangerment to human health and the environment from the contamination at the site. A feasibility study was prepared that screened and evaluated for the remediation of the site contamination. The Feasibility Study report developed eight alternatives for surface and subsurface soils, and developed five alternatives for groundwater.

The public meeting will be legislative in nature and not a contested case hearing under the Texas Government Code, §2001.002. Persons desiring to make oral comments on the proposed remedial action may do so prior to or at the public meeting. All written comments concerning the remedial action proposed must be submitted at least 10 days prior to the public meeting to Michael Bame, C.P.G., Project Manager, Superfund Investigation Section, MC 143, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087.

The Executive Director of the TNRCC has prepared a brief summary of the Commission's public records regarding this site. This summary as well as a portion of the public records for the site are available for inspection and copying during the business hours of the Harlingen Public Library, 410 76th Drive, Harlingen, Texas 78750. (210) 555-1212. Copies of the complete public record file may be obtained during business hours of the TNRCC by contacting Beth Wigham, Central Records Center, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-2920. Copying of file information is subject to payment fee. For further information, please call (800) 633-9363.

Issued in Austin, Texas, on February 16, 1996.

TRD-9602359

Gloria A. Vasquez
Chief Clerk

Texas Natural Resource Conservation Commission
Filed: February 16, 1996



Texas Department of Public Safety

Regulations Governing Transportation of Hazardous Materials and Transportation Safety-§3.59, §3.62, Public Hearing Notice

The Texas Department of Public Safety, in accordance with Administrative Procedure and Texas Register Act, Texas Government Code, §2001 et seq, and Texas Civil Statutes, Article 6675d, §3, is holding a public hearing on March 6, 1996, at 9:00 a.m. in Conference Room B of the Department of Public Safety, 5805 North Lamar Boulevard Austin, Texas.

The purpose of the hearing is to receive comments from all interested persons regarding adoption of amendments to Administrative Rule regarding Regulations Governing Transportation of Hazardous Materials §3.59 and new Administrative Rule regarding Transportation Safety §3.62, proposed for adoption under the authority of Texas Civil Statutes, Article 6675d, §3, which provide that the director shall, after notice and a public hearing, adopt rules regulating the safe transportation of hazardous materials and the safe operation of commercial vehicles. The proposed new rules were published in the January 9, 1996, issue of the Texas Register (21 TexReg 253).

Persons interested in attending this hearing are encouraged to submit advance written notice of their intent to attend the hearing and to submit a written copy of their comments. Letters should be addressed to John C. West, Jr., Chief of Legal Services, Texas Department of Public Safety, Box 4087, Austin, Texas 78773-0001.

This hearing will be conducted in accordance with the Texas Department of Public Safety's General Rules of Practice and Procedure, §29.1-29.49.

Issued in Austin, Texas, on February 12, 1996.

TRD-9602176
James R. Wilson
Director
Texas Department of Public Safety
Filed: February 15, 1996

◆ ◆ ◆
Notice of Application to Amend Certificate of Convenience and Necessity.

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on February 5, 1996, to amend a Certificate of Convenience and Necessity pursuant to the Public Utility Regulatory Act of 1995, §§1.101(a), 2.201, 2.101(e), 2.252, 2.255, 3.252, and 3.254. A summary of the application follows.

Docket Title and Number: Application of Deep East Texas Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line in Nacogdoches County, Docket Number 15322 before the Public Utility Commission of Texas.

The Application: In Docket Number 15322, Deep East Texas Electric Cooperative, Inc. requests approval of its application to amend a certificate of convenience and necessity to construct approximately 17 miles of 69 kV (future 138 kV) transmission line in Nacogdoches County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0388, or (512) 458-0221 for teletypewriter for the deaf within 15 days of this notice.

Issued in Austin, Texas, on February 14, 1996.

TRD-9602141
Paula Mueller
Secretary of the Commission
Public Utility Commission of Texas
Filed: February 14, 1996

Railroad Commission of Texas

Notice of Intent to Reclaim Abandoned Mine Lands at the Butler Weddington Area 2B Abandoned Uranium Mine in Karnes County, Texas

The Railroad Commission of Texas is submitting a request for funds under Title IV of the Federal Surface Mining Control and Reclamation Act of 1977 (as amended October 1, 1991) to reclaim the Butler Weddington Area 2B abandoned uranium mine near Falls City, Texas in Karnes County. The abandoned mine consists of a 25 acre pit with approximately 165 acres of spoil piles. The pit contains water to a maximum depth of 50 feet. Poorly vegetated spoil piles consisting of overburden from the pit remain on the site. Work on the project would be accomplished in accordance with the Texas Abandoned Mine Land Program administered by the Railroad Commission of Texas.

Proposed reclamation of the site would include the following: regrade approximately 100 acres of pit and spoil material; alter slopes associated with the pit highwalls to 7H (horizontal):1V (vertical); alter all remaining slopes to 7H:1V; soil treatment; fertilize; seed and mulch with grasses. Details of the proposed reclamation plans can be found at the Austin address as follows.

Interested persons are invited to comment on any possible impact this proposed project might have on the area or community. Comments or inquiries are to be received no later than April 1, 1996 and may be submitted to the following mailing address: Surface Mining and Reclamation Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967, Attention: Melvin B. Hodgkiss, P.E., Director. For further information contact Mark Rhodes at 463-7313.

Issued in Austin, Texas, on February 15, 1996.

TRD-9602244
Mary Ross McDonald
Assistance Director, Office of General Counsel, Gas Services Section
Railroad Commission of Texas
Filed: February 15, 1996

TABLES & GRAPHICS

Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Figure 1: 16 TAC 9.160 (a)(6)

**§9.161. Commission Identification Nameplate.
Figure 1**

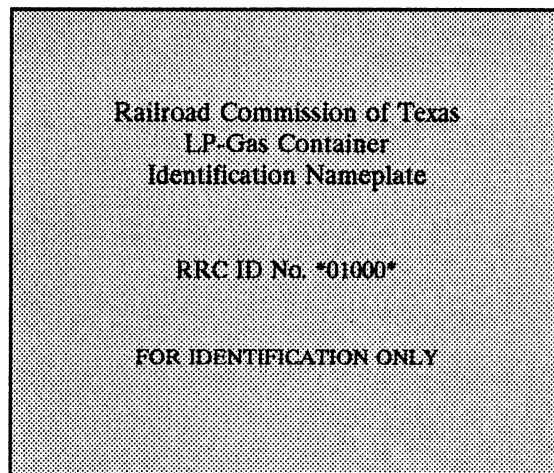


Figure 1: 30 TAC §115.421(a)(7)

<u>Affected Operation</u>	VOC Emission Limitation	
	<u>pounds per gallon of coating</u>	<u>kg per liter of coating</u>
sheet basecoat (exterior and interior) and over-varnish	2.8	0.34
two-piece can exterior (base-coat and over-varnish)	2.8	0.34
two- and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
three-piece can side-seam spray	5.5	0.66
end sealing compound	3.7	0.44

Figure 2: 30 TAC §115.421(b)(7)

<u>Affected Operation</u>	VOC Emission Limitation	
	<u>pounds per gallon of coating</u>	<u>kg per liter of coating</u>
sheet basecoat (exterior and interior) and over-varnish	2.8	0.34
two-piece can exterior (base-coat and over-varnish)	2.8	0.34
two- and three-piece can interior body spray, two-piece can exterior end (spray or roll coat)	4.2	0.51
three-piece can side-seam spray	5.5	0.66
end sealing compound	3.7	0.44

Figure 3: 30 TAC §115.423(a)(1)

$$S = C / (1 - (C / D))$$

where:

S = the applicable emission limit from §115.421(a) of this title (relating to Emission Specifications) expressed on a pounds of VOC per gallon of solids basis

C = the applicable emission limit from §115.421(a) of this title expressed on a pounds of VOC per gallon of coating basis

D = an assumed solvent density of 7.36 pounds of VOC per gallon

Figure 4: 30 TAC §115.423(b)(1)

$$S = C / (1 - (C / D))$$

where:

S = the applicable emission limit from §115.421(b) of this title expressed on a pounds of VOC per gallon of solids basis

C = the applicable emission limit from §115.421(b) of this title expressed on a pounds of VOC per gallon of coating basis

D = an assumed solvent density of 7.36 pounds of VOC per gallon

February - December 1996 Publication Schedule

The following is the February-December 1996 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these 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 Monday and Wednesday of the previous week, and deadlines for a Friday edition are Wednesday of the previous week and Monday of the week of publication. No issues will be published on February 23, March 15, November 8, December 3, and December 31. An asterisk beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
9 Friday, February 2	Wednesday, January 24	Monday, January 29	Monday, January 29
10 Tuesday, February 6	Monday, January 29	Wednesday, January 31	Wednesday, January 31
11 Friday, February 9	Wednesday, January 31	Monday, February 5	Monday, February 5
12 Tuesday, February 13	Monday, February 5	Wednesday, February 7	Wednesday, February 7
13 Friday, February 16	Wednesday, February 7	Monday, February 12	Monday, February 12
14 Tuesday, February 20	Monday, February 12	Wednesday, February 14	Wednesday, February 14
Friday, February 23	<i>No Issue Published</i>		
15 Tuesday, February 27	*Tuesday, February 20	Wednesday, February 21	Wednesday, February 21
16 Friday, March 1	Wednesday, February 21	Monday, February 26	Monday, February 26
17 Tuesday, March 5	Monday, February 26	Wednesday, February 28	Wednesday, February 28
18 Friday, March 8	Wednesday, February 28	Monday, March 4	Monday, March 4
19 Tuesday, March 12	Monday, March 4	Wednesday, March 6	Wednesday, March 6
Friday, March 15	<i>No Issue Published</i>		
20 Tuesday, March 19	Monday, March 11	Wednesday, March 13	Wednesday, March 13
21 Friday, March 22	Wednesday, March 13	Monday, March 18	Monday, March 18

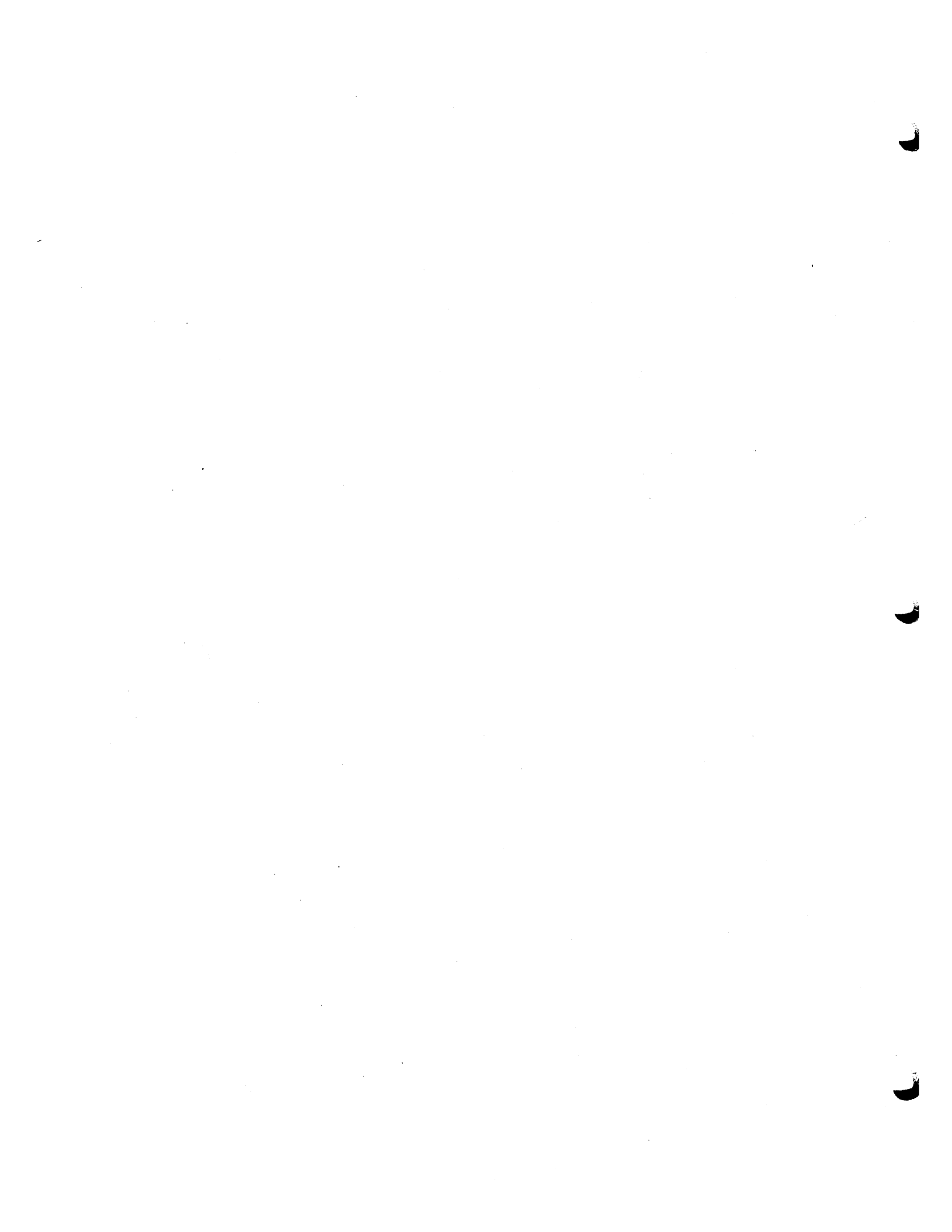
22 Tuesday, March 26	Monday, March 18	Wednesday, March 20	Wednesday, March 20
23 Friday, March 29	Wednesday, March 20	Monday, March 25	Monday, March 25
24 Tuesday, April 2	Monday, March 25	Wednesday, March 27	Wednesday, March 27
25 Friday, April 5	Wednesday, March 27	Monday, April 1	Monday, April 1
Tuesday, April 9	<i>First Quarterly Index</i>		
26 Friday, April 12	Wednesday, April 3	Monday, April 8	Monday, April 8
27 Tuesday, April 16	Monday, April 8	Wednesday, April 10	Wednesday, April 10
28 Friday, April 19	Wednesday, April 10	Monday, April 15	Monday, April 15
29 Tuesday, April 23	Monday, April 15	Wednesday, April 17	Wednesday, April 17
30 Friday, April 26	Wednesday, April 17	Monday, April 22	Monday, April 22
31 Tuesday, April 30	Monday, April 22	Wednesday, April 24	Wednesday, April 24
32 Friday, May 3	Wednesday, April 24	Monday, April 29	Monday, April 29
33 Tuesday, May 7	Monday, April 29	Wednesday, May 1	Wednesday, May 1
34 Friday, May 10	Wednesday, May 1	Monday, May 6	Monday, May 6
35 Tuesday, May 14	Monday, May 6	Wednesday, May 8	Wednesday, May 8
36 Friday, May 17	Wednesday, May 8	Monday, May 13	Monday, May 13
37 Tuesday, May 21	Monday, May 13	Wednesday, May 15	Wednesday, May 15
38 Friday, May 24	Wednesday, May 15	Monday, May 20	Monday, May 20
39 Tuesday, May 28	Monday, May 20	Wednesday, May 22	Wednesday, May 22
40 Friday, May 31	Wednesday, May 22	*Friday, May 24	*Friday, May 24
41 Tuesday, June 4	*Tuesday, May 28	Wednesday, May 29	Wednesday, May 29
42 Friday, June 7	Wednesday, May 29	Monday, June 3	Monday, June 3
43 Tuesday, June 11	Monday, June 3	Wednesday, June 5	Wednesday, June 5
44 Friday, June 14	Wednesday, June 5	Monday, June 10	Monday, June 10
45 Tuesday, June 18	Monday, June 10	Wednesday, June 12	Wednesday, June 12
46 Friday, June 21	Wednesday, June 12	Monday, June 17	Monday, June 17

47 Tuesday, June 25	Monday, June 17	Wednesday, June 19	Wednesday, June 19
48 Friday, June 28	Monday, June 19	Wednesday, June 24	Wednesday, June 24
49 Tuesday, July 2	Wednesday, June 24	Wednesday, June 26	Wednesday, June 26
50 Friday, July 5	Wednesday, June 26	Monday, July 1	Monday, July 1
51 Tuesday, July 9	Monday, July 1	Wednesday, July 3	Wednesday, July 3
Friday, July 12	<i>2nd Quarterly Index</i>		
52 Tuesday, July 16	Monday, July 8	Wednesday, July 10	Wednesday, July 10
53 Friday, July 19	Wednesday, July 10	Monday, July 15	Monday, July 15
54 Tuesday, July 23	Monday, July 15	Wednesday, July 17	Wednesday, July 17
55 Friday, July 26	Wednesday, July 17	Monday, July 22	Monday, July 22
56 Tuesday, July 30	Monday, July 22	Wednesday, July 24	Wednesday, July 24
57 Friday, August 2	Wednesday, July 24	Monday, July 29	Monday, July 29
58 Tuesday, August 6	Monday, July 29	Wednesday, July 31	Wednesday, July 31
59 Friday, August 9	Wednesday, July 31	Monday, August 5	Monday, August 5
60 Tuesday, August 13	Monday, August 5	Wednesday, August 7	Wednesday, August 7
61 Friday, August 16	Wednesday, August 7	Monday, August 12	Monday, August 12
62 Tuesday, August 20	Monday, August 12	Wednesday, August 14	Wednesday, August 14
63 Friday, August 23	Wednesday, August 14	Monday, August 19	Monday, August 19
64 Tuesday, August 27	Monday, August 19	Wednesday, August 21	Wednesday, August 21
65 Friday, August 30	Wednesday, August 21	Monday, August 26	Monday, August 26
66 Tuesday, September 3	Monday, August 26	Wednesday, August 28	Wednesday, August 28
67 Friday, September 6	Wednesday, August 28	*Friday, August 30	*Friday, August 30
68 Tuesday, September 10	*Tuesday, September 3	Wednesday, September 4	Wednesday, September 4
69 Friday, September 13	Wednesday, September 4	Monday, September 9	Monday, September 9
70 Tuesday, September 17	Monday, September 9	Wednesday, September 11	Wednesday, September 11
71 Friday, September 20	Wednesday, September 11	Monday, September 16	Monday, September 16

72 Tuesday, September 24	Monday, September 16	Wednesday, September 18	Wednesday, September 18
73 Friday, September 27	Wednesday, September 18	Monday, September 23	Monday, September 23
74 Tuesday, October 1	Monday, September 23	Wednesday, September 25	Wednesday, September 25
75 Friday, October 4	Wednesday, September 25	Monday, September 30	Monday, September 30
Tuesday, October 8	<i>Third Quarterly Index</i>		
76 Friday, October 11	Wednesday, October 2	Monday, October 7	Monday, October 7
77 Tuesday, October 15	Monday, October 7	Wednesday, October 9	Wednesday, October 9
78 Friday, October 18	Wednesday, October 9	Monday, October 14	Monday, October 14
79 Tuesday, October 22	Monday, October 14	Wednesday, October 16	Wednesday, October 16
80 Friday, October 25	Wednesday, October 16	Monday, October 21	Monday, October 21
81 Tuesday, October 29	Monday, October 21	Wednesday, October 23	Wednesday, October 23
82 Friday, November 1	Wednesday, October 23	Monday, October 28	Monday, October 28
83 Tuesday, November 5	Monday, October 28	Wednesday, October 30	Wednesday, October 30
Friday, November 8	<i>No Issue Published</i>		
84 Tuesday, November 12	Monday, November 4	Wednesday, November 6	Wednesday, November 6
85 Friday, November 15	Wednesday, November 6	*Friday, November 8	*Friday, November 8
86 Tuesday, November 19	*Tuesday, November 12	Wednesday, November 13	Wednesday, November 13
87 Friday, November 22	Wednesday, November 13	Monday, November 18	Monday, November 18
88 Tuesday, November 26	Monday, November 18	Wednesday, November 20	Wednesday, November 20
89 Friday, November 29	Wednesday, November 20	Monday, November 25	Monday, November 25
Tuesday, December 3	<i>No Issue Published</i>		
90 Friday, December 6	Wednesday, November 27	Monday, December 2	Monday, December 2
91 Tuesday, December 10	Monday, December 2	Wednesday, December 4	Wednesday, December 4
92 Friday, December 13	Wednesday, December 4	Monday, December 9	Monday, December 9
93 Tuesday, December 17	Monday, December 9	Wednesday, December 11	Wednesday, December 11
94 Friday, December 20	Wednesday, December 11	Monday, December 16	Monday, December 16

95 Tuesday, December 24	Monday, December 16	Wednesday, December 18	Wednesday, December 18
96 Friday, December 27	Wednesday, December 18	Monday, December 23	Monday, December 23
Tuesday, December 31	<i>No Issue Published</i>		





How to Use the Texas Register

Information Available: The 13 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 Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

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

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

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

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 21 (1996) is cited as follows: 21 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 "21 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 21 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.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in a plain text version as well as a .pdf (portable document format) version through the Internet. In addition to the Internet version, the *Texas Register* is available online through a dialup bulletin board and as ASCII files on diskette. For subscription information, see the back cover or call the Texas Register at (800) 226-7199.

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*, publishes on an annual basis.

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.

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 26, April 9, July 12, and October 8, 1996). In its second issue each month the *Texas Register* contains a cumulative *Table of TAC Titles Affected* for the preceding month. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

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

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

Update by FAX: An up-to-date *Table of TAC Titles Affected* is available by FAX upon request. Please specify the state agency and the *TAC* number(s) you wish to update. This service is free to *Texas Register* subscribers. Please have your subscription number ready when you make your request. For non-subscribers there will be a fee of \$2.00 per page (VISA, MasterCard). (512) 463-5561 or (800) 226-7199.

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues required. You may use your VISA or Mastercard. All purchases made by credit card will be subject to an additional 2.1% service charge. Return this form to the Texas Register, P.O. Box 13824, Austin, Texas 78711-3824. For more information, please call (800) 226-7199.

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