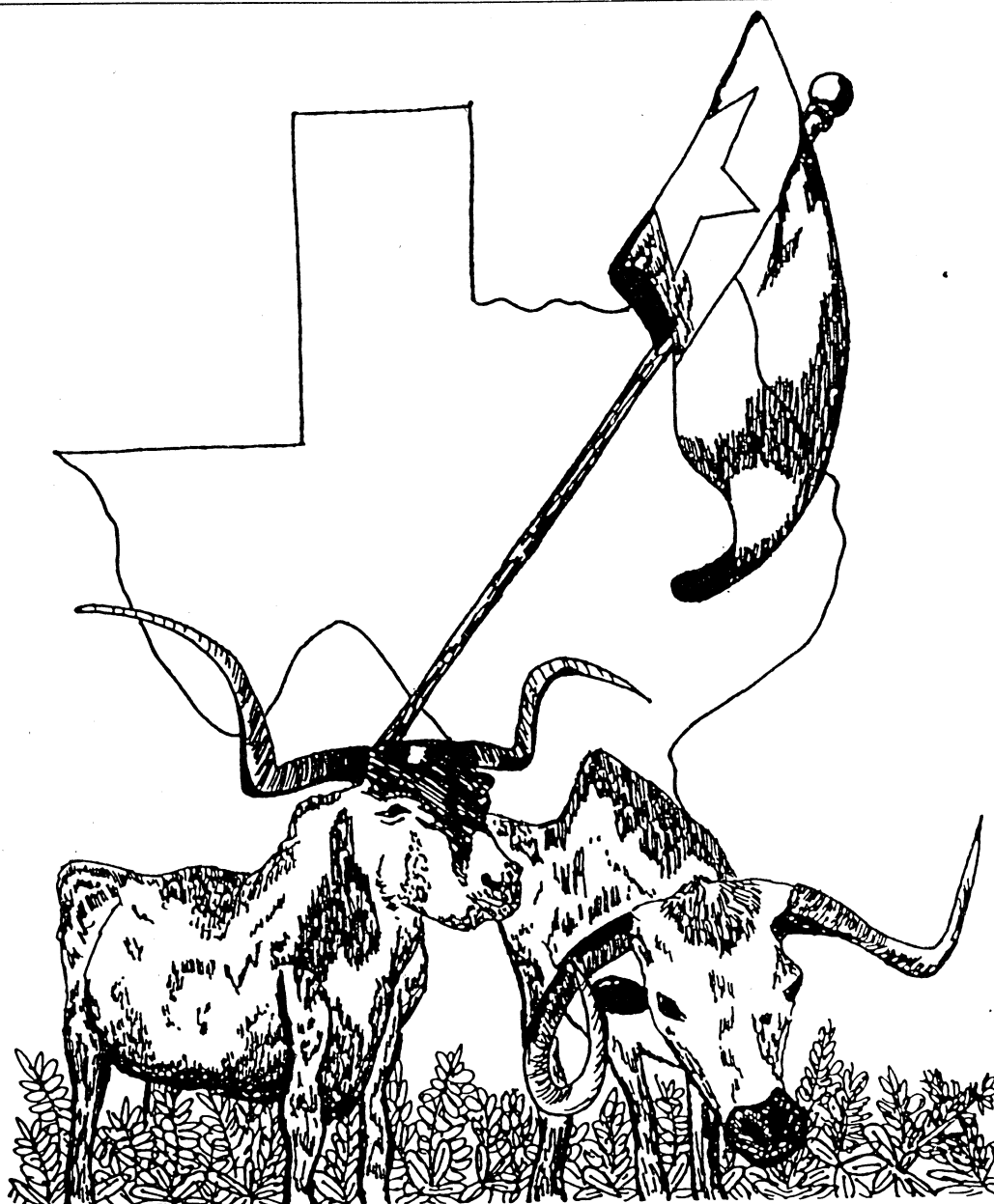

TEXAS REGISTER

Volume 21, Number 22 March 26, 1996

Page 2439-2502



This month's front cover artwork:

Artist: Lakeisha R. Hines

11th grade

Sulphur Springs High School, Sulphur Springs ISD

School children's artwork has decorated the blank filler pages of the *Texas Register* since 1987. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

Starting with the February 27, 1996 issue, we will display artwork on the cover of each *Texas Register*. The artwork featured on the front cover is chosen at random.

The artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*. The artwork does not add additional pages to each issue and does not increase the cost of the *Texas Register*.

For more information about the student art project, please call (800) 226-7199.

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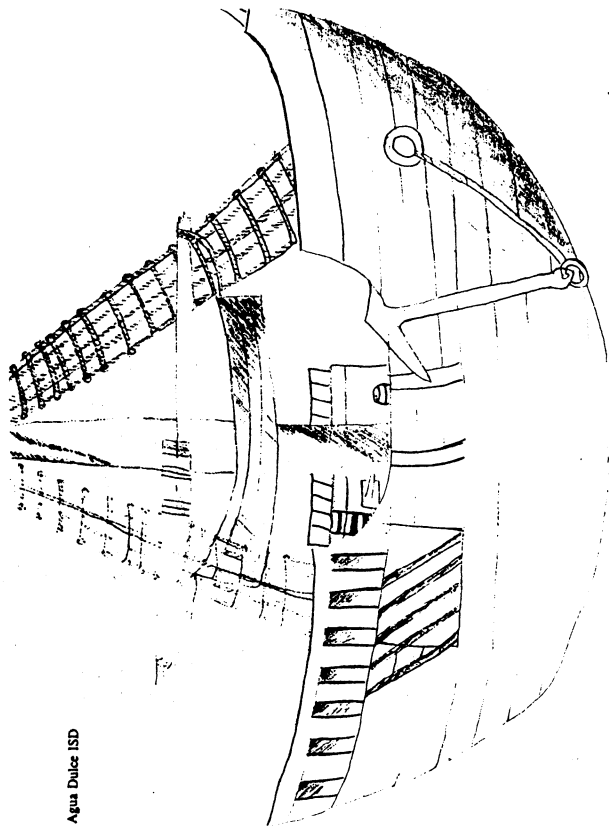
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Texas Department of Transportation

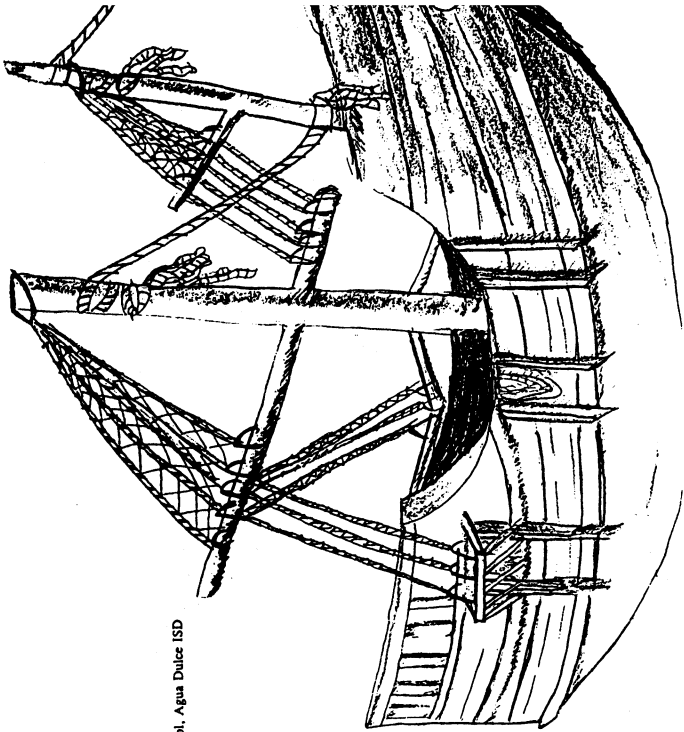
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Name: Stephanie Brandt
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD

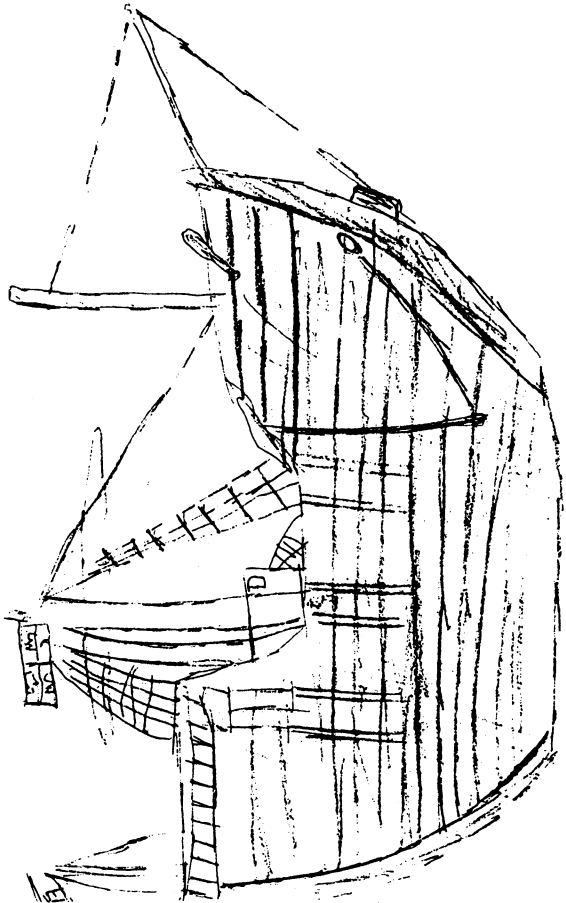


Name: Jessica Saenz
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD

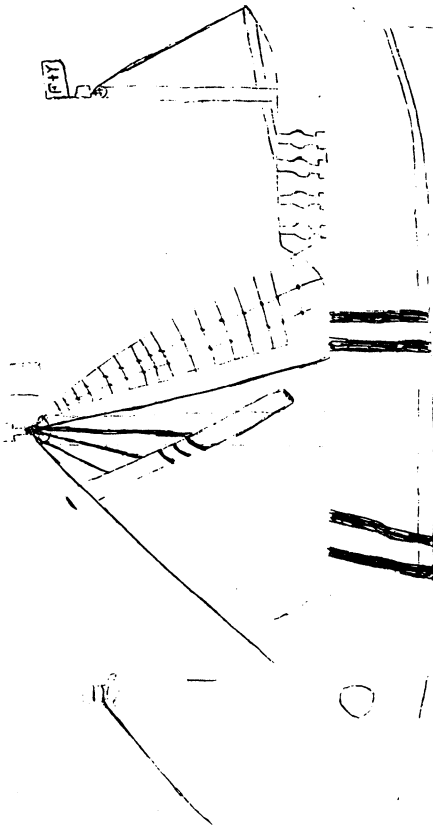


Stephanie Brandt

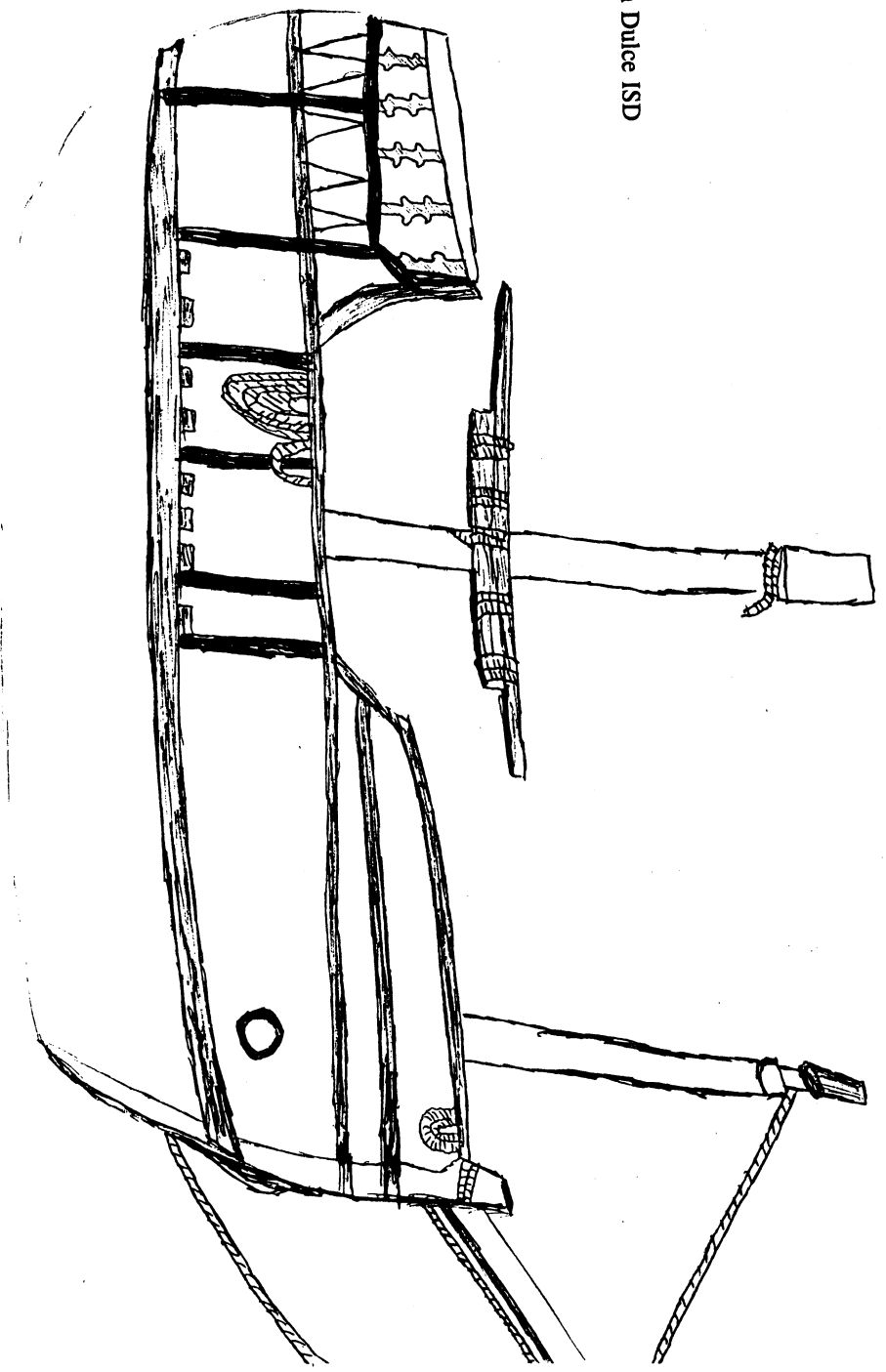
Name: Ben Rodriguez
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD



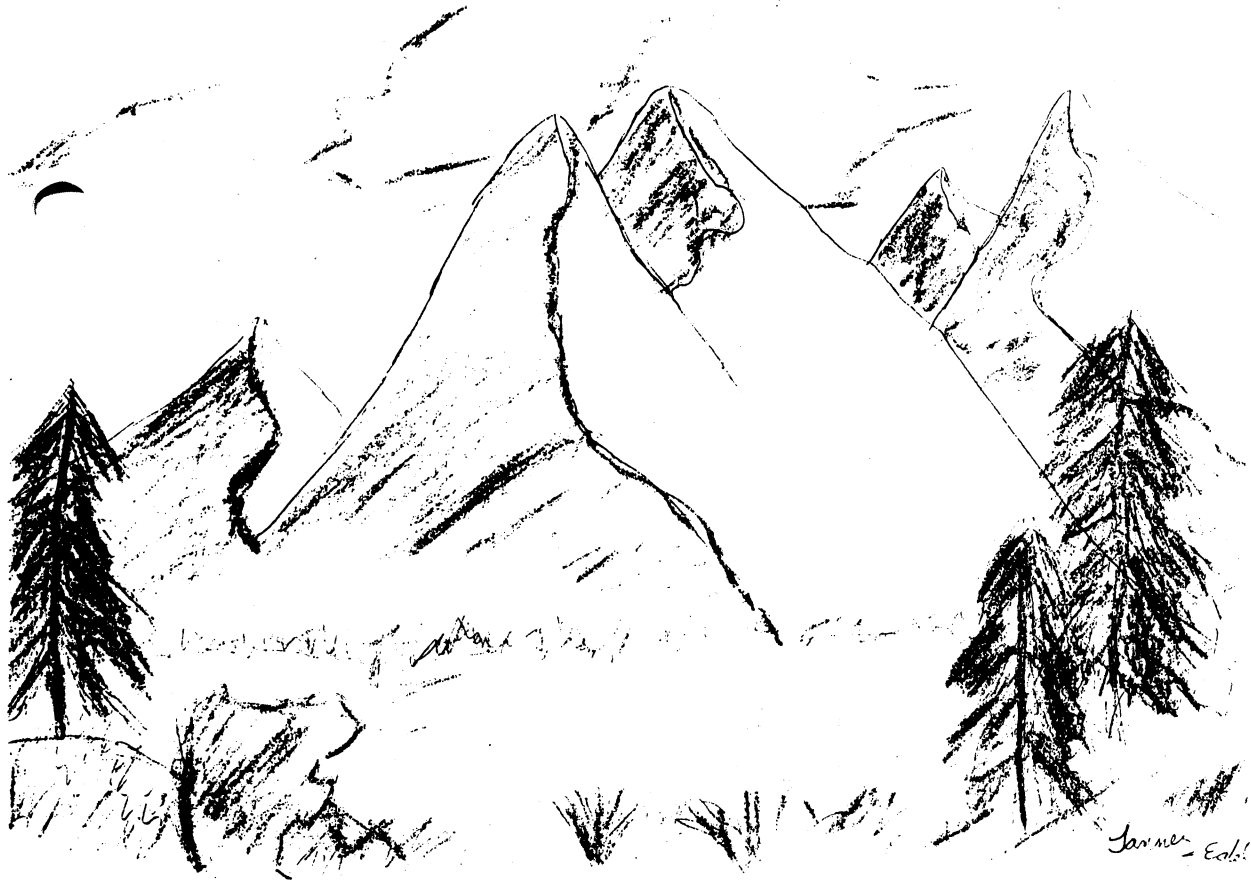
Name: Jimmy R. Mooney
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD



Name: Ralph Ramnarine
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD

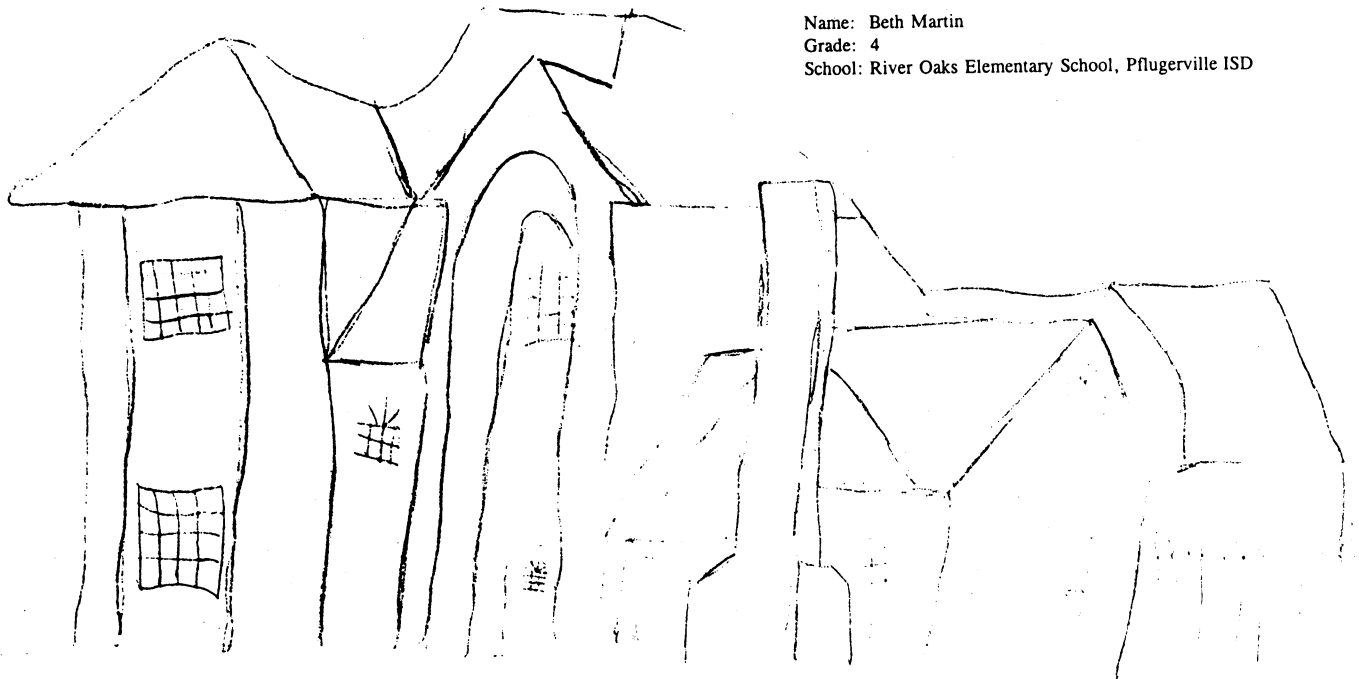


Ralph



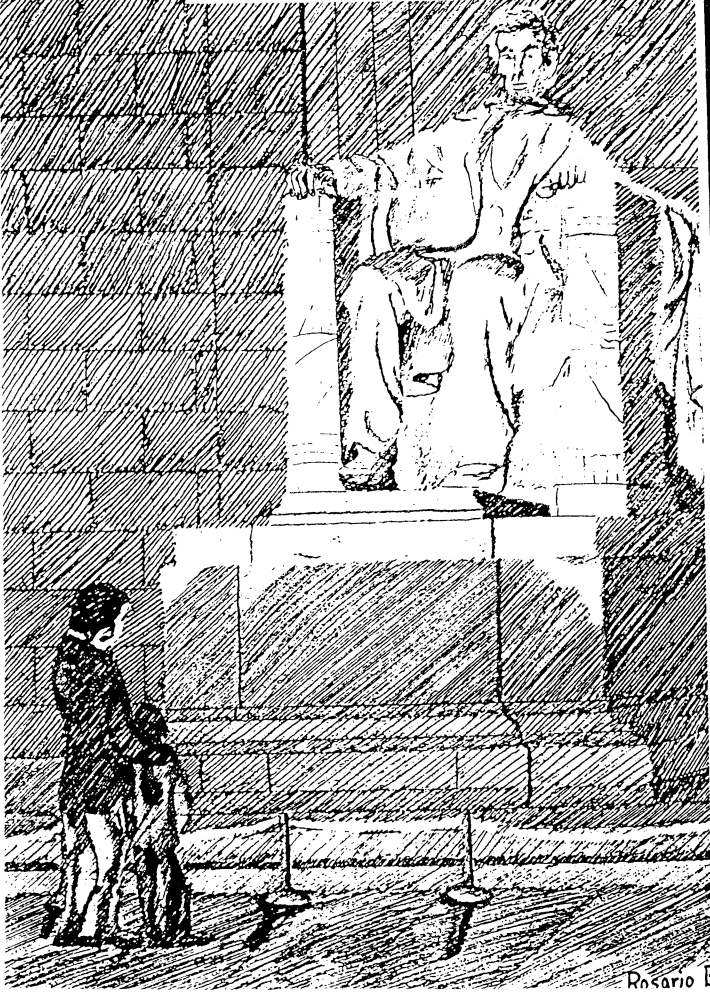
Name: Tanner Edelman
Grade: 4
School: River Oaks Elementary School, Pflugerville

Tanner Edelman



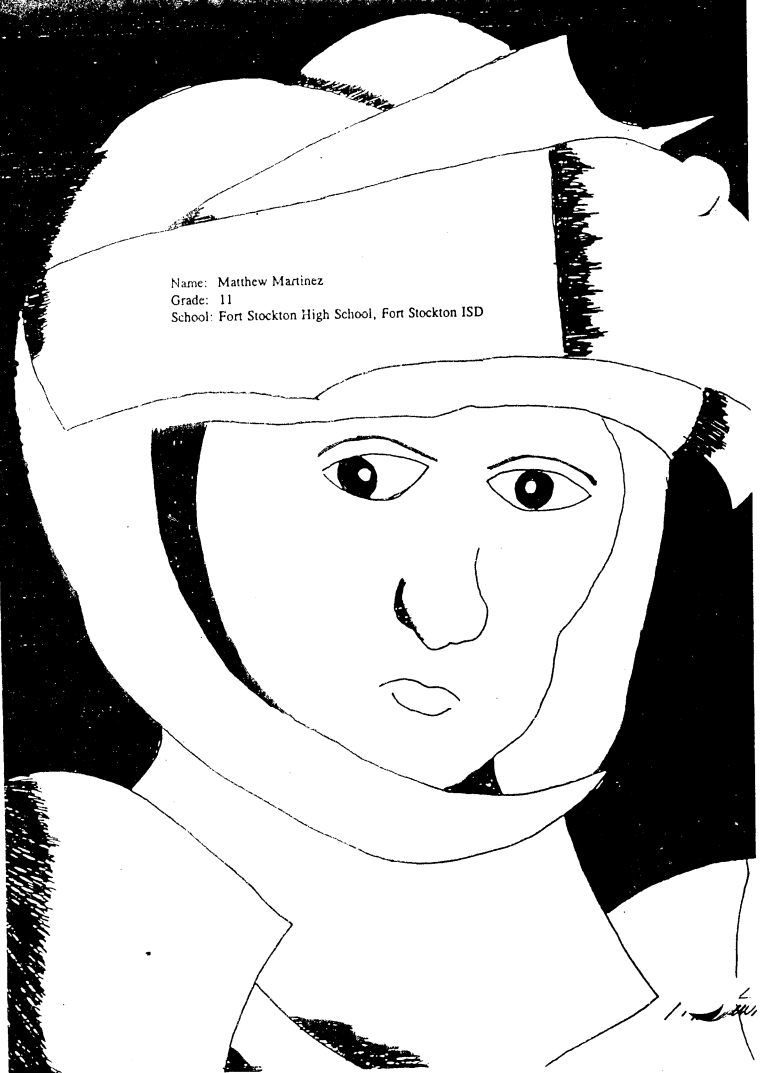
Name: Beth Martin
Grade: 4
School: River Oaks Elementary School, Pflugerville ISD

Name: Rosario Benavides
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Rosario B

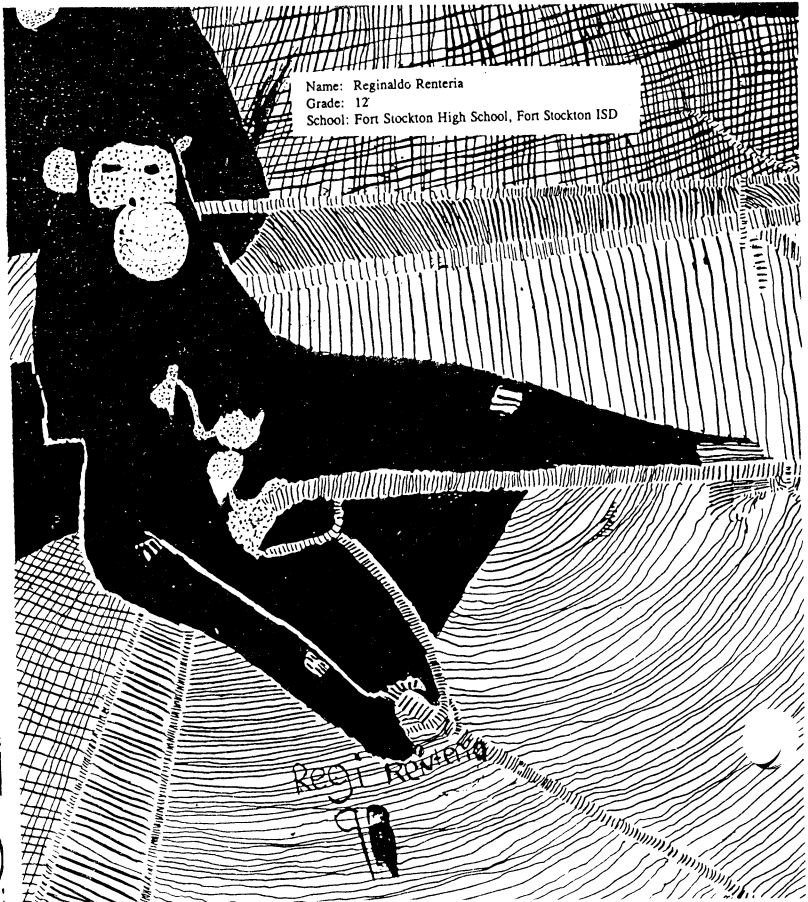
Name: Matthew Martinez
Grade: 11
School: Fort Stockton High School, Fort Stockton ISD



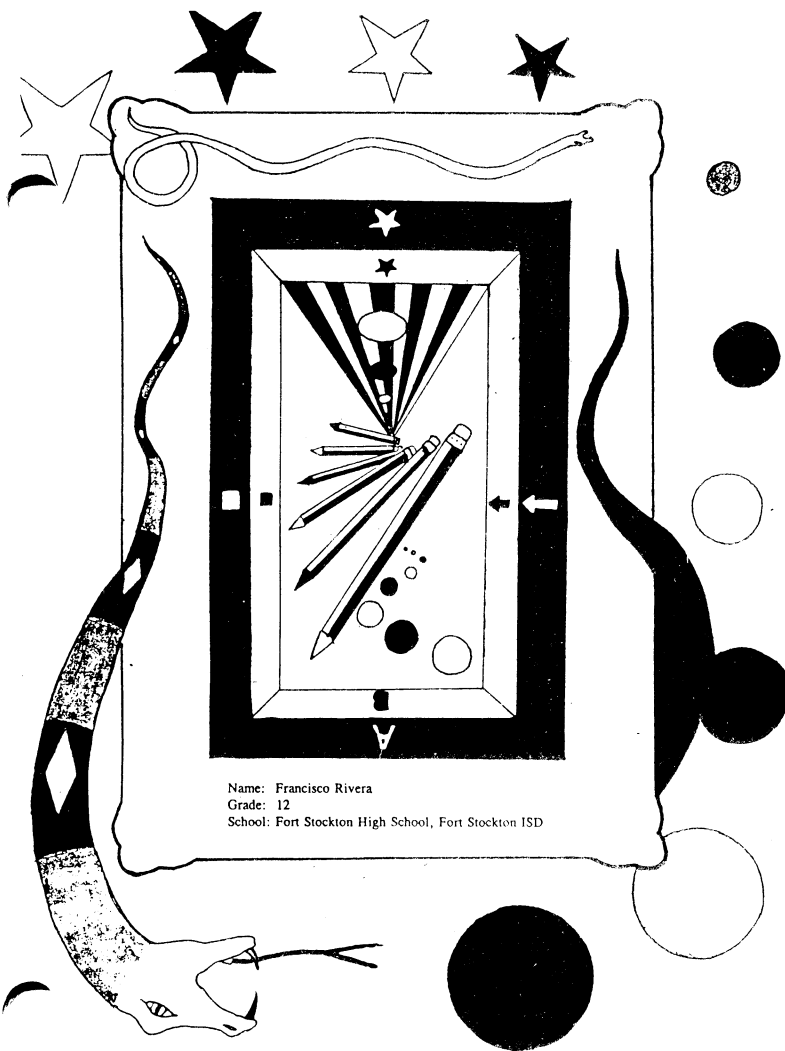
Name: Sabrina Coker
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Name: Reginaldo Renteria
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Regi Renteria



Name: Francisco Rivera
 Grade: 12
 School: Fort Stockton High School, Fort Stockton ISD



Like a lot of people, I have been
 pushed too far. It's as if some ominous conspiracy
 is trying to make us behave. Being told what not to do
 at every turn robs us of our right
 to choose.
 This is why, that night...
 I felt trapped.
 So I killed him...

Alfredo Garcia III

Name: Alfredo Garcia
 Grade: 11
 School: Fort Stockton High School, Fort Stockton ISD

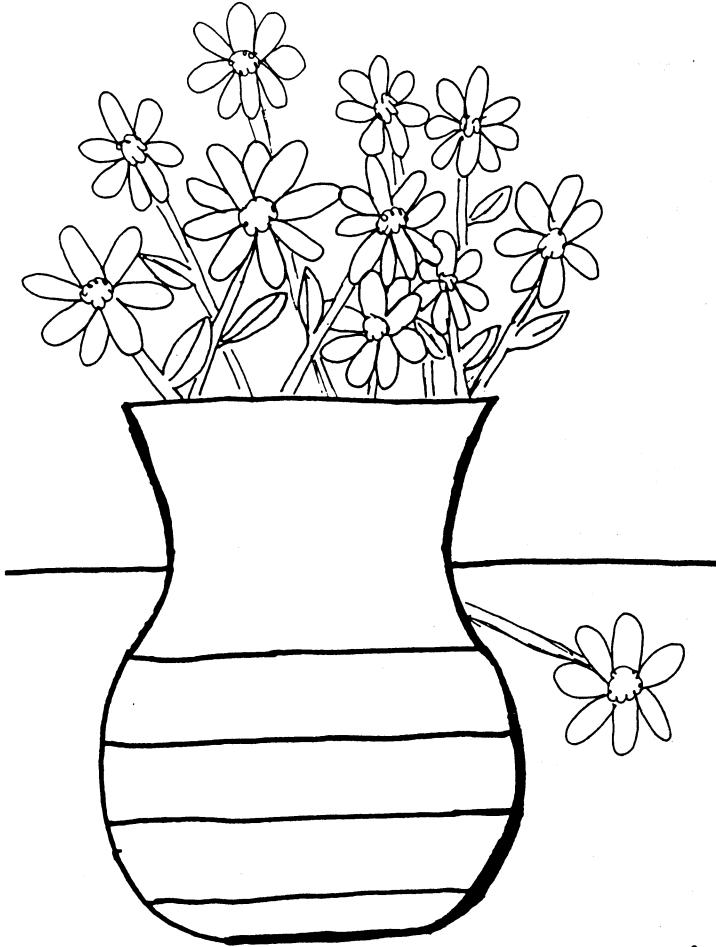


Name: C.J. Young
 Grade: 12
 School: Fort Stockton High School, Fort Stockton ISD

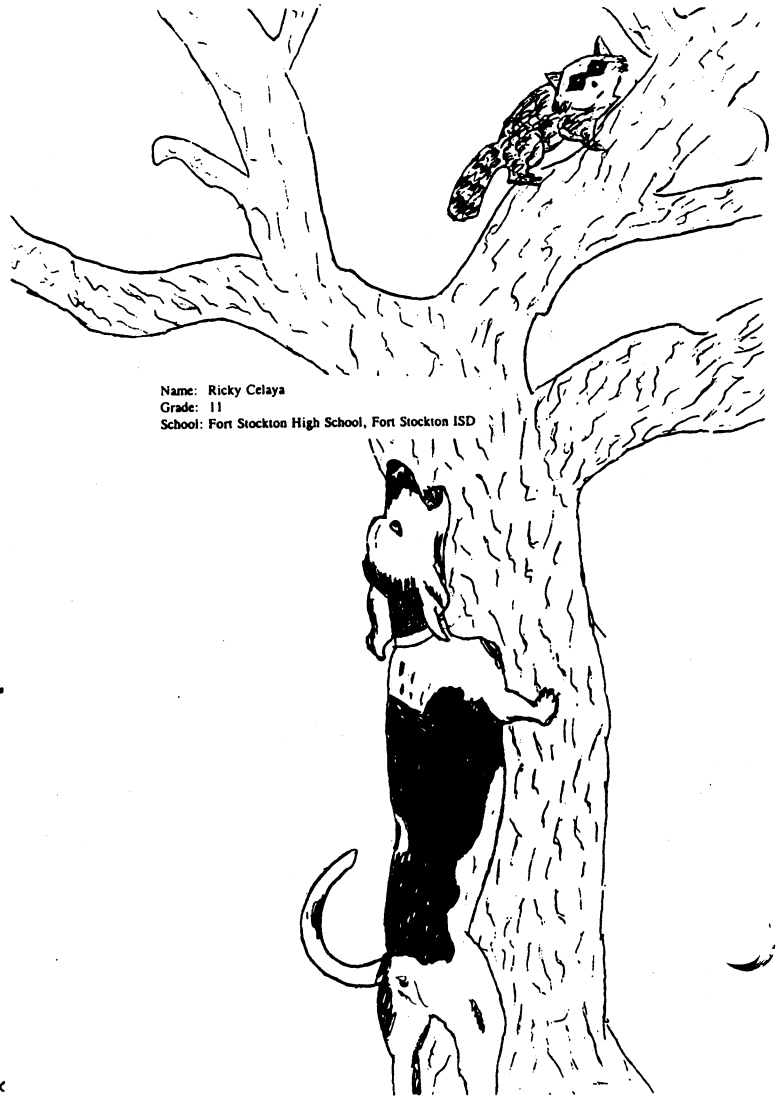


Name: Josh McFadden
 Grade: 11

Name: Denise Arcides
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Denise Arcides

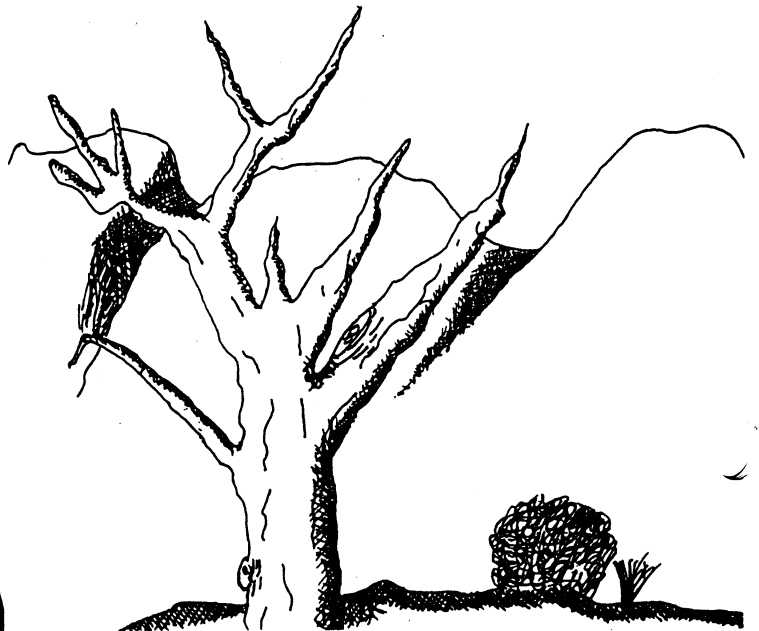


Name: Ricky Celaya
Grade: 11
School: Fort Stockton High School, Fort Stockton ISD

Name: Samantha Elliott
Grade: 12
School: Fort Stockton High School, Fort Stockton ISD



Name: Adam Epps
Grade: 10
School: Fort Stockton High School, Fort Stockton ISD



ATTORNEY GENERAL

Under provisions set out in the Texas Constitution, the Texas Government Code, Title 4, §402.042 and numerous statutes, the attorney general is authorized to write advisory opinions for state and local officials. These advisory opinions are requested by agencies or officials when they are confronted with unique or unusually difficult legal questions. The attorney general also determines, under authority of the Texas Open Records Act, whether information requested for release from governmental agencies may be held from public disclosure. Requests for opinions, opinions, and open record decisions are summarized for publication in the **Texas Register**. The Attorney General responds to many requests for opinions and open records decisions with letter opinions. A letter opinion has the same force and effect as a formal Attorney General Opinion, and represents the opinion of the Attorney General unless and until it is modified or overruled by a subsequent letter opinion, a formal Attorney General Opinion, or a decision of a court of record. To request copies of opinions, phone (512) 462-0011. To inquire about pending requests for opinions, phone (512) 463-2110.

Open Records Requests

ORQ-8 (ID-36980). Request from Gail Fenter, Assistant City Attorney, City of Midland, P.O. Box 1152, Midland, Texas 79702-1152.

ORQ-8 (ID-37261). Request from Steven Hilbig, Bexar County Criminal District Attorney, 300 Dolorosa, Suite 5072, San Antonio, Texas 78205-3030.

ORQ-8 (ID-38558). Request from Thomas Myers, Rohne, Hoodenpyle, Lobert, Myers & Scott, P.C., 1323 West Pioneer Parkway-Spur 303, Arlington, Texas 76013.

ORQ-8 (ID-38560). Request from Paul F. Wieneskie, Cribbs & McFarland, P.O. Box 13060, Arlington, Texas 76094-0060, concerning duties and responsibilities of school districts and local law enforcement agencies to release public information under the Sex Offender Registration Act, specifically under Texas Civil Statutes, 6252-13c.1, §5 and related questions.

TRD-9603748

◆ ◆ ◆

Request for Opinions

RQ-871. Request from James R. Wilson, Director, Texas Department of Public Safety, 5805 North Lamar Boulevard, Post Office Box 4087, Austin, Texas 78773-0001, concerning authority to carry a handgun on the premises of certain establishments licensed to sell alcoholic beverages.

RQ-872. Request from Jane Monday, Regent, Texas State University System, 333 Guadalupe, Tower III, Suite 810, Austin, Texas 78701-3942, concerning taxability of real property owned by a state university and operated as an amusement park in connection with other recreational facilities.

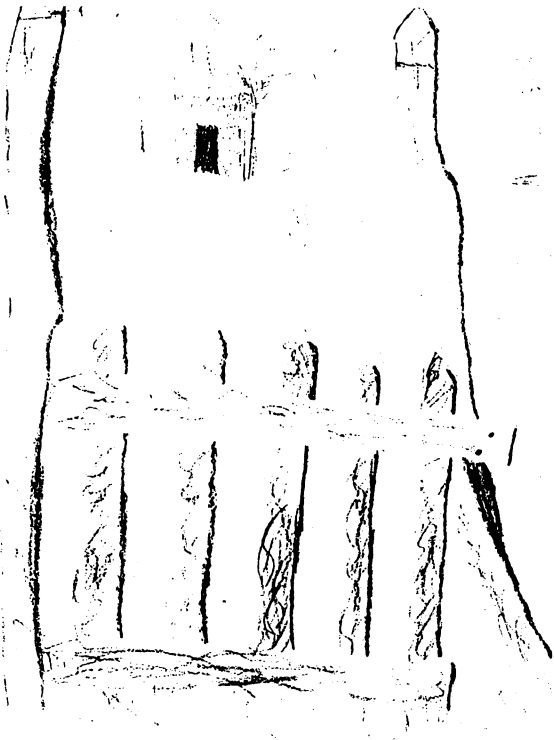
RQ-873. Request from Honorable Galen Sumrow, District Attorney, Rockwall County, County Courthouse, Rockwall, Texas 75087, concerning whether an individual may serve simultaneously as a municipal judge in more than one city.

RQ-874. Request from Mary Boyd, Executive Director, Advisory Commission on State Emergency Communications, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701-3942, concerning indemnification of various persons involved in poison control implementation.

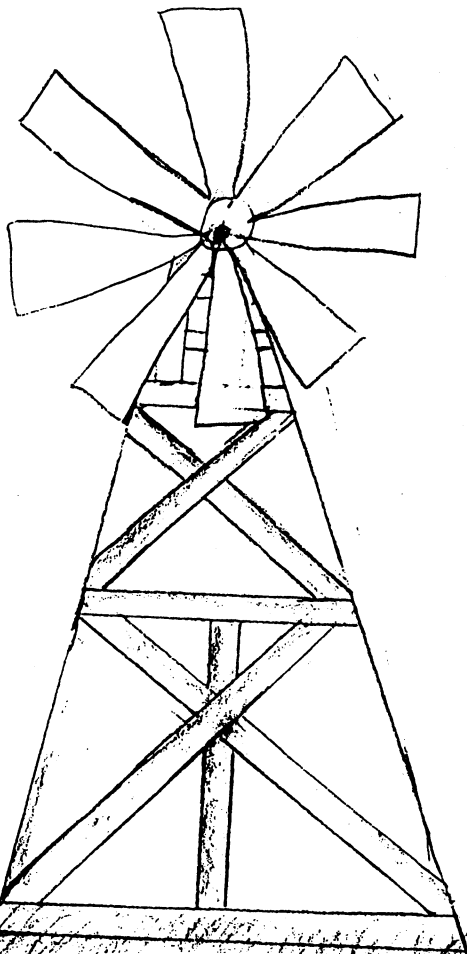
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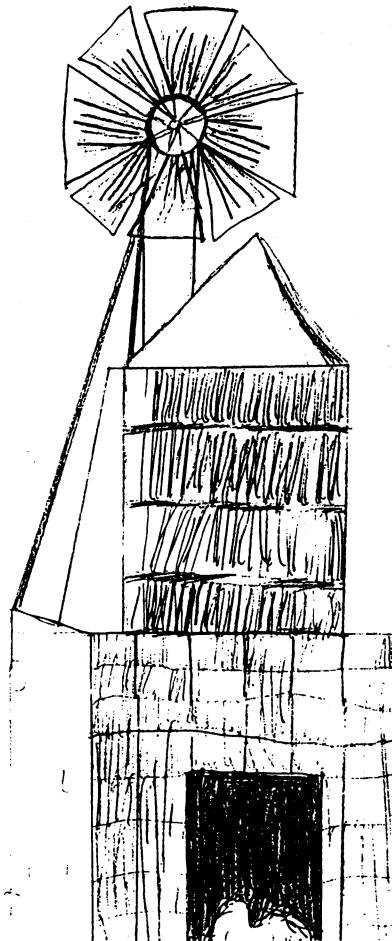
Name: Curtis Gage
Grade: 11
School: Brady High School, Brady ISD



Name: Robert Schafer
Grade: 10
School: Brady High School, Brady ISD



Name: Ricky Williams
Grade: 9



Name: Novella Dossett
Grade: 9
School: Brady High School, Brady ISD

PROPOSED RULES

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

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

TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 114. Control of Air Pollution From Motor Vehicles

The Texas Natural Resource Conservation Commission (TNRCC) proposes the repeal of §114.3, concerning Inspection Requirements, and §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers; and proposes new §114.3, concerning Vehicle Emissions Inspection Requirements; §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers; §114.6, concerning Waivers and Extensions for Inspection Requirements; and §114.7, concerning Inspection and Maintenance Fees. A revised control strategy which specifies the administrative, technical, and enforcement provisions of the Inspection/Maintenance (I/M) program is being proposed concurrently. The proposed amendments and mobile source control strategy modifications are proposed as a revision to the State Implementation Plan (SIP) for the control of ozone in the Houston/Galveston, Beaumont/Port Arthur, Dallas/Fort Worth, and El Paso nonattainment areas. This action is the result of Senate Bill (SB) 178 and the Governor's Executive Order which directs the TNRCC to design and develop a new plan for vehicle emissions testing to satisfy Federal Clean Air Act (FCAA) requirements. These proposed amendments and revisions to the SIP are also in response to the National Highway System Designation Act of 1995 signed into law on November 28, 1995.

Proposed new §114.3, concerning Vehicle Emissions Inspection Requirements, establishes the primary program requirements of the Texas Motorist's Choice Program for vehicle emissions testing and inspection. This section defines new terms for implementation of the program, the affected vehicle population, and the dates for program startup. New definitions include: adjusted annually, basic program area, core program area, emissions tune-up, enhanced program area, loaded mode I/M test, motorist, on-road test, out-of-cycle test, primarily operated, program area, retest, revised Texas I/M SIP, testing cycle, test-only facilities, test-and-repair facilities, and uncommon part.

Section 114.3 also establishes control requirements for motorists and certain federal employees. The affected vehicles are required to comply with the air pollution emission control related requirements included in the annual vehicle safety inspection administered by the Texas Department of Public Safety (DPS), the vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP, and the on-road emissions test requirements. A motorist whose vehicle has failed the emissions test requirement must have emission-related repairs performed to receive a vehicle safety inspection sticker. Waiver provisions and time extensions are provided for the control requirements.

Section 114.3 prohibits persons, organizations, businesses, or other entities from activities related to the misrepresentation, misuse, or mishandling of vehicle emissions testing documents or certifications. This section establishes the certification requirements for inspection stations and the requirements for repair technicians allowed in the program. The commission requests specific comments on the amount

of full-time automotive repair service experience required to qualify for repair technician recognition.

Proposed new §114.4, concerning Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers, establishes application, certification, maintenance, and service requirements for manufacturers or distributors of vehicle testing equipment seeking approval of an exhaust gas analyzer or analyzer system for use in the Texas I/M program. This section also requires applicants to comply with all special provisions and conditions in the notice of approval and notifies applicants of enforcement consequences for misrepresentation or compliance failure.

Proposed new §114.6, concerning Waivers and Extensions for Vehicle Emissions Inspection Requirements, establishes two types of waivers and two types of time extensions, along with the associated qualification criteria. The Minimum Expenditure Waiver allows a motorist to forgo compliance with the control requirements after certain minimum expenditure levels are reached. The Individual Vehicle Waiver allows a motorist to forgo compliance with the control requirements after the motorist has taken reasonable measures to comply with the requirements of the vehicle emissions I/M program and the Director of DPS determines that such waiver shall have a minimal impact on air quality. The Minimum Expenditure and Individual Vehicle waivers are allowed once per test cycle. The Low Income Time Extension allows a motorist to forgo the control requirements due to financial considerations. A motorist may receive this waiver once every other test cycle. The Parts Availability Time Extension, allowed once per test cycle, provides a grace period for those vehicles which need repair parts that are temporarily unavailable.

Proposed new §114.7, concerning Inspection and Maintenance Fees, establishes fee schedules for the different counties which must be paid for the emissions inspection of a vehicle at an inspection station. This section instructs stations on how to charge for vehicle emissions inspections resulting from on-road testing.

In addition to the proposed rule changes, the proposed SIP revisions clarify the new program elements such as applicability changes; state resources for the program; the new program performance standard; emissions testing network type; emissions testing; affected vehicle populations; strategies for quality control and quality assurance; projection of waiver rates; enforcement actions related to vehicles and service providers; data collection, analysis, and reporting; inspector training, licensing, and certification; public information strategies; plans for improving repair effectiveness; on-road vehicle emissions testing; and the implementation schedule. The proposed SIP excludes the Beaumont/Port Arthur ozone nonattainment area from the I/M program requirements. The I/M program for Dallas and Tarrant counties being proposed exceeds the United States Environmental Protection Agency's (EPA) low enhanced performance standard for these counties. The proposed I/M programs for Harris and El Paso counties meet the low enhanced performance standard specified for these areas.

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 to the TNRCC I/M program as directed by Senate Bill 178 of the 74th Legislature. The rules will substantially advance this specific purpose by making the necessary revisions to

current regulations which provide for a more convenient, less costly program that would meet the requirements of the FCAA. Promulgation and enforcement of these rules will not affect the value of private real property.

Steve Minick, Strategic Planning and Appropriations Division, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections. The effect on the TNRCC will be \$400,000 between 1996-1999 related to program design, oversight, and evaluation. The DPS has committed to dedicating no less than 28 full time equivalent employees to I/M program implementation, administration, and support. Revenues to the state will increase by an anticipated \$690,000 in revenue during Fiscal Year (FY) 1996, approximately \$6,200,000 in revenue during FY 1997, and approximately \$8,200,000 in revenue during FY 1998. Most of this revenue will go to the DPS.

Motorists and businesses owning vehicles registered in and primarily operated in Dallas, Tarrant, and El Paso counties will see current test fees increase from \$8.75 to \$13 at a test-and-repair facility or to market level at a test-only facility. Motorists in Harris County will begin paying an emissions fee of \$13 at a test-and-repair facility or market level at a test-only facility.

Motorists and businesses owning vehicles in Collin, Denton, Brazoria, Fort Bend, Galveston, Montgomery, Chambers, Liberty, and Waller counties may have to pay for the cost of repairs for emissions systems if their vehicle fails a remote sensing inspection.

Test facilities in Dallas, Tarrant, and El Paso counties will have to expend between \$4,000 and \$8,000 to upgrade existing test equipment to new state specifications. Facilities in Harris County will need to spend between \$15,000 to \$18,000 to acquire new testing equipment meeting state standards. Facilities will have the option of leasing new testing equipment. Lease rates will vary greatly depending on the new cost of the equipment, the length of the leasing agreement, and the effective interest rate charged by the lessor.

Mr. Minick also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be reduced aggregate emissions from vehicles, improved emission related repairs, improved consumer protection, and improved customer convenience in the Dallas/Fort Worth, El Paso, and Houston/Galveston areas.

Public hearings on these proposals will be held in Houston on April 8, 1996 at 7:00 p.m. at the City of Houston Pollution Control Building Auditorium, 7411 Park Place Boulevard, Houston; in El Paso on April 9, 1996 at 7:00 p.m. at the City of El Paso Council Chambers, 2 Civic Center Plaza, Second Floor, El Paso; and in Irving on April 10, 1996 at 7:00 p.m. at the City of Irving Central Library Auditorium, 801 West Irving Boulevard, Irving. Individuals may present oral statements when called upon in order of registration. Open discussion within the audience will not occur during the hearings; however, a TNRCC staff member will be available to discuss the proposal one hour prior to each hearing and will answer questions before and after the hearings.

Written comments may be mailed to Heather Evans, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087; faxed to (512) 239-4808; or e-mailed to hevans@srmtgate.tnrcc.state.tx.us. All comments should reference Rule Log Number 96104-114-A1. Comments must be received by 5:00 p.m., April 26, 1996. For further information, please contact Thomas Ortiz, Air Policy and Regulations Division, (512) 239-1054.

• 30 TAC §§114.3, §114.4

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

The repeals are proposed under the Texas Health and Safety Code (Vernon 1992), the Texas Clean Air Act (TCAA), §382.017, which provides the Texas Natural Resource Conservation Commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

The proposed repeals implement the Health and Safety Code, §382.017.

§114.3. *Inspection Requirements.*

§114.4. *Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.*

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603713 Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission

Proposed date of adoption: June 5, 1996

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

◆ ◆ ◆
• 30 TAC §§114.3, 114.4, 114.6, 114.7

The new sections are proposed 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.

The proposed new sections implement the Health and Safety Code, §382.017.

§114.3. *Vehicle Emissions Inspection Requirements.*

(a) Definitions. Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the Texas Natural Resource Conservation Commission (TNRCC), the terms used by the TNRCC 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 words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Adjusted annually-Percentage, if any, by which the Consumer Price Index (CPI) for the preceding calendar year differs (as of August 31) from the CPI for 1989; adjustments shall be effective on January 1 of each year.

(2) Basic program area-Collin, Dallas, Denton, and Tarrant counties.

(3) Core program area-Dallas, El Paso, Harris, and Tarrant counties.

(4) Emissions tune-up-A basic tune-up along with functional checks and any necessary replacement or repair of emission control components.

(5) Enhanced program areas-Harris, Waller, Galveston, Montgomery, Chambers, Liberty, Fort Bend, Brazoria, and El Paso counties.

(6) Loaded mode I/M test-A measurement of the tailpipe exhaust emissions of a vehicle while the drive wheel rotates on a dynamometer, which simulates the full weight of the vehicle driving down a level roadway. Loaded test equipment specifications shall meet United States Environmental Protection Agency (EPA) requirements for Acceleration Simulation Modes equipment.

(7) Motorist-A person or other entity responsible for the inspection, repair and maintenance of a motor vehicle, which may include, but is not limited to, owners and lessees.

(8) On-road test-Utilizing remote sensing technology to identify vehicles operating within the core I/M program area that have a high probability of being high-emitters.

(9) Out-of-cycle test-Required emissions test not associated with vehicle safety inspection testing cycle.

(10) Primarily operated—Use of a motor vehicle greater than 60 continuous days per year in a county, motorists shall comply with emissions requirements for such county.

(11) Program area—County or counties in which the Texas Department of Public Safety (DPS), in coordination with the TNRCC, administers the vehicle emissions inspection and maintenance program contained in the revised Texas I/M State Implementation Plan (SIP). These counties include Brazoria, Chambers, Collin, Dallas, Denton, El Paso, Fort Bend, Harris, Galveston, Liberty, Montgomery, Tarrant, and Waller.

(12) Retest—Successive vehicle emissions inspections following the failing of an initial test by a vehicle during a single testing cycle.

(13) Revised Texas I/M SIP—The Texas SIP as revised in accordance with the 40 Code of Federal Regulations Part 51, Subpart S, issued November 5, 1992, and proposed revision dated February 28, 1996 as provided for in the National Highway Systems Designation Act of 1995, including the procedures and requirements of the vehicle emissions inspection and maintenance program. A copy of the revised Texas I/M SIP is available at the TNRCC, 12124 Park 35 Circle, Austin, Texas, 78753.

(14) Testing cycle—Annual or biennial cycle commencing with the first safety inspection certificate expiration date for which a motor vehicle is subject to a vehicle emissions inspection.

(15) Test-only facilities—Inspection facilities that are not engaged in repairing emissions control components of vehicles. Acceptable repairs in a test-only facilities shall be those related to oil changes, other non-emissions related repairs and/or maintenance, and the sale of auto convenience items.

(16) Test-and-repair facilities—Inspection facilities that engage in repairing emissions control components of a vehicle.

(17) Uncommon part—A part that takes more than 30 days for expected delivery and installation, where a motorist can prove that a reasonable attempt made to locate necessary emission control parts by retail or wholesale part suppliers will exceed the remaining time prior to expiration of the vehicle safety inspection certificate or the 30 day period following an out-of-cycle inspection.

(b) Applicability. The requirements of this section and those contained in the revised Texas I/M SIP shall be applied to model years 24 years and newer of gasoline-powered motor vehicles, excluding motorcycles and dual-fueled vehicles which cannot be operated using gasoline, and safety inspection facilities and inspectors certified by DPS to inspect vehicles, in the program areas in accordance with the following schedule:

(1) annual or biennial emissions inspection of vehicles registered in and primarily operated in Dallas and Tarrant counties beginning on July 1, 1996;

(2) annual or biennial emissions inspection of vehicles registered in and primarily operated in El Paso and Harris counties beginning on January 1, 1997; and

(3) on-road tests of vehicles registered in the program area and operating in the core program area beginning on September 1, 1997.

(c) Control requirements.

(1) No person may operate any motor vehicle which does not comply with:

(A) all applicable air pollution emission control related requirements included in the annual vehicle safety inspection requirements administered by DPS, as evidenced by a current valid inspection certificate affixed to the vehicle windshield; and

(B) the vehicle emissions inspection and maintenance requirements contained in the revised Texas I/M SIP.

(2) No person or entity may own, operate, or allow the operation of a vehicle registered in a program area, unless the vehicle has complied with all applicable vehicle emissions I/M requirements contained in the revised Texas I/M SIP.

(3) All federal government agencies shall require a motor vehicle operated by any federal government agency employee on any property or facility under the jurisdiction of the agency and located in a program area to comply with all vehicle emissions I/M requirements contained in the revised Texas I/M SIP. Commanding officers or directors of federal facilities shall certify annually that all subject vehicles have been tested and are in compliance with the Federal Clean Air Act (FCAA). This requirement shall not apply to visiting agency, employee, or military personnel vehicles as long as such visits do not exceed 60 calendar days per year.

(4) Any motorist in an enhanced program area whose motor vehicle has been issued an emissions-related recall notice from an emissions inspection station shall furnish proof of compliance with the recall notice prior to having their vehicle emissions inspection for their next testing cycle. The motorist may present a written statement from the dealership or leasing agency indicating that emissions repairs have been completed as proof of compliance.

(5) A motorist whose vehicle has failed an emissions test may request a challenge retest through DPS. If the retest is conducted within 15 days of the initial inspection, the retest is free.

(6) A motorist whose vehicle has failed an emissions test and has not requested a challenge retest or has failed a challenge retest must have emission-related repairs performed and must submit a properly completed Vehicle Repair Form (VRF) in order to receive a retest, a minimum expenditure waiver, or a parts availability time extension.

(7) A motorist whose motor vehicle is registered in a program area and has failed an on-road test administered by the TNRCC or DPS shall:

(A) submit the motor vehicle for an out-of-cycle vehicle emissions inspection within 30 days of written notice by the TNRCC or DPS; and

(B) satisfy all inspection, extension, or waiver requirements of the vehicle emissions I/M program contained in the revised Texas I/M SIP within 60 days of written notice by the TNRCC or DPS.

(8) State, governmental, and quasi-governmental agencies which fall outside the normal registration renewal process shall be required to comply with all vehicle emissions I/M requirements contained in the Texas I/M SIP.

(d) Waivers and extensions. A motorist may apply to the DPS for a waiver or an extension as specified in §114.6 of this title (relating to Waivers and Extensions for Inspection Requirements), which defer the need for full compliance with vehicle emissions standards for a specified period of time after failing a vehicle emissions inspection.

(e) Biennial testing. If a vehicle has passed a loaded mode I/M test at a test-only facility, the vehicle is exempt from the emissions testing requirement for the following year.

(f) Prohibitions.

(1) No person may issue or allow the issuance of a vehicle inspection report (VIR), as authorized by DPS, unless all applicable air pollution emission control related requirements of the

annual vehicle safety inspection and the vehicle emissions inspection and maintenance requirements and procedures contained in the revised Texas I/M SIP are completely and properly performed in accordance with the rules and regulations adopted by DPS and TNRCC. Prior to taking any enforcement action regarding this provision, the TNRCC shall consult with DPS.

(2) No person may allow or participate in the preparation, duplication, sale, distribution, or use of false, counterfeit, or stolen safety inspection stickers, VIRs, VRFs, vehicle emissions repair documentation, or other documents which may be used to circumvent the vehicle emissions I/M requirements and procedures contained in the revised Texas I/M SIP.

(3) No organization, business, person, or other entity may represent itself as an inspector certified by the DPS, unless such certification has been issued pursuant to the certification requirements and procedures contained in the revised Texas I/M SIP.

(4) No person may act as or offer to perform services as a Recognized Emissions Repair Technician of Texas, (as defined in this section), without first obtaining and maintaining DPS recognition.

(g) Requirements for recognized emissions repair technician of Texas.

(1) The following requirements must be met before DPS recognition:

(A) demonstration to the National Institute of Automotive Service Excellence (ASE) of a minimum of three years of full-time automotive repair service experience;

(B) certification in the following four tests offered by the ASE: Engine Repair (Test A1), Electrical Systems (Test A6), Engine Performance (Test A8), and beginning January 1, 1998 Advanced Engine Performance Specialist (Test L1);

(C) notification by DPS that verification of certification by the National Institute of Automotive Service Excellence is completed; and

(D) any other demonstration required by DPS rule.

(2) A recognized emissions repair technician shall perform the following duties:

(A) certify the emissions related repairs on the VRF form to be submitted to the DPS;

(B) complete and certify the VRF form for customers;

(C) notify the DPS in writing within 14 days of changes in the technician's ASE testing status.

(h) Certified emission inspection station requirements. The following requirements must be met for certification to be issued and renewed:

(1) meet all requirements established by DPS rules and regulations;

(2) purchase or lease emissions testing equipment that has been certified as specified in §114.4 of this title (relating to Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers); and

(3) have a dedicated phone line for each vehicle exhaust gas analyzer to be used to inspect vehicles.

§114.4. Equipment Evaluation Procedures for Vehicle Exhaust Gas Analyzers.

(a) Any manufacturer or distributor of vehicle testing equipment may apply to the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) or his appointee, for approval of an exhaust gas analyzer or analyzer system for use in the Texas Inspection/Maintenance (I/M) program administered by the Texas Department of Public Safety. Each manufacturer shall submit a formal certificate to the TNRCC stating that any analyzer sold or leased by the manufacturer or its authorized representative for use in the I/M program will satisfy all design and performance criteria set forth in "Specifications for Precondition Two Speed Idle Vehicle Exhaust Gas Analyzer Systems for Use in the Texas Motorist's Choice Vehicle Emissions Testing Program." Copies of this document are available at the TNRCC Central Office, 12100 Park 35 Circle, Austin, Texas 78753. The manufacturer shall also provide sufficient documentation to demonstrate conformance with these criteria including a complete description of all hardware components, the results of appropriate performance testing, and a point-by-point response to each specific requirement.

(b) All equipment shall be tested by an independent test laboratory. The cost of the certification shall be absorbed by the manufacturer. The conformance demonstration shall include, but is not limited to:

(1) certification that equipment design and construction conforms with the specifications referenced in subsection (a) of this section;

(2) documentation of successful results from appropriate performance testing;

(3) evidence of necessary changes to internal computer programming, display format, and data recording sequence;

(4) a commitment to fulfill all maintenance, repair, training, and other service requirements described in the specifications referenced in subsection (a) of this section. A copy of the minimum warranty agreement to be offered to the purchaser of an approved vehicle exhaust gas analyzer shall be included in the demonstration of conformance; and

(5) documentation of communication ability using protocol provided by the TNRCC or the TNRCC Texas Datalink contractor.

(c) If a review of the demonstration of conformance and all related support material indicates compliance with the criteria listed in subsections (a) and (b) of this section, the Executive Director or his appointee may issue a notice of approval to the analyzer manufacturer which endorses the use of the specified analyzer or analyzer system in the Texas I/M program.

(d) The applicant shall comply with all special provisions and conditions specified by the Executive Director or his appointee in the notice of approval.

(e) Any manufacturer or distributor which receives a notice of approval from the Executive Director or his appointee for a vehicle exhaust gas analyzer for use in the Texas I/M program may be subject to appropriate enforcement action and penalties prescribed in the Texas Clean Air Act or the rules and regulations promulgated thereunder if:

(1) any information included in the conformance demonstration as required in subsection (b) of this section is misrepresented resulting in the purchase or operation of equipment in the Texas I/M program which does not meet the specifications referenced in subsection (a) of this section; or

(2) the applicant fails to comply with any requirement or commitment specified in the notice of approval issued by the Executive Director or implied by the representations submitted by

the applicant in the conformance demonstration required by subsection (b) of this section.

§114.6. Waivers and Extensions for Inspection Requirements.

(a) **Applicability.** The waivers and extensions apply to any motorists who can satisfy the conditions of a specific waiver or extension. Applications must be made to the Department of Public Safety (DPS). For the minimum expenditure waiver, individual vehicle waiver, and parts availability time extension, the motorist may apply only once for each testing cycle. For the low income time extension, the motorist may apply every other test cycle.

(b) **Minimum expenditure waiver.** A motorist shall use any available warranty coverage to obtain needed repairs before expenditures shall be used in calculating the minimum repair expenditures to qualify for a minimum expenditure waiver, unless the warranty remedy has been denied in writing from the manufacturer or authorized dealer. A motorist may not use or attempt to use expenditures for tampering-related repairs in calculating the minimum repair expenditures to qualify for a minimum expenditure waiver. A minimum expenditure waiver shall be valid for the remaining portion of the testing cycle. Tampering includes, but is not limited to, engine modifications, emission system modifications, or fuel-type modifications disapproved by the Texas Natural Resource Conservation Commission or United States Environmental Protection Agency. A minimum expenditure waiver may be granted in accordance with the following conditions:

(1) The motor vehicle must have a valid Vehicle Inspection Report (VIR), a valid Vehicle Repair Form (VRF), and have failed a retest after repairs, which meet the following conditions:

(A) The minimum expenditure shall be:

(i) at least \$300 until December 31, 1997 and beginning January 1, 1998 a minimum of \$450, adjusted annually, in enhanced program areas; or

(ii) at least \$75 for pre-1981 model year vehicles and at least \$200 for 1981 and later model year vehicles in basic program areas;

(B) After January 1, 1997, for 1981 and newer model year vehicles, all qualifying repairs shall be performed by a Recognized Emissions Repair Technician of Texas in order to count labor cost and/or diagnostic costs;

(C) Qualifying repairs must be directly applicable to the cause for the test failure; and

(D) After January 1, 1997, when repairs are not performed by a Recognized Emissions Repair Technician of Texas, only the purchase price of parts, applicable to the failure, qualify as a repair expenditure for the minimum expenditure waiver.

(2) The motorist provides to the DPS an original retest VIR, a properly completed VRF, and an original itemized receipt indicating the emissions-related repairs performed. If labor and/or diagnostic charges are being claimed towards the minimum expenditure, the VRF shall be completed by a Recognized Emissions Repair Technician of Texas after January 1, 1997.

(c) **Low income time extension.** A low income time extension may be granted in accordance with the following conditions:

(1) A motorist must supply proof that the subject vehicle failed the initial emissions inspection test in the form of an original failed vehicle inspection report.

(2) A motorist shall provide proof in writing to the DPS that the registered vehicle owner(s) meets the following conditions:

(A) the low income time extension applicant is the owner of the vehicle that has failed an I/M test; and

(B) the vehicle has not been granted a low income time extension waiver in the previous inspection cycle; and

(C) the applicant meets one of the following:

(i) the applicant receives financial assistance from the Texas Department of Human Services (subject to approval by the Director of DPS); or

(ii) the applicant's adjusted gross income is within the following maximum income limits (for families of more than ten members, add \$267 for each additional person) or the current federal poverty income guidelines:

Figure 1: 30 TAC §114.6(c)(2)(C)(ii)

(D) the applicant shows proof of conformity with subparagraph (C) of this paragraph by providing to the DPS one of the following, which the applicant certifies are true and correct:

(i) a federal income tax return; or

(ii) other documentation authorized by the Director of the DPS.

(3) After a motorist receives an initial low income time extension, the vehicle must pass an emissions test prior to receiving another low income time extension or any waiver or extension.

(d) **Parts availability time extension.** The parts availability time extension does not exempt the vehicle from the compliance requirements of the I/M program but merely extends the period for compliance. By the end of the time extended, the vehicle must be repaired, retested, and receive a passing VIR or comply with paragraph (4) of this subsection. Only one parts availability time extension is allowed in each test cycle for each vehicle. A parts availability time extension may be granted in accordance with the following conditions:

(1) The motorist can document that emissions-related repairs cannot be completed before the expiration of the safety inspection certificate or before the 30-day period following an out-of-cycle inspection because the repairs require an uncommon part;

(2) The motorist shall provide to the DPS an original VIR indicating that the vehicle failed the emissions test and an original itemized documentation by a Recognized Emissions Repair Technician of Texas (after January 1, 1997), indicating parts ordered by name; description and catalog number; order number; source of parts, including address and phone number; and expected delivery and installation dates of uncommon parts before a parts availability time extension can be issued.

(3) The motorist shall return the motor vehicle through the DPS for a retest and verification of repairs upon completion of the repairs.

(4) The motorist shall provide to the DPS, prior to expiration of a parts availability time extension, adequate documentation that one of the following conditions exists:

(A) the motor vehicle passed a retest;

(B) the motorist qualifies for a Minimum Expenditure Waiver or Low Income Time Extension; or

(C) the motor vehicle shall no longer be operated in the program area.

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part XVI. Coastal Coordination Council

Chapter 506. Council Procedures for Federal Consistency with Coastal Management Programs Goals and Policies

• 31 TAC §506.26, §506.27

The Coastal Coordination Council (council) proposes an amendment to §506.26 of this title (relating to Referral of Federal Agency Activities) and §506.27 of this title (relating to Council Hearing to Review Federal Agency Activities). The Office of Ocean and Coastal Resource Management (OCRM), which is the federal agency administering the federal coastal zone management program, recently reviewed the council's rules for review of federal agency activities for consistency with the goals and policies of the Texas Coastal Management Program (CMP). The amendments are proposed to resolve conflicts OCRM identified between the council's rules and federal rules for such reviews. The conflict concerns the time period allowed for review. OCRM indicated that this conflict must be resolved before the CMP can be approved for participation in the federal coastal zone management program.

The relevant provisions of the federal regulations are found in the Code of Federal Regulations, Title 15, §930.41. Code of Federal Regulations, Title 15, §930.41(a) and (b) provides that a state has 45 days to "respond" to a federal agency's determination that its proposed activity will be consistent. The state is entitled to one 15-day extension. The federal agency may grant longer extensions at its discretion. Code of Federal Regulations, Title 15, §930.41(c) prohibits the federal agency from taking final action until 90 days after it submits the determination to the state.

In adopting current §506.26 and §506.27, the council interpreted these provisions as allowing a two-phased approach to review of federal activities. The council interpreted Code of Federal Regulations, Title 15, §930.41(a) and (b) as giving it 45 days, plus any extensions, to decide whether to place the activity on the agenda of a council meeting for a formal decision on consistency. Placing the activity on the agenda constituted the council's "response" to the federal agency. The council read Code of Federal Regulations, Title 15, §930.41(c) as giving it an additional 45 days to meet and render a formal decision. As reflected in current §506.27(a), the council's interpretation allowed it a total of 90 days to complete its review.

OCRM pointed out, however, that the Code of Federal Regulations, Title 15, §930.41(a) states that the federal agency must receive a "final response" within 45 days, plus any extensions. OCRM interprets this provision as obligating the council to place the matter on the agenda, hold a meeting, and notify the federal agency of its decision within 45 days, plus any extensions.

The effect of conforming the provision to OCRM's interpretation of the Code of Federal Regulations, Title 15, §930.41 is to allow the council one-third less time to complete its review of a federal activity. The maximum time within which the council could complete its review of a federal activity under current §506.26 and §506.27 is 90 days. If amended as proposed, the maximum time for completion of the council's review would be 60 days (45 days, plus one mandatory 15-day extension), unless extended by the federal agency in its discretion. The council anticipates that reviews can be completed within 60 days without impairing the basic effectiveness of the council's authority to review federal agency activities for consistency with the CMP.

The time lines currently specified in §506.26(c) and §506.27(a) are deleted and replaced with cross-references to §506.26(e). Section 506.26(e) reflects the 45-day deadline for the council to render its decision and notify the federal agency, but also recognizes that the federal agency must, on request, extend that deadline by 15 days and may, in its discretion, grant further extensions.

Adding cross-references in §506.26(c) and §506.27(a) in lieu of numeric times, such as 45 days, creates the maximum amount of flexibil-

(5) A vehicle which receives a parts availability time extension in one test cycle must have the vehicle repaired and retested prior to the expiration of such extension or the vehicle shall be ineligible for a parts availability time extension in the subsequent test cycle.

(6) The length of a parts availability time extension shall depend upon expected delivery and installation dates of uncommon parts as determined by the DPS representative on a case by case basis and issued for either 30, 60, or 90 days or longer if necessary, but shall not exceed one test cycle.

(e) Individual vehicle waiver. If a vehicle has failed an inspection and maintenance (I/M) test, a motorist may petition the Director of the DPS for an individual vehicle waiver. Upon demonstration that the motorist has taken reasonable measures to comply with the requirements of the vehicle emissions I/M program contained in the revised Texas I/M SIP and that such waiver shall have minimal impact on air quality, the Director may approve the petition, and the motorist may receive a waiver. Motorists may apply for the individual vehicle waiver each test cycle.

§114.7. Inspection and Maintenance Fees.

(a) The following fees must be paid for an emissions inspection of a vehicle at an inspection station. This fee shall include one free retest should the vehicle fail the emissions inspection, provided that the motorist has the retest performed at the same station where the vehicle originally failed and submits, prior to the retest, a properly completed Vehicle Repair Form showing that emission-related repairs were performed and the retest is conducted within 15 days of the initial emissions test. For Dallas, Tarrant, Harris, and El Paso counties:

(1) Test and Repair Stations (Two Speed Idle/Annual Test): \$13. The inspection station shall remit \$1.75 to the Department of Public Safety (DPS).

(2) Test Only Stations (Two Speed Idle/Annual Test): Market Driven (Fee set by inspection station). The inspection station shall remit \$1.75 to the DPS.

(3) Test Only Stations (Loaded or Transient/Biennial Test): Market Driven (Fee set by inspection station). The inspection station shall remit \$1.75 to the DPS.

(4) The collection of inspection fees set forth in this subsection will coincide with the program start dates outlined in §114.3(b) of this title (relating to Applicability).

(b) The per-vehicle fee and the amount the inspection station remits to the DPS for a challenge test, at an inspection station designated by the DPS, shall be the same as the amounts set forth in subsection (a) of this section. The challenge fee shall not be charged if the vehicle is retested within 15 days of the initial test.

(c) Inspection stations performing out-of-cycle vehicle emissions inspections for the state's remote sensing element shall charge a motorist for an out-of-cycle emissions inspection, resulting from written notification that subject vehicle failed on-road testing, only, if such vehicle fails the emissions inspection and is registered outside the core program area. Inspection stations shall charge the DPS for all other vehicle emissions inspections resulting from on-road testing.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603712 Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation Commission

Proposed date of adoption: June 5, 1996

ity for the council. It recognizes that, given the provision for extensions, the council may frequently have longer than 45 days to render its decision and notify the federal agency. Also, language is added to §506.26(c) and (d) and §506.27(c) to reflect that Code of Federal Regulations, §930.41, requires that, within the time specified, the council not only must render its decision, but must notify the federal agency of that decision as well.

Caryn K. Cosper, Deputy Commissioner of Resource Management, Texas General Land Office, has determined that for each of the first five years the sections as amended will be in effect there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections. The amendments affect only the time period for reviews. Therefore, there are no fiscal implications, especially since any review affecting a state or local government will only be expedited.

Ms. Cosper has also determined that the public benefit of each year of the first five years the amended rules are in effect will be a coastal management program approved for participation in the federal coastal zone management program. There will be no effect on small businesses. There is no anticipated economic costs to persons who are required to comply with the rules as proposed.

Comments on the proposed amendments may be submitted to Chell Cook, Texas General Land Office, Legal Services Division, 1700 North Congress Avenue, Room 630, Austin, Texas 78701-1495, Fax: (512) 463-6311. Comments must be received by 5:00 p.m. on April 8, 1996.

The amendments are proposed pursuant to the Coastal Coordination Act, Texas Natural Resources Code, Chapter 33, Subchapters C and F, and is adopted under the council's authority to promulgate rules pursuant to those subchapters.

Texas Natural Resources Code, Chapter 33, Subchapters C and F, are affected by these amendments.

§506.26. Referral of Federal Agency Activities.

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

(c) The council secretary shall place the action on the agenda of the earliest council meeting at which consideration of the federal agency activity is reasonably practicable. If no regularly scheduled council meeting will allow the council to complete a review of the action and notify the federal agency of its decision within 45 days of receipt of the consistency certification, the council secretary shall notify the chair, who shall schedule a special meeting.

(d) If the council places an action on its agenda, but will not be able to complete a review and notify the federal agency [does not place the federal agency activity on the agenda of a council meeting for review,] within 45 days of the date of the council secretary receives a consistency determination with all required information, then the chair shall notify the federal agency of the status of the review and the basis for further delay and request an extension of time to review the matter.

(e)-(f) (No change.)

§506.27. Council Hearing to Review Federal Agency Activities.

(a) Following referral of a federal agency activity, the council shall consider the public comments received, the relevant CMP goals and policies, information submitted by the federal agency, and other relevant information and determine whether the activity is consistent with the CMP goals and policies [within 90 days of the date the council secretary received the consistency determination].

(b) (No change.)

(c) If the council decides to disagree with a consistency determination, the council shall notify the federal agency and the assistant administrator of its decision to disagree with the consistency determination prior to the time, including any extensions, that the federal agency is entitled to presume the activity's consistency under §506.26(e) of this title (relating to Referral of

Federal Agency Activities). An affirmative vote of two-thirds of the council members is required for the council to disagree with a consistency determination.

(d)-(e) (No change.)

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603726 Garry Mauro
Chairman
Coastal Coordination Council

Earliest possible date of adoption: April 26, 1996

For further information, please call: (512) 305-9129

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 151. General Provisions

• **37 TAC §151.55**

The Texas Department of Criminal Justice proposes new §151.55, concerning the sale and disposal of surplus agricultural goods and surplus agricultural personal property.

David P. McNutt, assistant director for budget and management has determined that there will be no fiscal implications for state or local government as a result of administering the new section.

Mr. McNutt also has determined that for each year of the first five-year period the new rule is in effect the public benefit anticipated as a result of enforcing the rule will be increased accountability for the disposal of surplus agricultural goods and agricultural personal property.

There will be no effect on small businesses. There is no anticipated economic cost to persons required to comply with the rule as proposed.

Comments should be directed to Carl V. Reynolds, General Counsel, Texas Board of Criminal Justice, P.O. Box 13084, Austin, Texas 78711. Written comments from the general public should be received within 30 days of the publication of this new section.

The new section is proposed under Government Code, §497.034, which specifically authorizes this section and §492.013, which grants rulemaking authority to the Board.

Cross Reference to Statute: Government Code, §497.034.

§151.55. Disposal of Surplus Agricultural Goods and Agricultural Personal Property.

(a) Policy. It is the policy of the Board that surplus agricultural goods produced by TDCJ and surplus agricultural personal property utilized in TDCJ's agricultural operations be disposed in the most efficient manner possible for the goods or personal property being disposed.

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

(1) Surplus agricultural goods—Those agricultural commodities grown, produced, purchased, or acquired by TDCJ for use within TDCJ or other state or local agency or non-profit organization which are excess to the needs of TDCJ operations, which are not required for its foreseeable needs, and which have been determined to be surplus by the Division Director for Administrative Services.

(2) Surplus agricultural personal property—Personal property related to agricultural operations of TDCJ and grown, produced,

purchased, or acquired by TDCJ, including livestock and farming equipment and implements, which is excess to the needs of TDCJ operations, which is not required for its foreseeable needs, and which has been determined to be surplus by the Division Director for Administrative Services.

(c) Procedures.

(1) The board hereby authorizes the Division Director of the Institutional Division and the TDCJ Division Director of Administrative Services to sell or dispose of surplus agricultural goods and surplus agricultural personal property. Sale or disposal shall be accomplished in such manner so as to provide, if possible, reasonable consideration for the sale or disposal of such surplus items.

(2) When items of agricultural goods or agricultural personal property are considered surplus, the Assistant Director for Agriculture shall provide a written report to the Division Director for Administrative Services setting forth those items of agricultural goods and agricultural personal property considered to be surplus. In those instances requiring immediate action due to the perishable nature of such items, the report may be transmitted via Facsimile (Fax) with written follow-up by mail. The Division Director for Administrative Services shall review such report and determine if such items shall be sold or disposed as surplus agricultural goods or personal property.

(3) The Division Director of the Institutional Division and Division Director for Administrative Services shall review the report submitted as required herein and shall determine if such reported items are surplus to the needs of TDCJ. If such items are determined to be surplus, the proposed sale or disposal of surplus agricultural goods and surplus agricultural personal property shall be approved by the Division Director of the Institutional Division and the Division Director for Administrative Services who shall additionally determine, based on market conditions at the time of sale or disposal, the terms and method of sale or disposal of such surplus agricultural goods and surplus agricultural personal property. Sale or disposal of surplus agricultural goods or agricultural personal property includes:

(A) sale in the usual market for such items;

(B) direct sale by bid or negotiated sale;

(C) exchange for other agricultural products and finished goods; and

(D) donation of food commodities to state, local, or non-profit organizations.

(4) Proceeds from the sale of surplus agricultural goods and surplus agricultural personal property shall be deposited in the appropriate TDCJ fund to be utilized for purchase of agricultural goods and agricultural personal property necessary for the operation of TDCJ.

(5) Prices of sales shall be at prevailing market prices or better.

(6) TDCJ staff shall include, as an agenda item for the Consent Agenda at the next regularly scheduled Board meeting following sale or disposition of surplus agricultural items, a report detailing the sale or other disposition of surplus agricultural goods and agricultural personal property.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603705

Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Earliest possible date of adoption: April 26, 1996

For further information, please call: (512) 463-9693

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 11. Food Distribution and Processing

The Texas Department of Human Services (DHS) proposes amendments to §§11.123, 11.6001, and 11.6008, concerning soup kitchens, food banks, and institutions, purpose, and reimbursement, in its Food Distribution and Processing chapter. The purpose of the amendment to §11.123 is to clarify eligibility criteria for soup kitchen/food bank (SK/FB) commodities that are served as meals or provided to households for home consumption. The purpose of the amendments to §§11.6001 and 11.6008 is to allow SK/FBs access to the Emergency Food Assistance Program (TEFAP) administrative funds for reimbursement of costs associated with distributing SK/FB commodities. Access to administrative funds for SK/FBs is required by the Hunger Prevention Act of 1988 and by 7 Code of Federal Regulations (CFR) 250.52(e) and 7 CFR 251.8(d)(1) (i) and (ii).

Burton F. Raiford, commissioner, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Raiford also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be that SK/FBs will be able to distribute more foods in greater variety to needy individuals and households. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Questions about the content of the proposal may be directed to Johnny Adams at (512) 467-5822 in DHS's Special Nutrition Programs. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-209, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The Food Distribution Program

• 40 TAC §11.123

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

The amendment implements the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

§11.123. Soup Kitchens, Food Banks, and Institutions.

(a) The Texas Department of Human Services distributes food donated to Texas under §110 of the Hunger Prevention Act of 1988 (soup kitchen and food bank (SK/FB) commodities) to eligible soup kitchens, food banks, and institutions in quantities, values, and types according to 7 Code of Federal Regulations §250.52.

(b) Recipients of congregate meals are not required to qualify for meals prepared with SK/FB commodities.

(c) Applicant households must qualify yearly for distributions of SK/FB commodities provided for home consumption. Applicants who are certified eligible and receive food stamps, Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), or noninstitutional Medicaid benefits are

automatically eligible. Other applicants must meet the requirements specified in paragraphs (1)-(3) of this subsection:

(1) **Income.** The applicant's gross yearly/monthly/weekly income must be less than an income limit established by the certifying agency or organization and based on the number of people in the applicant's household. The income limit is subject to DHS's approval.

(2) **Residency.** There is no durational residency or citizenship requirement; however, the applicant must be residing in Texas for a purpose other than a vacation.

(3) **Identity.** The applicant must provide proof of identity.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603727 Glenn Scott
 General Counsel, Legal Services
 Texas Department of Human Services

Proposed date of adoption: June 1, 1996

For further information, please call: (512) 438-3765

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The Emergency Food Assistance Program (TEFAP)

• 40 TAC §11.6001, §11.6008

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

The amendments implement the Human Resources Code, §§22.001-22.024 and §§33.001-33.024.

§11.6001. Purpose.

(a) Title II of Public Law 98-8 creates the Emergency Food Assistance Program (TEFAP) and authorizes the [distribution of] United States Department of Agriculture (USDA) to:

(1) supply surplus food to state agencies for distribution to approved recipient agencies (RAs); and

(2) provide state agencies with certain administrative funds to be used to reimburse RAs their costs of distributing donated commodities [under the Emergency Food Assistance program].

(b) The purpose of TEFAP [the program] is to supply meals or distribute food to unemployed and indigent people.

(c) The Hunger Prevention Act of 1988 extends access of administrative funds to RAs who distribute §110 commodities (soup kitchen and food bank (SK/FB) commodities).

§11.6008. Reimbursement.

(a) The Texas Department of Human Services (DHS) reimburses from administrative funds for allowable, actual, direct costs associated with the distribution of donated commodities. DHS may modify the terms of any commodity contract, as needed, to ensure payment of administrative funds:

(1) according to 7 Code of Federal Regulations 251.8(d)(1)(i) for costs of transporting, storing, handling, repackaging, processing, and distributing USDA-donated commodities; and

(2) according to 7 Code of Federal Regulations 251.8(d)(1)(ii) for costs of storing, handling, and distributing

non-USDA donated commodities. [for allowable actual, direct costs for storage and distribution of commodities.]

(b) The actual reimbursement rate depends on available funds. According to the terms of the contract, DHS will notify contractors of any changes in the reimbursement rates. The contractor must submit a completed and signed claim for reimbursement [and State of Texas purchase voucher] within 60 days after the last day of the claim month.

(c)[(b)] If a claim for reimbursement is submitted after the 60-day time limit, the contractor must submit to DHS:

(1) written justification explaining why the claim was submitted late, and

(2) a corrective action plan explaining how the contractor will prevent late submittal of claims in the future.

(d)[(c)] DHS determines whether good cause exists, based on the information in subsection (c) [(b)] of this section, and:

(1) if good cause exists, DHS pays the claim.

(2) if good cause does not exist, DHS does not pay the claim. The contractor may appeal this action.

(e)[(d)] DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due before June 1, 1996 for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in subparagraphs (A)-(E) of this paragraph.

(A) DHS notifies each contractor upon approval of their application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in sanctions up to and including contract termination and recovery of payments.

(B) DHS notifies contractors by certified mail within 15 days after a required audit is not received, or an audit is determined to be unacceptable, that failure to submit an acceptable audit within 30 days of receipt of the notification will result in suspension of payments.

(C) If an acceptable audit is not received within the 30 days specified in subparagraph (B) of this paragraph, DHS notifies the contractor by certified mail that payments will be withheld beginning the next claim month, and that failure to submit the required audit within 30 days of receipt of this notification will result in termination.

(D) If an acceptable audit is not received within the 30 days specified in subparagraph (C) of this paragraph, DHS notifies the contractor by certified mail that failure to submit the required audit within 30 days of receipt of this notification will result in termination in the next claim month.

(E) If an acceptable audit is not received within the 30 days specified in subparagraph (D) of this paragraph, DHS notifies the contractor that the contract is terminated effective upon receipt of this notification.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If DHS imposes sanctions according to the procedures specified in paragraph (1) of this subsection for failure to submit an audit in compliance with the requirements of the Single Audit Act, and a contractor submits an audit which does not meet the requirements of the Single Audit Act, the sanction procedures will be re-initiated as specified in paragraph (1)(B) of this subsection. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(f)(e) DHS imposes fiscal sanctions specified in this subsection on contractors whose required single audit falls due on June 30, 1996, or later for failure to comply with the requirements of the Single Audit Act. The contractor has the right to appeal this action as specified in Chapter 79 of this title (relating to Legal Services).

(1) DHS takes fiscal sanctions against a contractor according to the procedures specified in paragraphs (1)-(4) of this subsection.

(A) DHS notifies each contractor upon approval of the application for program participation of the date by which an acceptable audit must be received by DHS, and that failure to comply will result in contract termination and recovery of overpayments as identified through audit findings.

(B) DHS provides the contractor three advance notices reminding the contractor of the specific date that the audit is due.

(i) DHS issues the first notice by regular mail six months after the end of the contractor's fiscal year for which the audit is due.

(ii) DHS issues the second notice by regular mail nine months after the end of the contractor's fiscal year for which the audit is due.

(iii) DHS issues the third notice by certified and regular mail 11 months after the end of the contractor's fiscal year for which the audit is due. DHS notifies the contractor that:

(I) DHS must receive the audit on or before the due date specified in the notice;

(II) if DHS does not receive the audit on or before the specified due date, DHS will terminate the contractor's contract effective the first day of the month following the month in which the audit was due; and

(III) the contractor has the right to appeal this decision.

(C) If DHS does not receive the audit on or before the specified due date, DHS notifies the contractor by certified and regular mail that their contract was terminated effective the first day of the month following the month in which the audit was due.

(2) If DHS has determined there are extenuating circumstances, DHS may conduct an audit, either directly or through the engagement of a third party. All costs associated with such an audit must be paid by the contractor.

(3) If a contractor submits an audit which does not meet the requirements of the Single Audit Act, then DHS notifies the contractor in writing that the audit is unacceptable, how it is unacceptable, and that the contractor has 30 calendar days from the date on the notification to submit an acceptable audit to DHS. If DHS does not receive the required audit by the specified time frame and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit within the specified time frames;

(B) DHS must receive an acceptable audit by the due date specified in this notification;

(C) if DHS does not receive an acceptable audit by the specified due date, DHS will terminate their contract effective the first day of the month following the due date specified in this notification; and

(D) the contractor has the right to appeal this decision. DHS may extend the time within which a contractor must submit an audit if DHS determines such an extension is justified.

(4) If DHS does not receive the required audit by the specified due date and has not granted an extension of the due date, DHS notifies the contractor by certified and regular mail that:

(A) the contractor failed to provide an acceptable audit by the specified due date; and

(B) DHS terminated their contract effective the first day of the month following the specified due date.

(5) Once a contractor has been terminated for failure to submit an acceptable audit, the contractor must provide an acceptable audit for any outstanding audit year(s) and comply with the requirements of the Single Audit Act in order to be eligible to participate in the Special Nutrition Programs.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603728
Glenn Scott
General Counsel, Legal Services
Texas Department of Human Services

Proposed date of adoption: June 1, 1996

For further information, please call: (512) 438-3765

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Chapter 48. Community Care for Aged and Disabled

Program for All-inclusive Care for the Elderly (PACE)

• **40 TAC §48.2811**

The Texas Department of Human Services (DHS) proposes an amendment to §48.2811, concerning reimbursement methodology for program for All-Inclusive Care for the Elderly (PACE), in its Community Care for Aged and Disabled chapter. The purpose of the amendment is to revise the methodology to comply with federal regulations.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an accurate understanding of the reimbursement methodology. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of this proposal may be directed to Kathy Hall at (512) 438-3702 in DHS's Rate Analysis Department. Written

comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-171, Texas Department of Human Services E-205, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The amendment is proposed under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs, and under Texas Government Code §531.021, which provides the Health and Human Services Commission with the authority to administer federal medical assistance funds.

The amendment implements the Human Resources Code, §§22.001-22.024 and §§32.001-32.042.

§48.2811. Reimbursement Methodology for Program for All-Inclusive Care for the Elderly (PACE).

(a) General specifications. The Texas Department of Human Services (DHS) determines the reimbursement [rate] for the provider, *Bienvivir*, under a [three-year.] Medicaid 1115 waiver program to provide care to recipients. The effective date of this reimbursement methodology is the same date as implementation of the waiver, contingent upon Health Care Financing Administration (HCFA) approval of the waiver. [If the waiver is extended through a fourth year, this reimbursement methodology will continue to be in effect through the end of that year. Provisions of year three will be in effect for year four, unless otherwise noted.]

(b) Frequency of reimbursement [rate] determination. DHS determines reimbursement [rates] for the provider at least annually. The reimbursement is [Rates are] revised each time the reimbursements [rates] for the Nursing Facility program are revised. The reimbursement [Rates] may be determined more often if the DHS board determines it to be necessary.

(c) Reimbursement [Rate] determination. To determine the cost savings to the Nursing Facility program, the average cost of a nursing home recipient is calculated, including the cost of nursing home care; support services ([Hepatitis B, Goal Directed Therapy,] rehabilitative and emergency dental); prescribed drugs; and [in year three of the waiver.] acute care services. The calculated cost of care for an average nursing home recipient is multiplied by a factor of 0.95 to ensure a savings to the state for implementing this alternative to nursing home care.

[(1) Years one and two of the waiver.] The following reimbursement [rate] is calculated on a per diem basis:

(1)[(A)] the average nursing facility reimbursements [rates] weighted by the case mix Texas Index for Level of Effort (TILE) distribution for El Paso county clients,

(2)[(B)] plus the cost of support services ([goal-directed therapy, Hepatitis B,] rehabilitative and emergency dental),

(3)[(C)] minus the average statewide applied income,

(4)[(D)] plus the average cost of prescribed drugs for nursing home recipients, [.]

(5) plus the DHS acute care premium, less the fee for administrative claims processing, for nursing facility recipients,

(6)[(E)] The resulting calculation from applying paragraphs (1)-(5) [subparagraphs (A)-(D)] of this subsection [paragraph] is multiplied by 0.95.

(7)[(F)] The resulting calculation from applying paragraph (6) [subparagraph (E)] of this subsection [paragraph] is multiplied by the number of days in the year, and the product of the multiplication is divided by 12 months to convert the per diem amount from paragraph (6) [subparagraph (E)] of this subsection [paragraph] to a monthly reimbursement [rate].

[(2) Year three of the waiver. The following rate is calculated on a per diem basis:

[(A)] the result of the calculation from paragraphs (1)(A)-(D) of this subsection;

[(B)] plus the DHS acute care premium, less the fee for administrative claims processing, for nursing home recipients;

[(C)] the resulting calculation from applying subparagraphs (A) and (B) of this paragraph is multiplied by 0.95;

[(D)] the resulting calculation from applying subparagraph (C) of this paragraph is multiplied by the number of days in the year, and the resulting product is divided by 12 months to convert the per diem amount from that determined by applying subparagraph (C) of this paragraph to a monthly rate.

[(d) Risk sharing. DHS participates in a risk sharing mechanism of waiver participants designed to distribute risk between the users of the program. The users of the program are defined as Medicare, DHS and the provider. The mechanism is as follows:

[(1) DHS and HCFA determine whether the provider has incurred savings or losses by comparing the provider's incurred costs of providing covered services to waiver participants from the cost report to the provider's revenues for waiver participants. Incurred costs are the direct and indirect costs that are reasonable and necessary for efficient delivery of health services by the provider as determined by applying the principles of reimbursement as specified in 42 CFR 417.536-417.550.

[(2) If savings result, the provider must deposit them in an interest-bearing asset account called a "risk reserve." The purpose of the risk reserve is to accumulate savings from the provider's operation during the three years of the waiver. Any allowable loss must first be paid from the risk reserve regardless of the waiver period or fiscal year.

[(3) The provider may also make voluntary contributions to the risk reserve, but the department does not recognize the charge posted to the account from such contributions as an incurred cost.

[(4) After determination of any final liability of the provider by DHS and HCFA, any savings accumulated in the risk reserve remains an asset of the provider should they, voluntarily or involuntarily, cease participation during the three years of the waiver, or at the end of the third year of the waiver.

[(5) If a loss occurs, the following formula must be used to determine the amount of loss that is the responsibility of the provider, Medicare, and DHS in the risk sharing arrangement.

[(A) Determining allowable loss. The following calculations are used to determine allowable loss.

[(i) Service revenue. Service revenue consists of revenue received for the provision of waiver services. Revenue sources include Medicare, Medicaid and private pay including insurance.

[(ii) Administrative expenses. Administrative expenses are expenses incurred in the operation of the waiver which are not related to the direct provision of waiver services. Administrative and general cost guidelines are found in 42 CFR 417.564.

[(iii) Administrative expense caps. Allowable incurred administrative expenses are capped as a percentage of certain service revenues. The percentage of the cap varies based on the waiver year. Administrative expenses are capped at 25% in waiver year one, 20% in waiver year two, and 15% in waiver year three.

[(iv) Service expenses. Service expenses are expenses incurred in the operation of the waiver which are related to

the direct provision of waiver services. Service expenses are reduced by the amount of non-service revenue the provider had available for use in the program for the time period. Non-service revenue includes, but is not limited to, revenue from foundations, other grants, and interest income.

[(v) Allowable losses. Allowable losses are determined if a negative amount results by subtracting the total allowable expenses as calculated by applying clauses (iii) and (iv) of this subparagraph from the service revenue as described in clause (i) of this subparagraph.

[(vi) Savings. If a positive amount results from the calculation in clause (v) of this subparagraph, that amount is determined to be a savings and must be deposited by the provider in a risk reserve account, as specified in subsection (d)(2) of this section.

[(B) Reduction of allowable loss. If the provider incurs a loss, the allowable loss, calculated in subparagraph (A)(v) of this paragraph, is reduced by any savings in the risk reserve and the percentage of private pay, including insurance, revenue in relation to total service revenue. The balance is the amount eligible for risk sharing.

[(C) Determination of participation amounts. Any remaining allowable loss after applying subparagraph (B) of this paragraph is shared by the provider, Medicare, and DHS. During years one and two of the waiver, DHS assumes the loss not assigned to the provider. During year three, DHS and Medicare share in the loss not assigned to the provider. The loss is allocated pro rata, based on the revenues accrued by the provider from Medicare and DHS for the specified period. The loss sharing participation formula consists of a series of tiers within each waiver year each tier specifying an assignment of responsibility for losses at that tier. Calculation at each tier results in an amount of allowable loss covered in that tier. Any loss not covered in that tier is carried forward to the next tier. The loss sharing is calculated as follows for each year of the waiver:

[(i) Waiver Year one.

[(I) Tier 1. This tier is equal to 0.5% of revenues. The provider participates in 100% and DHS participates in zero percent of the loss.

[(II) Tier 2. This tier is equal to 5.0% of revenue. The provider participates in 10% and DHS participates in 90% of the loss.

[(III) Tier 3. This tier is equal to 10% of revenues. The provider participates in 5.0% and DHS participates in 95% of the loss.

[(IV) Tier 4. This tier is equal to 10% of revenues. The provider participates in zero percent and DHS participates in 100% of the loss.

[(V) Tier 5. This tier is equal to an amount greater than 25.5% of revenues. The provider participates in 100% and DHS in zero percent of loss.

[(ii) Waiver Year two. The percent of revenue in each tier is equal to the percent of revenue in each corresponding tier in waiver year one.

[(I) Tier 1. The provider participates in 100% and DHS participates in zero percent of the loss.

[(II) Tier 2. The provider participates in 20% and DHS participates in 80% of the loss.

[(III) Tier 3. The provider participates in 10% and DHS participates in 90% of the loss.

[(IV) Tier 4. The provider participates in zero percent and DHS participates in 100% of the loss.

[(V) Tier 5. The provider participates in 100% and DHS participates in zero percent of the loss.

[(iii) Waiver Year three.

[(I) Tier 1. This tier is equal to 0.5% of revenues. The provider participates in 100% and DHS and Medicare participate in zero percent of the loss.

[(II) Tier 2. This tier is equal to 5.0% of revenues. The provider participates in 40% and DHS and Medicare participate in 60% of the loss.

[(III) Tier 3. This tier is equal to 10% of revenues. The provider participates in 20% and DHS and Medicare participate in 80% of the loss.

[(IV) Tier 4. This tier is equal to an amount greater than 15.5% of revenues. The provider participates in 100% and DHS and Medicare participate in zero percent of the loss.

[(iv) Waiver Year four (Contingent on waiver extension).

[(I) Tier 1. This tier is equal to 0.5% of revenues. The provider participates in 100% and DHS and Medicare participate in zero percent of the loss.

[(II) Tier 2. This tier is equal to 5.0% of revenues. The provider participates in 40% and DHS and Medicare participate in 60% of the loss.

[(III) Tier 3. This tier is equal to 10% of revenues. The provider participates in 20% and DHS and Medicare participate in 80% of the loss.

[(IV) Tier 4. This tier is equal to an amount greater than 15.5% of revenues. The provider is responsible for any loss in this tier.

[(D) Loss reconciliation. DHS conducts quarterly and annual reconciliations of losses.

[(i) Quarterly interim loss reimbursement. After the receipt of the quarterly cost report, DHS makes an interim determination of the estimated amount of risk sharing participation amount to be reimbursed by DHS to the provider. DHS may make interim payments to the provider for losses during the waiver year.

[(ii) Annual reconciliation. After receipt and acceptance of the annual waiver year cost report, DHS will determine the amount of reconciliation required to be paid by DHS or the provider as determined from the amounts calculated on the quarterly interim loss reimbursement. The reconciliation amount is the differ-

ence between the quarterly interim loss reimbursement amounts and the calculated annual reconciliation.

[(iii) Any amount due to DHS by the provider, as calculated in the annual reconciliation in paragraph (2) of this subsection, must be paid in full to DHS within 90 days from receipt of notice of the finding.]

(d)[(e)] Reporting of cost. The provider must submit [a cumulative quarterly cost report, and] an independently certified annual cost report, [both] in the form and detail prescribed by HCFA. DHS reserves the right to require submittal of financial and statistical information on a cost report or in a survey format designated by DHS.

(1) Cost report due date. [The provider must submit the quarterly cost reports to DHS no later than 45 days after the end of each fiscal quarter.] The annual cost report must be submitted to DHS no later than 180 days after the end of the fiscal year.

(2) Reporting periods. The provider must prepare the [quarterly] cost report to reflect the activities of [each quarter of the provider's fiscal year, and prepare the full-year cost report covering] the provider's entire fiscal year. Cost reports may be required for other periods at the discretion of DHS. Should the provider agency terminate its contract (provider agreement) with the department, a cost report must be submitted for that period beginning with the first day of the provider's fiscal year and ending with the effective date of termination of its contract.

(3) Allowable and unallowable costs. The provider must complete the cost report according to Medicare guidelines regarding allowable and unallowable costs as specified in 42 CFR 417.536 through 417.550, and the chart of accounts as specified by HCFA.

(4) Failure to file an acceptable cost report. If the provider fails to file a cost report or cost report supplement by the due date or fails to submit a cost report according to all applicable rules and instructions, the department may withhold all provider payments until the provider agency submits an acceptable cost report.

(5) Accounting requirements. The provider must ensure that financial and statistical information submitted in cost reports is based upon the accrual method of accounting. The provider agency's treatment of any financial or statistical item must reflect the application of the generally accepted accounting principles (GAAP) approved by the American Institute of Certified Public Accountants. **If there are any differences between GAAP and Medicare guidelines, Medicare guidelines take precedence.**

(6) Allocation method. If allocation of cost is necessary, the provider must use reasonable methods of allocation. DHS adjusts allocated costs if the department considers the allocation method to be unreasonable. The provider agency must retain work papers supporting allocations.

(7) Cost report certification. The provider must certify in the format specified by HCFA the accuracy of the cost report submitted to DHS. The provider agency may be liable for civil and/or criminal penalties in the case of misrepresented or falsified information.

(8) Cost report supplements. The department may at times require additional financial and statistical information other than the information contained in the cost report.

(9) Review of the cost report. DHS staff review the cost report to ensure that all financial and statistical information submitted conforms to all applicable rules and instructions. The review of the cost report includes a desk audit. DHS reviews cost reports according to the criteria in §24.201 of this title (relating to Basic Objectives and Criteria for Desk Review of Cost Reports). If the provider agency fails to complete cost reports according to instructions or rules, the department returns the cost reports to the provider agency for proper completion. The department may require information other than that contained in the cost report to substantiate reported information.

(10) On-site audits. The department may perform on-site audits of the provider agencies that participate in the program. DHS determines the frequency and nature of audits but ensures that they are not less than that required by federal regulations related to the administration of the program.

(11) Notification of exclusions and adjustments. DHS notifies the provider of exclusions and adjustments to reported expenses made during desk reviews and on-site audits of cost reports as specified in §24.401 of this title (relating to Notification).

(12) Reviews of cost report disallowances. A provider who disagrees with the determination of **exclusions and adjustments to reported expenses** [risk sharing losses and savings] may request an informal review and, when necessary, an administrative hearing as specified in §24.601 of this title (relating to Reviews and Administrative Hearings).

(13) Access to records. The provider and its designated agent(s) must allow access to all records necessary to verify information submitted to DHS on cost reports. This requirement includes records pertaining to related-party transactions and other business activities engaged in by the provider agency. If the provider agency does not allow inspection of pertinent records within 30 days following written notice from DHS, a hold is placed on vendor payments until access to the records is allowed. If the provider agency continues to deny access to records, DHS may cancel the provider agency's contract.

(14) Record-keeping requirements. The provider agency must maintain records according to the requirements of 42 CFR 417.480. Records must be retained for five years from the end of the fiscal period to which they apply.

(15) Failure to maintain adequate records. If the provider agency fails to maintain adequate records to support the financial and statistical information reported in cost reports, the department allows 90 days for the provider agency to bring record-keeping into compliance. If the provider agency fails to correct deficiencies within 90 days from the date of notification of the deficiency, the department may cancel the provider agency's contract for services.

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

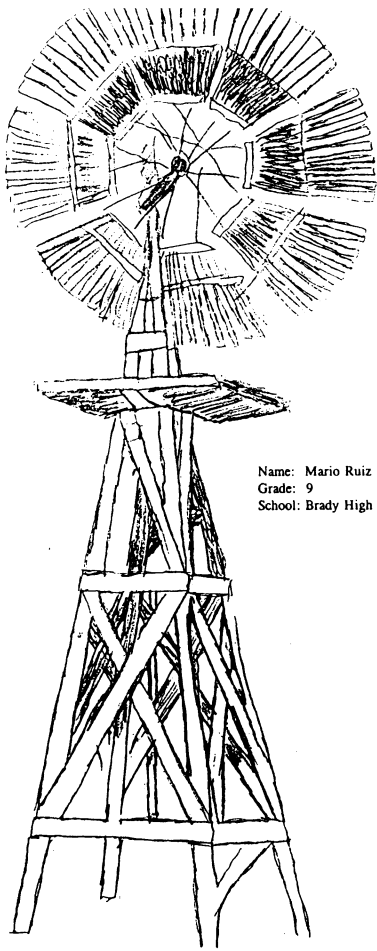
Issued in Austin, Texas, on March 18, 1996.

TRD-9603716 Glenn Scott
General Counsel, Legal Services
Texas Department of Human Services

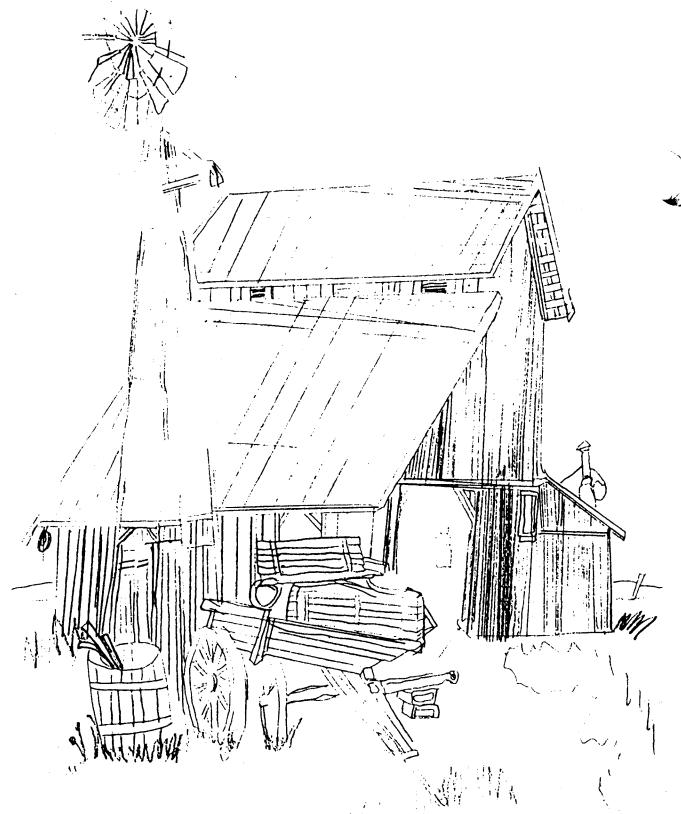
Proposed date of adoption: June 1, 1996

For further information, please call: (512) 438-3765

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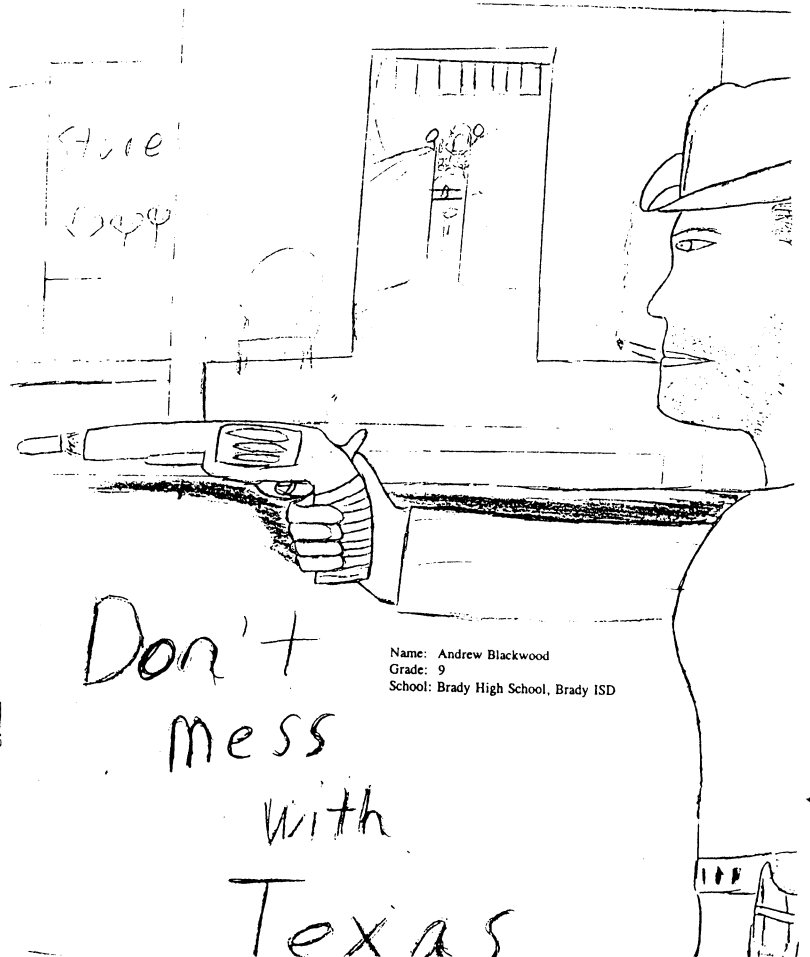
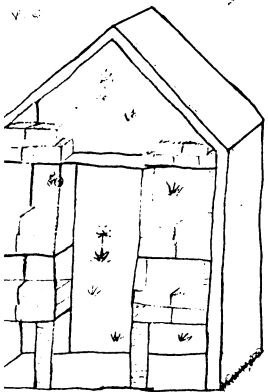


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ADOPTED RULES

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 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 3. Life, Accident and Health Insurance and Annuities

Subchapter X. Preferred Provider Plans

• 28 TAC §§3.3702, 3.3704, 3.3705

The Commissioner of Insurance adopts amendments to §§3.3702, 3.3704, and 3.3705, concerning health insurance policies that incorporate preferred provider plans. Section 3.3704 is adopted with changes to the proposed text as published in the December 15, 1995 issue of the *Texas Register* (20 TexReg 10740). Sections 3.3702 and 3.3705 are adopted without changes and will not be republished.

These amendments are adopted to further address the Governor's directive that the Commissioner of Insurance enact rules to maintain quality of health care for all Texans at affordable prices and to establish procedures for fairness to health care providers. These amendments are based on a review of complaints concerning managed care plans and formal and informal public comment received by the department during the drafting and comment period for the amendments to this chapter adopted November 15, 1995. Protection of patients in the rapidly changing health care marketplace requires these updated regulations. These amendments are necessary to assist consumers in making informed choices among health care plans; to assure that consumers receive the type and extent of coverage they contracted for at the contracted-for price; and to assist the department in evaluating quality and costs of health care. The agency has deleted the proposed amendments to paragraph (6) of §3.3703 and paragraph (14) of §3.3704 and made changes to §3.3704(6). The agency's response to comments, including the specific changes to the sections and reasoned justification for the changes, are addressed in the paragraphs that follow.

Amended §3.3702 adds a definition of "contract holder" because that term is used throughout the text of these sections. Amendments to §3.3704 enhance freedom of choice for the insured and assure that consumers receive the benefits they contracted for by clarifying that if covered services are not available through a preferred provider, the insurer will pay for services by a non-preferred provider at the preferred provider level of benefits. Section 3.3705, as amended, requires that preferred provider contracts include an agreement by the preferred provider not to seek additional compensation for covered services from the insured patient.

Several commenters support the sections in general and recommend adoption of the proposal with suggested changes. Some commenters believe the sections promote access to quality health care at an affordable price and address some of the problems experienced in managed care environments.

Agency Response: The agency appreciates the comments received and the information provided at the hearing. The agency intends for these sections to promote accessibility and affordability of managed care and protect patients in the continually changing health care market.

Section 3.3703(6).

Several commenters support the filing of advertising as a necessary protection for consumers and believe it will assist consumers in making informed choices. A commenter believes the proposal will alleviate the problem created by some managed care organizations which have advertised plans using names of providers which are not under contract to that plan. A commenter states that the rule does not address the time frame in which the department will review the advertising. Some commenters recommend that the advertising be filed earlier than ten days before use. Several commenters oppose this provision as an unnecessary burden on insurers and the department and believe that the additional administrative requirements caused by this provision would increase costs to consumers. These commenters don't believe that the advertising filing requirement enhances effective regulation in the area and believe the provision is of little value. A commenter believes that the ten days requirement could limit employers and consumers access to preferred provider plans and would create difficulties not only for insurers but also for the potential customers. Some commenters argue that TDI has no statutory authority to require preferred provider plans to file advertising.

Agency Response: The agency believes that it has statutory authority to require filing of advertising and initially proposed the paragraph to parallel the requirement for HMOs. The agency agrees with some commenters that requiring filing of all insurance advertising which contain PPO benefits would be burdensome for insurers and the agency and may not be the best way to prevent misleading and deceptive advertising at this time. Based on the comments received, concern that this provision may increase costs to consumers and delay access to insurance contracts with preferred provider plans by consumers as well as a review of the advertising for preferred provider plans, the agency has withdrawn §3.3703(6) from the adoption. The Medicare supplement advertising that would be used by indemnity carriers is required to be submitted and the agency already reviews this information. The agency has determined that advertisements promoting insured PPO products have not generated consumer complaints to date, nor has review of advertising by the agency indicated any serious problem with insured preferred provider plans. Any individual problems can be handled through enforcement of current rules and the Insurance Code, Article 21.21. The agency will consider further rulemaking if misleading advertising for insured preferred provider plans becomes a problem or clarification of prohibited advertising practices for insured preferred provider plans becomes necessary.

Section 3.3704(6).

Many commenters support consumer access to out-of-network providers when covered services are not available through preferred providers. A commenter suggests including language that ensures the covered individual does not incur additional costs for covered services which are not available through the preferred provider and are provided by an out-of-network provider. Some expressed concern that it applies only to covered necessary services and that non-preferred providers be allowed to decline to provide services if they do not wish to accept the compensation offered by the plan. Other commenters suggest that the paragraph provide for payment of non-preferred providers at the preferred provider level only if the provider agrees to accept the insurer payment as payment in full. A commenter suggests that the paragraph could encourage some providers to not participate in preferred provider plans and would require payment of the providers at the non-contracting provider's billed charges rather than the preferred provider rate and create a financial burden not only to the insurer but also to the

insured whose coinsurance amount would be based on billed charges. Another commenter objects to this provision as being so broad that it would require reimbursement at a preferred provider level for non-preferred providers seen by an insured who has moved out of the plan service area and suggests modifying the paragraph to limit the application of referrals by preferred providers for specialized health care services to the situations where the specialized services cannot be obtained from another preferred provider. A commenter believes that the freedom of choice language is confusing and difficult to understand and suggests clarification that freedom of choice is an option.

Agency Response: The essence of this provision, that all covered services must be reasonably available to the insured through the plan at the preferred provider level of benefits, is already in the rule. The amendment clarifies that if an insured must use a provider other than a preferred provider to receive medically necessary, covered services, the plan will pay for those services at the same level of benefits (that is, the same percentage of the bill) that it would have had the care been given by a preferred provider. This provision is not intended to specify the rate of reimbursement to the provider. The section is not intended to require reimbursement at the preferred provider level of benefits to an insured who resides out of the service area and chooses to see other than preferred providers solely for his or her own convenience. Language to that effect has been added to the paragraph for clarification. The agency does not believe that the language regarding freedom of choice is confusing and believes that the commenter is referencing language in the existing section and not the proposed amendment.

Section 3.3704(14).

Some commenters offer strong support for the ability of the contract holder to cancel due to a material change and believe it is an essential element to fair competition. Some commenters oppose the provision, believe the language is ambiguous and unnecessary and suggest that it be deleted, or if retained, it be clarified and made prospective only.

Agency Response: The agency notes that it is currently standard practice in policies containing a preferred provider plan, to provide that either party has a right to cancel the policy. Therefore, the provision specifying the contract holder's right to cancel a policy containing a preferred provider plan is not necessary as it is for HMOs and may unnecessarily restrict current practice. Because the agency does not believe that paragraph (14) is necessary to prevent consumer harm, the agency has deleted this paragraph. However, it will be monitored and evaluated for future rulemaking should the standard practice change.

Section 3.3705(9).

Some commenters strongly support this provision and believe it provides protection from additional charges to consumers who have paid premiums for a particular level of coverage. One commenter supports the provision but expresses concern that a provider other than a preferred provider be able to decline to treat an insured if the provider is unwilling to accept the discounted fee.

Agency Response: Paragraph (9) ensures that insureds pay the percentage of the bill which they agree to pay in their contract with the preferred provider plan. When a patient is billed based on the provider's full rate but the provider has agreed with the insurer to accept a discounted fee, the patient actually pays more than the agreed upon percentage. This paragraph is intended to apply whether the fee is discounted ahead of time or as the result of a retroactive "adjustment." In the case of an adjustment, the insured must be appropriately reimbursed. The section does not require a provider other than a preferred provider to accept a discounted rate. A provider may not, however, bill the patient to make up for any discount the provider agrees upon with the insurer.

NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTIONS.

For: Consumers Union, Office of Public Insurance Counsel, Texas Association for Home Care, Texas Dental Association, Texas Psychological Association, The Center for Public Policy Priorities, Texas Dermatological Society, University of Texas System, Health Affairs, Texas Academy of Family Physicians, Texas Society of Medical Oncology, Texas Society of Plastic Surgeons, Private Health Care Systems, The Disability Policy Consortium, Texas Medical Association, Harris County Medical Society, Texas Society of Pathologists, Texas Business Group on Health and individual commenters.

For with changes: Blue Cross and Blue Shield of Texas, Insurance Alliance of America, Texas Department on Aging, Texas Legal Reserve Officials Association, Texas Life Insurance Association, American National Insurance Company and Transport Life Insurance Company.

The amendments are adopted under the Insurance Code, Articles 3.42(i) and (p) (as amended by Senate Bill 1637 enacted by the 74th Legislature); 3.51-6, §3 and §5; 3.70-2(B); 3.70-3(A)(9); 21.21, §3, §4(1) and (2) and §13; 21.21-6, §1 and §3 (as added by House Bill 1367 enacted by the 74th Legislature); 21.21-8, §2 (as added by House Bill 668 enacted by the 74th Legislature); 21.52; §13; 26.08; 26.71 (as amended by House Bill 369 enacted by the 74th Legislature); 26.75 (as amended by House Bill 369 enacted by the 74th Legislature), 1.03A and the Government Code, §§2001.004 et seq (Administrative Procedure Act). Article 3.42(i) authorizes the Commissioner of Insurance to disapprove any policy form which is unjust or which does not comply with the Insurance Code. Article 3.42(p) authorizes the commissioner to adopt reasonable rules to implement and accomplish the purposes of Article 3.42, concerning review and approval of policy forms. Article 3.51-6, §3 provides that a group accident and health policy may not require that a service be rendered by a particular hospital or person and §5 authorizes the commissioner to issue rules to carry out the provisions of Article 3.51-6, concerning group accident and health insurance. Article 3.70-3(A)(9) provides that payment of claims other than indemnity for loss of life or accrued indemnities remaining unpaid at the death of the insured shall be payable to the insured. Article 21.21, §3 and §4(1) and (2) prohibit untrue, deceptive or misleading statements with respect to the business of insurance and §13 authorizes the commissioner to promulgate rules as necessary to accomplish the purposes of Article 21.21, concerning unfair practices. Article 21.21-6, §1 and §3 define and prohibit unfair discrimination in the business of insurance. Article 21.21-8, §2 prohibits the making or permitting of any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees or rates charged for any policy of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of the contract, or in any other manner whatever. Articles 3.70-2(B) and 21.52 require freedom of choice for the insured in selecting a practitioner under health and accident insurance policies. Article 26.08 provides that small employer health benefit plan carriers may use cost containment and managed care features in a small employer health benefit plan, including different benefits applicable to providers that participate or do not participate in restricted network arrangements, and provides that utilization review must comply with Article 21.58A. Article 26.71 requires the fair marketing of small employer health benefit plans and authorizes the department to require submission of data concerning those plans. Article 26.75 authorizes the commissioner to adopt rules providing for the fair marketing and broad availability of small employer health benefit plans. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance. The Government Code, §§2001.004 et seq, authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

§3.3704. *Freedom of Choice.* Pursuant to the Insurance Code, Article 3.51-6, §3, and Article 3.70-3(A)(9), no health insurance policy may require that a service be rendered by a particular hospital or practitioner. A health insurance policy that includes different benefits from the basic level of coverage for use of preferred providers shall not be considered to unlawfully restrict freedom of choice in the selection of physicians or health care providers by insureds provided:

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

(6) Physicians or health care providers may refer an insured to providers other than preferred providers, provided that the insured is advised that a different indemnity payment may apply. If covered services are not available through preferred providers, the insurer shall pay for medically necessary covered services by a non-preferred provider at the preferred provider level of benefits. Nothing in this section requires reimbursement at a preferred level of coverage solely because an insured resides out of the service area

and chooses to receive services from providers other than preferred providers for the insured's own convenience.

(7)-(13) (No change.)

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603735

Alicia M. Fechtel
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Texas Department of Insurance

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Proposal publication date: December 15, 1995

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

Chapter 11. Health Maintenance Organizations

The Commissioner of Insurance adopts amendments to Chapter 11, concerning health maintenance organizations, by amending §§11.506, 11.603, and 11.1600 and adding new §11.1502. Sections 11.506, 11.603, and 11.1600 are adopted with changes to the proposed text as published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10741). Section 11.1502 is adopted without changes and will not be republished.

These amendments are adopted to further address the Governor's directive that the Commissioner of Insurance enact rules to maintain quality of health care for all Texans at affordable prices and to establish procedures for fairness to health care providers. These amendments are based on a review of complaints and formal and informal public comment concerning managed care plans received by the department during the drafting and comment period for the amendments to this chapter adopted November 15, 1995. Protection of patients in the rapidly changing health care marketplace requires these updated regulations. These amendments are necessary to assist consumers in making informed choices among health care plans; to assure that consumers receive the type and extent of coverage they contracted for at the contracted for price; and to assist the department in evaluating quality and costs of health care. The agency's response to comments, including the specific changes to the sections and reasoned justification for the changes, are addressed in the paragraphs that follow.

Amended §11.506(4) requires that contracts between an HMO and a contract holder, group or individual, provide that the contract holder may cancel the contract based upon material changes to any provisions required by law or this chapter to be disclosed to contract holders or the enrollees after not less than 30 days written notice to the HMO. Section 11.506(17) assures that enrollees will receive all necessary covered services by requiring that HMOs allow referral to a non-network physician or provider if medically necessary covered services are not available through network physicians or providers. Section 11.603 requires HMOs which offer coverage to Medicare beneficiaries to file with the department all advertising for HMO plans related to such coverage marketed in Texas. Section 11.1502 provides that a contract between an HMO and a physician or provider may not contain a clause purporting to indemnify the HMO for any tort liability resulting from acts or omissions of the HMO. Amended §11.1600 requires disclosure of an agreement by providers not to bill patients for any amounts for covered services not set out in the evidence of coverage.

General.

Several commenters support the proposal with suggested changes and believe the sections will strengthen patient protection and oversight of managed care plans as well as ensure adequate access to health care services. One commenter disagrees with the fiscal note and believes that the potential cost implications of new tort liabilities to employers and all providers of health insurance could dramatically increase the cost of providing benefits. A few commenters suggest that Medicare HMOs should be required to inform prospective enrollees about issues (coverage and exclusions) before enrollees sign a Medicare HMO contract and recommend including more coverage for continuing care retirement community residents. One commenter expresses frustration in obtaining a needed referral from an HMO.

Agency Response: The agency appreciates the comments received and the information provided at the hearing. The agency believes that the fiscal note is adequate and does not believe the sections will increase any tort liabilities. Disclosure requirements applicable to all HMOs in §11.1600 should address the commenters' concerns about information to prospective enrollees of Medicare HMOs. Medicare HMOs are required in §11.1603 to file advertising relating to coverages offered to Medicare beneficiaries. The agency will monitor complaints and market conduct of Medicare HMOs to evaluate whether additional rules are necessary.

Section 11.506 Mandatory Provisions.

Several commenters suggest inclusion of the definition of "contract holder" as was proposed in the preferred provider plan rules. They believe that since the term is used throughout the sections that it should be defined. One commenter feels there should be a clear definition of "contract holder" and suggests language which includes both organizations and individuals. One commenter believes that the proposed definition of contract holder is appropriate.

Agency Response: The agency has not included the definition of "contract holder" in these sections because it has been included in §11.2(b)(8), adopted March 11, 1996, and it would be redundant to include the definition in this section. The commenter who believes the definition is appropriate is in all likelihood referring to those rules.

Section 11.506(4).

Some commenters strongly support the ability of the contract holder to cancel due to a material change as necessary protection for contract holders and enrollees. Others support the concept but suggest that "material change" be clarified or defined to avoid undue cancellations and administrative problems since in some cases material change could be beyond an HMO's control. Some commenters recommend that there be a specific notice period of 30 to 60 days before cancellation to provide a reasonable time period and suggest that the requirement be prospective only to prevent the administrative burden to HMOs to modify issued and outstanding contracts.

Agency Response: The agency included paragraph (4) to address complaints by employers that they may be unable to cancel a contract even when there were material changes during the contract period. The most common concern raised by employers was that after the contract is signed, large numbers of providers become unavailable or are terminated from the network. The rule is intended to provide fairness by correcting the uneven playing field created by current §11.506 which specifies notice periods for cancellation of a contract by an HMO but does not specify any notice period or grounds for cancellation by the contract holder. Existing §11.506 has been interpreted by some HMOs to mean that the contract holder has no way out of the contract even if the HMO materially changes the terms of the contract on which the employer based its decision to enter into the agreement. The common law of contracts already provides remedies when one party materially breaches a contract, but the contract holder may be dissuaded from asserting these rights or feel forced to assert its rights through a lawsuit. The language in paragraph (4) clarifies the contract holder's rights and avoids litigation. The agency believes that "material change" should not be more specifically defined because what is material may vary widely among contract holders. Because changing coverage in the middle of a contract term causes significant upheaval for the contract holder and enrollees, the agency believes it is unlikely that contract holders will cancel contracts for insignificant changes by the HMO which do not adversely affect services provided to enrollees. The agency agrees with commenters who suggested a specific notice period to give the HMO notice of the problem and to provide a transition period for the HMO and the enrollees and has changed subparagraph (C) to require not less than 30 days written notice.

Section 11.506(17).

Some commenters support the requirement for an out-of-network referral as necessary to ensure that enrollees receive appropriate care for covered services when services cannot be provided in network. Some suggest that the term "medically necessary" be deleted as it appears to modify and limit the rule, express concern that review would not be required if an HMO determined that services were not medically necessary and suggest a more precise description of when referrals could be denied and when review is required. Some commenters want the rule to include a detailed outline of how the process must be carried out, including the time frame and consideration of the specific patient's

condition. Some commenters support the requirement that an HMO must provide for review by a specialist of the same or similar specialty as the provider to whom the referral is being made before the HMO can deny the referral. Some commenters are concerned that the requirement for review by a specialist would drive up costs and encourage providers to make inappropriate requests for referrals, including requests for referrals for uncovered services. A commenter recommends adding the word "licensed" before each reference to the term provider. A commenter feels the use of the phrase "not available" is vague; and questions how availability is measured and how is it determined that medically necessary covered services are not available. A few commenters believe there should be an appeals process such as dispute resolution, possibly subject to a final appeal to the department. A commenter believes that the phrase "similar specialty" is too broad and ambiguous in its intent. A commenter believes that inclusion of the word "provider" is problematic and should be deleted. A commenter is concerned that "non-network physician" is not defined and suggests clarifying the phrase to "designated non-network physician." A commenter suggests criteria to establish referral availability standards of: (1) medical necessity and emergency nature; (2) HMO physician was not reasonably available; and (3) HMO physician refused or failed to provide such services. A commenter feels the decision to refer outside the network should be made by a committee with recognized competency of patient specialist, in that a general practitioner should not be able to make the decision, and a non-network referral should be limited to a number of days that enables the HMO to review the case but does not put the enrollee in danger. In addition, the total review time should be limited to a certain number of days. Some commenters believe the review process and specialist selection should also be regulated. A commenter supports the consumer's right to a second opinion if an out-of-network referral is denied; recommends "prompt" review and notification of the consumer of the results of the second opinion and name and specialty of the consulting provider if still denied. A commenter feels that the review by a specialist goes beyond the requirements of Insurance Code, Article 21.58A and recommends deletion of the last sentence of paragraph (17) since the requirements of Article 21.58A are sufficient. Another commenter believes that the comment made regarding deleting the last sentence in this section because it conflicts with the appeals provisions of the Utilization Review Act is irrelevant, since the proposed rule applies to HMOs, which are exempt from the Utilization Review Act's appeal procedures.

Some commenters want to be sure that an out-of-network provider would not bill the enrollee for amounts not paid by the HMO and recommend adding language that indicates the covered individual will not incur additional costs for covered services that are unavailable through existing preferred providers or networks and are eventually delivered by out-of-network providers. Some commenters support the proposed changes that ensure that the insurer will pay for medically necessary covered services from a non-preferred or out-of-network provider if a preferred or network provider is not available; however concern is expressed as to how out-of-network or non-preferred providers will be informed prior to service that they may only bill based on a discounted fee for a particular patient. A commenter believes these providers should have the discretion not to treat a patient if they are not willing to follow the provision that limits their ability to bill based on their full fee. Some commenters feel that amounts for out-of-network services should be reimbursed at the non-network physician's or provider's usual and customary rate, or agreed upon rate rather than the HMO's usual and customary rate, particularly since the HMO does not have these services available.

Some commenters feel the proposed language could be interpreted to allow different levels of payment for services rendered by providers who may not be on contract with the HMO. A commenter suggests changing the term "network physicians or providers" to "contracted physicians or providers" and "non-network physician or provider" to "non-contract physician or provider."

Agency Response: Paragraph (17) is intended to ensure that HMOs give appropriate consideration to network providers' requests that enrollees be referred to out-of-network providers. Obviously, referral is only required for medically necessary covered services that are not available through network providers, but a network provider who requests a referral must be presumed to have made the determination that the services are covered, necessary and unavailable in the network. Therefore, paragraph (17) requires review by a specialist before the HMO may deny it on any grounds. The rule has been modified to

require review by a specialist of the same or similar specialty as the provider to whom referral is requested. The agency agrees that permitting or denying a referral should take place within a time appropriate to the circumstances, but does not believe that it is necessary in these sections to detail how the process must be carried out or set out specific time frames for review and denial. HMOs are expected to adopt procedures for reasonable compliance with the requirement. Adding the word "licensed" before each reference to the term provider is not necessary because the provider by definition in Article 20A.02 requires licensure or other authorization to practice in this state. The agency agrees the requirements of Article 21.58A are irrelevant to a determination of whether the last sentence of paragraph (17) should be deleted because the appeal provisions of Article 21.58A are not applicable to HMOs. The agency disagrees the word "provider" is problematic. If securing appropriate, timely referrals for out-of-network services remains a problem after adoption of these sections, the agency may use enforcement action as appropriate or propose clarifications to the rule. The paragraph has been changed to clarify that the HMO will fully reimburse an out-of-network provider so that there will be no balance billed to the enrollee. The agency disagrees the term "network physicians or providers" should be changed to "contracted physicians or providers" or "non-network physician or provider" to "non-contract physician or provider." The term "health maintenance organization delivery network" is defined in the Insurance Code, Article 20A. 02(u), as a health care delivery system in which an HMO arranges for health care services directly or indirectly through contracts and subcontracts with providers and physicians. The term "network physician or provider" means a physician or provider who is a participant in an HMO delivery network.

Section 11.603.

Several commenters support the filing of advertising with the department as a necessary consumer protection and believe it will assist consumers in making informed choices. A few commenters suggest that advertising should be filed more than ten days before use to give TDI staff adequate time for review and ensure that no advertising materials are disseminated to the public that are not in compliance with Texas law or are inconsistent with other documents. Some commenters support this section as published and agree with the department that it has the statutory authority for promulgating the requirement. Many commenters strongly oppose this provision as an unnecessary burden on HMOs which would create additional costs for consumers, an unfair restriction that would limit HMOs' ability to compete and an immense burden on the agency staff. Some commenters suggest narrowing the definition of advertising and deleting the requirement that advertising be filed ten days before use. Concern is expressed that the timing of submission of advertising will be difficult to administer as well as coordination with existing advertising regulations. Several commenters feel this provision is very broad and could be burdensome since filing is for information purposes only and does not require prior approval; they recommend deleting this section. If the requirement is implemented, commenters suggest tightening and more clearly defining "advertising material" to include only true print and electronic advertising, or alternatively narrowing the definition of advertisements requiring filing to those which will be used in mass media or other mass marketing efforts. Several commenters recommend deletion of the requirement for submission ten days prior to use. A commenter proposes leaving this provision as it previously existed and making no changes to this subchapter. A commenter feels the situation could arise where an HMO believes advertisements should be disseminated in an urgent manner; but the proposed "file and use" time period requirement would inhibit an HMO from such timely notification, and suggests inserting appropriate language to allow for such a special circumstance. One commenter urges additional language to the section or another section to prohibit misleading or alarming statements about Medicare and suggests inclusion of certain information in the advertising for Medicare products.

Agency Response: The agency agrees that requiring filing of all advertising by all HMOs would be burdensome for HMOs and agency staff and may not be the best way to prevent misleading and deceptive advertising at this time. Based on comments received about this proposal and a review of experience with HMO advertising which indicates that most problems occur with advertising for HMOs which offer coverage to Medicare beneficiaries, the agency has changed the section to limit advertising filing requirements to invitations to inquire and invitations to contract published by HMOs that offer coverage to

Medicare beneficiaries through the permitted alternatives to Medicare. In the Medicare area the agency receives complaints from people who do not understand what sort of coverage they have purchased and sees advertising that the agency believes may be deceptive. The agency has increased the filing time to 45 days before use to be consistent with the federal Health Care Financing Administration (HCFA) requirement, so it should not be burdensome since it is a required HCFA filing. This will also allow sufficient time for review by the agency. A phrase has been added to clarify that advertising produced by HMO agents must also be filed by the HMO. The agency intends to carefully monitor the advertising filed as well as other HMO advertising it receives from HMOs. If, based on its own observations or complaints, other HMO advertising becomes of further concern to the agency it will evaluate further rulemaking in this area. The agency has deleted subsection (b) of §11.603 because specific filing instructions are in 28 TAC §21.120. This change significantly reduces the filings required under the section without reducing consumer protection because it continues to require filing in the area where the agency knows there is a serious problem, Medicare HMOs. Other problems will be handled by enforcement as they are now with an eye to future rulemaking if necessary. By referring to existing §21.120 instead of establishing separate filing requirements for HMOs, the rules are streamlined and filing of a third copy of advertising is eliminated.

Section 11.1502.

Several commenters strongly support prohibiting an HMO from using a contract provision that purports to indemnify it for liability resulting from its own acts or omissions and believe the section to be a necessary protection for consumers and providers that the HMOs not shift responsibility for their own actions onto providers. Other commenters support the section if the provision means that each party is responsible for its own actions. A commenter objects to this proposal stating that the department should not dictate contractual language, that indemnification clauses are standard in contracts and routinely signed by physicians, that such a mandate would increase tort liability, be in direct conflict with the goals of tort reform legislation, and increase costs. Another commenter states that the section is unnecessary because no HMO contracts contain such a provision. A commenter states that if in fact there are entities attempting to require contracted providers to indemnify the HMO for acts of the HMO then those types of contractual provisions should be disallowed, and that every party should be responsible for its own actions.

Agency Response: The section does prohibit only indemnification for liability resulting from the HMO's own acts or omissions. There is disagreement among the commenters who object to the section as to whether or not such provisions exist in contracts. The agency believes that there are provisions in existing contracts which an HMO might argue indemnify it for any harm resulting to the enrollees from services rendered or denied. The section prevents any such indemnification clauses in future contracts and forecloses the argument that existing clauses totally indemnify the HMO. The section does not prohibit reciprocal indemnification clauses by which each party indemnifies the other from liability resulting from its own negligence—that is, each party bears responsibility for its own acts or omissions. The agency believes that the provision is clear.

Section 11.1600.

Some commenters support disclosure of a hold harmless clause so that enrollees will know that providers should not be billing them for additional compensation for covered services. Some supporters urge that HMO contracts be required to contain hold harmless clauses and disclose the information because hold harmless provisions are already a standard industry practice since HMOs that do not use them must meet higher reserve requirements.

Agency Response: Enrollees should know if providers have agreed that they will accept payment from the HMO as payment in full for covered services. Virtually all HMO contracts include such a provision because it results in significantly lower reserve requirements for the HMOs. To make such a provision mandatory, as suggested by several commenters, would require major amendments to rules regarding the financial requirements of HMOs and would serve no purpose as the provision is already in virtually all HMO contracts. The agency has added the word "covered" to clarify that the "hold-harmless" clause applies only to covered services.

NAMES OF THOSE COMMENTING FOR AND AGAINST THE SECTIONS. For: Consumers Union, Harris Methodist Health System, M. D.

Anderson Cancer Center, Texas Heart Institute/St. Lukes Episcopal Hospital, Office of Public Insurance Counsel, PCA Health Plans, Texas Dental Association, Texas Medical Association, Texas Psychological Association, The Center for Public Policy Priorities, The Disability Policy Consortium, Texas Society of Pathologists, Harris County Medical Association, Texas Dermatological Society, University of Texas System Health Affairs, Texas Academy of Family Physicians, Texas Society of Medical Oncology, Texas Society of Plastic Surgeons, Private Health Care Systems and individual commenters. For with changes: Blue Cross and Blue Shield of Texas, Kaiser Permanente, Texas Association for Home Care, Texas Business Group on Health, Texas Department on Aging, Texas HMO Association and The Prudential Insurance Company.

Subchapter F. Evidence of Coverage

• 28 TAC §11.506

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.05(b) and (d); 20A.14(a), (b) and (c); 21.21, §§3, 4(1) and (2) and 13; 21.21-6, §§1 and 3 (as added by House Bill 1367 enacted by the 74th Legislature); 26.08; 26.71 (as amended by House Bill 369 enacted by the 74th Legislature); 26.75 (as amended by House Bill 369 enacted by the 74th Legislature); 1.03A and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the Commissioner of Insurance may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.14(a) provides that no HMO, or representatives thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. Article 20A.14(b) provides that Article 21.21 applies to HMOs. Article 21.21, §3 and §4(1) and (2) prohibit untrue, deceptive or misleading statements with respect to the business of insurance. Article 21.21, §13 authorizes the commissioner to promulgate rules as necessary to accomplish the purposes of Article 21.21, concerning unfair practices. Article 20A.14(c) provides that an enrollee may not be canceled or not renewed except for the failure to pay the charges for such coverage, or for such other reason as may be promulgated by rule of the commissioner. Article 21.21-6, §1 and §3 define and prohibit unfair discrimination in the business of insurance, including HMOs. Article 26.08 provides that small employer health benefit plan carriers may use cost containment and managed care features in a small employer health benefit plan. Article 26.71 requires the fair marketing of small employer health benefit plans and authorizes the department to require submission of data concerning those plans. Article 26.75 provides that the commissioner may adopt rules setting forth additional standards to provide for the fair marketing and broad availability of small employer health benefit plans to small employers in this state. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

§11.506. Mandatory Provisions: Group and Non-Group Contract and Group Certificate. Each group and non-group contract and group certificate must contain the following provisions. Use of the standard language for each provision as presented in Subchapter L of this chapter (relating to Standard Language for Mandatory and Other Provisions) shall exempt from review that portion of the evidence of coverage where standard language is contained. Such standard language shall not be the only language accepted by the Texas Department of Insurance for such provisions.

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

(4) Cancellation—A statement specifying the following grounds for cancellation of coverage and the minimum notice period

that will apply. The notice period will be as described in subparagraphs (A) through (C) of this paragraph.

(A) Cancellation by an HMO of an enrollee, or if a subscriber, the subscriber and subscriber's enrolled dependents, in the case of:

(i)-(vi) (No change.)

(B) Cancellation by an HMO of a group, in the case of:

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

(C) Cancellation by a group or individual contract holder in the case of a material change by the HMO to any provisions required to be disclosed to contract holders or enrollees pursuant to this chapter or other law, the contract may be canceled after not less than 30 days written notice to the HMO.

(5)-(16) (No change.)

(17) Out-of-network services—Each contract between an HMO and a contract holder must provide that, if medically necessary covered services are not available through network physicians or providers, the HMO must, upon the request of a network physician or provider, within a reasonable time period, allow referral to a non-network physician or provider and shall fully reimburse the non-network physician or provider at the usual and customary or an agreed upon rate. Each contract must further provide for a review by a specialist of the same or similar specialty as the type of physician or provider to whom a referral is requested before the HMO may deny a referral.

(18) Schedule of charges—A statement that discloses the HMO's right to change the rate charged with 30 days written notice pursuant to the Texas Insurance Code, Article 3.51-10.

(19) Service area—A map or clear description of the service area indicating major primary and emergency care delivery sites. A zip code map and a provider list may be used to meet this requirement.

(20) Termination due to attaining limiting age:

(A) Medicare—A provision describing the effect of becoming eligible for Medicare on the part of the subscriber or a dependent; and

(B) Handicapped child—A provision that a child's attainment of a limiting age does not operate to terminate the coverage of the child while that child is incapable of self-sustaining employment due to mental retardation or physical handicap, and chiefly dependent upon the subscriber for support and maintenance. The subscriber may be required to furnish proof of such incapacity and dependency within 31 days before the child's attainment of the limiting age and subsequently as required, but not more frequently than annually following the child's attainment of such limiting age.

(21) Conformity with state law—A provision that if the agreement or certificate contains any provision not in conformity with the Act or other applicable laws it shall not be rendered invalid but shall be construed and applied as if it were in full compliance with the Act and other applicable laws.

(22) Conformity with Medicare supplement minimum standards and long-term care minimum standards—Each group and non-group agreement and group certificate must comply with Chapter 3, Subchapter T of this title (relating to Medicare Supplement Minimum Standards), referred to in this paragraph as Medicare supplemental rules, and Chapter 3, Subchapter Y of this title (relat-

ing to Long-term Care Minimum Standards), referred to in this paragraph as long-term care rules, where applicable. If there is a conflict between the Medicare supplement rules and/or the long-term care rules and the HMO rules, the Medicare supplement rules or long-term care rules shall govern to the exclusion of the conflicting provisions of the HMO rules. Where there is no conflict, both the Medicare supplement rules and/or the long-term care rules and the HMO rules shall be followed where applicable.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603737

Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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

Subchapter G. Advertising and Sales Material

• 28 TAC §11.603

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.05(b) and (d); 20A.14(a), (b) and (c); 21.21, §§3, 4(1) and (2) and 13; 21.21-6, §§1 and 3 (as added by House Bill 1367 enacted by the 74th Legislature); 26.08; 26.71 (as amended by House Bill 369 enacted by the 74th Legislature); 26.75 (as amended by House Bill 369 enacted by the 74th Legislature); 1.03A and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the Commissioner of Insurance may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.14(a) provides that no HMO, or representatives thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. Article 20A.14(b) provides that Article 21.21 applies to HMOs. Article 21.21, §3 and §4(1) and (2) prohibit untrue, deceptive or misleading statements with respect to the business of insurance. Article 21.21, §13 authorizes the commissioner to promulgate rules as necessary to accomplish the purposes of Article 21.21, concerning unfair practices. Article 20A.14(c) provides that an enrollee may not be canceled or not renewed except for the failure to pay the charges for such coverage, or for such other reason as may be promulgated by rule of the commissioner. Article 21.21-6, §1 and §3 define and prohibit unfair discrimination in the business of insurance, including HMOs. Article 26.08 provides that small employer health benefit plan carriers may use cost containment and managed care features in a small employer health benefit plan. Article 26.71 requires the fair marketing of small employer health benefit plans and authorizes the department to require submission of data concerning those plans. Article 26.75 provides that the commissioner may adopt rules setting forth additional standards to provide for the fair marketing and broad availability of small employer health benefit plans to small employers in this state. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

§11.603. *Filings.* Any HMO licensed to do business in Texas which offers coverage to Medicare beneficiaries under the provisions of Subchapter XVIII of 42 United States Code, Health Insur-

ance for the Aged and Disabled, shall file with the department a copy of each advertisement related to such coverage which is produced by the HMO or its agents and which is an invitation to inquire or invitation to contract as defined in §21.113 of this title (relating to Rules Pertaining Specifically to Accident and Health Insurance Advertising and Health Maintenance Organization Advertising) no later than 45 days prior to its use. Material shall be filed in accordance with §21.120 of this title (relating to Filing for Review). Material filed under this paragraph is not to be considered approved but may be subject to review for compliance with Texas law and consistency with other documents.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603734 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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

Subchapter P. Prohibited Practices

• 28 TAC §11.1502

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.05(b) and (d); 20A.14(a), (b) and (c); 21.21, §§3, 4(1) and (2) and 13; 21.21-6, §§1 and 3 (as added by House Bill 1367 enacted by the 74th Legislature); 26.08; 26.71 (as amended by House Bill 369 enacted by the 74th Legislature); 26.75 (as amended by House Bill 369 enacted by the 74th Legislature); 1.03A and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the Commissioner of Insurance may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.14(a) provides that no HMO, or representatives thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. Article 20A.14(b) provides that Article 21.21 applies to HMOs. Article 21.21, §3 and §4(1) and (2) prohibit untrue, deceptive or misleading statements with respect to the business of insurance. Article 21.21, §13 authorizes the commissioner to promulgate rules as necessary to accomplish the purposes of Article 21.21, concerning unfair practices. Article 20A.14(c) provides that an enrollee may not be canceled or not renewed except for the failure to pay the charges for such coverage, or for such other reason as may be promulgated by rule of the commissioner. Article 21.21-6, §1 and §3 define and prohibit unfair discrimination in the business of insurance, including HMOs. Article 26.08 provides that small employer health benefit plan carriers may use cost containment and managed care features in a small employer health benefit plan. Article 26.71 requires the fair marketing of small employer health benefit plans and authorizes the department to require submission of data concerning those plans. Article 26.75 provides that the commissioner may adopt rules setting forth additional standards to provide for the fair marketing and broad availability of small employer health benefit plans to small employers in this state. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603742 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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

Subchapter Q. Other Requirements

• 28 TAC §11.1600

The amendments to the Administrative Code, Chapter 11, are adopted under the Insurance Code, Articles 20A.22; 20A.05(b) and (d); 20A.14(a), (b) and (c); 21.21, §§3, 4(1) and (2) and 13; 21.21-6, §§1 and 3 (as added by House Bill 1367 enacted by the 74th Legislature); 26.08; 26.71 (as amended by House Bill 369 enacted by the 74th Legislature); 26.75 (as amended by House Bill 369 enacted by the 74th Legislature); 1.03A and the Government Code §§2001.004 et seq (Administrative Procedure Act). The Insurance Code, Article 20A.22 provides that the Commissioner of Insurance may promulgate such reasonable rules and regulations as are necessary and proper to carry out the provisions of the Texas HMO Act. Article 20A.05(b) sets forth the determinations the commissioner and the Texas Board of Health must make prior to granting a certificate of authority to an HMO. Article 20A.05(d) provides a certificate of authority shall continue in force as long as the person to whom it is issued meets the requirements of the HMO Act or until suspended or revoked by the commissioner or terminated at the request of the certificate holder. Article 20A.14(a) provides that no HMO, or representatives thereof, may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. Article 20A.14(b) provides that Article 21.21 applies to HMOs. Article 21.21, §3 and §4(1) and (2) prohibit untrue, deceptive or misleading statements with respect to the business of insurance. Article 21.21, §13 authorizes the commissioner to promulgate rules as necessary to accomplish the purposes of Article 21.21, concerning unfair practices. Article 20A.14(c) provides that an enrollee may not be canceled or not renewed except for the failure to pay the charges for such coverage, or for such other reason as may be promulgated by rule of the commissioner. Article 21.21-6, §1 and §3 define and prohibit unfair discrimination in the business of insurance, including HMOs. Article 26.08 provides that small employer health benefit plan carriers may use cost containment and managed care features in a small employer health benefit plan. Article 26.71 requires the fair marketing of small employer health benefit plans and authorizes the department to require submission of data concerning those plans. Article 26.75 provides that the commissioner may adopt rules setting forth additional standards to provide for the fair marketing and broad availability of small employer health benefit plans to small employers in this state. Article 1.03A provides that the Commissioner of Insurance may adopt rules and regulations to execute the duties and functions of the Texas Department of Insurance only as authorized by statute. The Government Code, §§2001.004 et seq authorizes and requires each state agency to adopt rules of practice setting forth the nature and requirement of available procedures and prescribes the procedures for adoption of rules by a state administrative agency.

§11.1600. Information to Prospective Group Contract Holders and Enrollees.

(a) (No change.)

(b) The written plan description must be in a readable and understandable format, by category, and must include a clear, complete and accurate description of these items in the following order:

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

(6) an explanation of enrollee financial responsibility for payment of premiums, copayments, deductibles, and any other out of pocket expenses for noncovered or out-of-plan services, and, if applicable, an explanation that network physicians and providers have agreed to look only to the HMO and not to its enrollees for

payment of covered services except as set forth in this description of the plan.

(7)-(12) (No change.)

(c) (No change.)

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603733 Alicia M. Fechtel
General Counsel and Chief Clerk
Texas Department of Insurance

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Proposal publication date: December 15, 1995

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

TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part XVI. Coastal Coordination Council

Chapter 506. Council Procedures for Federal Consistency with Coastal Management Program Goals and Policies

• 31 TAC §506.28

The Coastal Coordination Council (council) adopts an amendment to §506.28 of this title (relating to General Consistency Agreements for Federal Activities; Interagency Coordination Groups for Federal Development Projects), with changes to the proposed text as published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10745).

The amendment corrects a cross-referencing error and adds more precise language to the text. The phrase "in lieu of council review under §506.26 of this title" is added to clarify that §506.28(b) applies to certain projects rather than §506.26. This section shall be implemented and become enforceable at a date to be established by the council in the future. The council shall publish notice of the implementation date in the *Texas Register* at least 30 days prior to such implementation date.

One comment was received regarding adoption of the amendment. The Port of Houston Authority pointed out that the parenthetical reference to the subject heading of the section referred to in §506.28 was incorrect. Based on this comment, the amendment is adopted with the parenthetical heading corrected.

A takings impact assessment of this rule adoption shows that the purpose of the rule is to clarify the applicability of §506.28 and to more clearly distinguish it from §506.26. This section deals exclusively with procedures for the council's review of federal agency actions. The section has no applicability to nor impact on private real property. Therefore, it has been determined that the adoption of this rule will not constitute a taking, as that term is defined in Texas Government Code, Chapter 2007.

The amendment is adopted pursuant to the Coastal Coordination Act, Texas Natural Resources Code, Chapter 33, Subchapter C and F, and is adopted under the council's authority to promulgate rules pursuant to those subchapters.

§506.28. General Consistency Agreements for Federal Activities; Interagency Coordination Groups for Federal Development Projects.

(a) The council may issue a general consistency agreement with respect to a federal activity other than a development project. Prior to issuance of a general consistency agreement, the council shall request and consider public comments on the matter. If the conditions of a general consistency agreement are satisfied, the federal activity is deemed consistent, to the maximum extant practi-

cable, with the CMP goals and policies and will not be subject to council review under §506.26 of this title (relating to Referral of Federal Agency Activities).

(b) The council shall, in lieu of council review under §506.26 of this title (relating to Referral of Federal Agency Activities), issue a consistency agreement for a federal development project for which:

(1) the federal agency has elected to establish an interagency coordination group whose duties include advising the federal agency on the consistency of the project;

(2) the interagency coordination group includes among its voting members a minimum of three council members from natural resource agencies or their representatives;

(3) the interagency coordination group, including a majority of the council members or their representatives on the interagency coordination group, finds that the federal development project is consistent, to the maximum extent practicable, with the CMP goals and policies; and

(4) the federal agency adopts the finding of the interagency coordination group and submits it to the council as its consistency determination for the project.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603725 Garry Mauro
Chairman
Coastal Coordination Council

Effective date: April 8, 1996

Proposal publication date: December 15, 1995

For further information, please call: (512) 305-9129

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.293

The Comptroller of Public Accounts adopts an amendment to §3.293, concerning food; food products; meals; food service, without changes to the proposed text as published in the December 15, 1995, issue of the *Texas Register* (20 TexReg 10748).

The amendment reflects the repeal made by House Bill 462, 74th Legislature, 1995, of the exemption for food products, meals, soft drinks, and candy sold to prison inmates and a change brought about by Senate Bill 640, 74th Legislature, 1995, which raised the maximum age of eligible members of certain nonprofit groups who can make exempt food sales from 17 to 18.

The comptroller received several comments from an Austin attorney regarding the proposed rule. The majority of the comments concerned minor grammatical changes in subsections not being amended at this time. The comptroller declined to make any of the changes at this time, but will consider these comments with the next revision of the rule.

The term "correctional facility" was not defined in House Bill 462, 74th Legislature, 1995. The attorney suggested providing a definition in subsection (a) of the rule. The comptroller declined to make this change recognizing the definition of correctional facilities in the Penal Code, §1.07.

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, §151.313.

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

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

TRD-9603560 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: April 3, 1996

Proposal publication date: December 15, 1995

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

◆ ◆ ◆
• 34 TAC §3.300

The Comptroller of Public Accounts adopts an amendment to §3.300, concerning manufacturing; custom manufacturing; fabricating; processing, without changes to the proposed text as published in the December 1, 1995, issue of the *Texas Register* (20 TexReg 10182).

The reason for amending the rule is to incorporate changes enacted by Senate Bill 640, 74th Legislature, 1995, that provide an exemption for items leased for longer than one year, clarify the exemptions available for semiconductor cleanrooms, and expand the exemption for items used in moving the product and other materials necessary to the process.

No comments relating to the proposed text published for amendment were received. One Austin attorney wrote in with comments regarding style and grammar and other changes or amendments to other parts of the rule that were not being amended at this time. The comptroller declined to make any of the changes at this time, but will consider these comments with the next revision of the rule.

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, §151.318.

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

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

TRD-9603562 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: April 3, 1996

Proposal publication date: December 1, 1995

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

◆ ◆ ◆
• 34 TAC §3.362

The Comptroller of Public Accounts adopts new §3.362, concerning labor relating to increasing capacity in a production unit in a petrochemical refinery or chemical plant, with changes to the proposed text as published in the October 20, 1995, issue of the *Texas Register* (20 TexReg 8598).

The new section implements legislation included in Senate Bill 640, 74th Legislature, 1995. Services that provide increased capacity in the production unit are excluded from the definition of "real property repair and remodeling services" under the Tax Code, §151.0047.

The changes consist of expanding the definition under subsection (a)(3) of "chemical plant" to include those that do batch processing; amending subsection (a)(6) to distinguish between quality control equipment that is included in the definition of "manufacturing or processing production unit" and research and development equipment that is not included; and amending the definition of "petrochemical refinery" in subsection (a)(8) to include more examples of the refining processes.

Comments were received from the law firm of Scott, Douglass, Luton and McConico on behalf of the Texas Chemical Council (TCC); and from The Dow Chemical Company (Dow), The Coastal Corporation (Coastal), and the Associated General Contractors (AGC). TCC and Coastal commented on the need for clarification of the phrase "single continuous operation" in the term "chemical plant." The batch processing language was added to include that type of operation.

TCC, Coastal and AGC also commented that the definition of "new product" was too restrictive and should include products with either different physical or different chemical characteristics instead of both different properties and a different application. Coastal commented that the examples contradicted the definition because anhydrous sulfuric acid has both different product properties and commercial applications from technical sulfuric acid and also that the refining industry considers different grades of gasoline as different products. However, the comptroller will continue to view a new product as one that is intended for a different purpose from the previous product rather than one with refinements or enhanced qualities that is simply an improved product.

TCC also recommended eliminating from the rule the provisions requiring the service provider to separately state the charges for taxable services from nontaxable increased capacity work whenever the two are performed under a single contract and the charge attributable to taxable services exceeds 5.0% of the total charge. Dow commented that the 5.0% provision should be included in subsection (b)(5) in addition to subsection (b)(4).

TCC, Dow and AGC commented that the comptroller should not require the service provider to document that the work increased the production capability. They stated that the contractor may not have sufficient information to determine the nature of the work and that in most cases the work is done under an existing long-term contract covering work in general and there will be no separation of taxable and nontaxable services in the contract. The comptroller believes that the law requires sellers to be able to show that receipts are not taxable. Furthermore, the rule allows the service provider to accept an exemption certificate from the customer who has documentation that the work will result in increased capacity.

Dow also commented that after-the-fact documentation should be allowed. The rule provides that evidence can be presented to the comptroller by either party at a later time that establishes the portion of the work that was taxable and the portion that increased the production capacity.

TCC commented that quality control laboratories should be included as part of the processing unit. The processing unit definition has been amended to include quality control equipment used during the manufacturing process, but to exclude research and development laboratory equipment or other quality control equipment used after the processing operation.

Coastal suggested that the terms "waste product" and "by-product" be defined, but the terms are given their ordinary meaning and do not require additional definition. Coastal also commented that the provision concerning increasing a unit's ability to produce needed additional clarification because it appears that work done to restore or repair a unit that has failed qualifies because its ability to produce is increased and because the definition does not address work performed on idle units. Idle units are not specifically addressed because they receive no special treatment. Simply repairing a unit to former production capacity does not qualify as increased capacity.

The new section 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 new section implements the Tax Code, §151.0047.

§3.362. Labor Relating to Increasing Capacity in a Production Unit in a Petrochemical Refinery or Chemical Plant.

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

(1) Allied chemical product—A consumer or end-user product manufactured from basic or intermediate chemicals. Exam-

ples include drugs, soaps, detergents, paints and agricultural chemical formulations.

(2) Basic or intermediate chemical—Basic chemicals are the initial building blocks or raw materials that are processed and combined to manufacture intermediate chemicals. Intermediate chemicals are products that are manufactured from basic chemicals and other intermediate chemicals and are manufactured into finished chemical products. Examples of basic chemicals include alkalis, chlorine, nitrogen, sulfur, benzene, ethylene, propylene methane, and sodium carbonate. Examples of intermediate chemicals include synthetic fibers, polymers, resins, elastomers, dyes, and pigments.

(3) Chemical plant—

(A) A facility that in a single continuous operation or using a batch processing method manufactures a basic or an intermediate chemical.

(B) A chemical plant may be either a single facility existing by itself or a facility within a chemical plant complex consisting of a number of separate chemical plants each of which produces a single basic or intermediate chemical product. A chemical plant complex may include any combination of distinct facilities that manufacture basic chemicals, intermediate chemicals, or allied chemical products. In a chemical plant complex, each facility is considered individually to determine whether it qualifies as a chemical plant.

(C) The term does not include:

(i) a facility that manufactures "allied chemical products"; or

(ii) a facility, other than one that produces a basic or an intermediate chemical, that generates any chemical as a waste product or a by-product.

(4) Crude oil—A mixture of hydrocarbons that exists in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface-separating facilities. The term includes liquid condensate and liquid hydrocarbons produced from tar sands, gilsonite, and oil shale. Drip gases are also included, but topped crude oil (residual oil) and other unfinished oils are excluded. Liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded where identifiable.

(5) Increased capacity—

(A) Increasing the capability of the manufacturing or processing production unit to produce:

(i) more of the same product measured by units per hour or units per year; or

(ii) a new product.

(B) Increasing a unit's capability to produce more of an existing product and less of another existing product is not increasing the unit's capacity unless the overall production unit capability is increased. For example, if a production unit that produces 50 units of product X and 50 units of product Y is modified so that it produces 60 units of product X and 40 units of product Y, the production unit's capacity has not been increased.

(6) Manufacturing or processing production unit—A group of manufacturing and processing machines and ancillary equipment that together are necessary to create or produce a physical or chemical change beginning with the first processing of the raw material and ending with a finished product. Examples of such equipment include reactors, distillation columns, catalytic crackers,

fractionators, or other primary process equipment, and ancillary equipment such as heat exchangers, cooling towers, computer control units, piping, valves, and actuators. Another example of ancillary equipment is quality control equipment that is used during the manufacturing process, but not equipment used to test products before the process begins or after it is completed. The production unit does not include maintenance equipment; research and development laboratory equipment; waste handling or treatment equipment; equipment for the storage of feedstock, catalysts, or finished products; loading and unloading equipment; or any other equipment that is not used in the actual processing or manufacturing operation.

(7) New product—A product that has different product properties and a different commercial application than the product previously manufactured or processed by that production unit. Examples of new products include chlorine produced from sodium chloride; styrene from benzene; aqueous hydrogen chloride (HCl) from anhydrous HCl; and soft polyethylene from hard polyethylene if the soft polyethylene is used to manufacture different end products than the hard polyethylene. Producing gasoline with a 91-octane rating instead of an 89-octane rating for use in motor vehicle engines is not producing a new product. Changes caused by straining or purifying an existing product or cosmetic changes such as adding or removing color or odor to or from an existing product will not create a new product. For example, the manufacture of a different grade of the same product, such as technical sulfuric acid which is colored and contains impurities and anhydrous 100% sulfuric acid which is colorless and odorless, does not qualify one as a new or different product from the other.

(8) Petrochemical refinery—A facility that manufactures finished petroleum products from crude oil, unfinished oils, natural gas liquids, other hydrocarbons, and oxygenates. Products of these refineries include gasoline, diesel, kerosene, distillate fuel oils, liquefied petroleum gas (LPG), residual fuel oils, lubricants, and other products refined through alkylation, coking, cracking, dewaxing, desulphurization, distillation, hydrotreating, isomerization, polymerization, or other chemical processes. These facilities also produce petrochemical feedstock for use by chemical plants. The term does not include facilities at an oil or gas lease site that remove water or other impurities and merely make the product more marketable.

(b) Tax responsibilities of persons who make improvements to a manufacturing or processing production unit of a petrochemical refinery or chemical plant.

(1) Persons who repair, remodel, restore, or modify a manufacturing or processing production unit of a petrochemical refinery or chemical plant to increase the capacity in the production unit are not performing a taxable real property repair and remodeling service. Such persons are governed by the provisions of §3.291 of this title (relating to Contractors).

(A) Contractors performing lump-sum contracts as defined in §3.291 of this title (relating to Contractors) are consumers of all materials, consumable items, and equipment used or incorporated into a customer's property. As a consumer, a contractor must pay tax to on all such all materials, consumable items, and equipment. See §3.291 of this title (relating to Contractors) for more information on lump-sum contracts. Contractors performing lump-sum contracts for persons having direct payment permits may not accept a direct payment exemption certificate from those persons. When performing lump-sum contracts for a direct payment permit holder, the contractor must pay sales tax to the supplier or accrue and remit sales tax on incorporated materials removed from a tax-free inventory for incorporation into the direct payment permit holder's realty. Direct payment permit holders cannot authorize the contractor or any other person to purchase any taxable item using their permit. See §3.288 of this title (relating to Direct Payment Procedures and Qualifications).

(B) Contractors performing separated contracts as defined in §3.291 of this title (relating to Contractors) are considered retailers of all materials physically incorporated into the realty being improved. As a retailer, a contractor must collect tax from the customer based upon the agreed contract price of the incorporated materials. See §3.291 of this title (relating to Contractors) for more information on separated contracts. Contractors performing separated contracts for persons having direct payment permits may accept a direct payment exemption certificate from those persons in lieu of tax for all tangible personal property incorporated into customer's realty. A direct payment exemption certificate may not be accepted for tax liability incurred by the contractor on machinery or equipment rented or leased by the contractor and used in the performance of the contract. See §3.288 of this title (relating to Direct Payment Procedures and Qualifications).

(2) Repairs, remodeling, restorations, or modifications other than to the processing production unit or that do not increase the capacity of the processing production unit are governed by the provisions of §3.357 of this title (relating to Labor Relating to Nonresidential Real Property Repair, Remodeling Restoration, Maintenance, New Construction, and Residential Property).

(3) Persons who perform repair, remodeling, maintenance, or restoration services on tangible personal property are governed by the provisions of §3.292 of this title (relating to Repair, Remodeling, Maintenance, and Restoration of Tangible Personal Property). These services may be exempt under the Tax Code, §151.3111, that exempts services performed on tangible personal property if the property is exempt because of the nature of the property, its use, or a combination of its nature and its use.

(4) Where increased capacity improvements and taxable services are sold or purchased for a single charge and the portion relating to taxable services represents more than 5.0% of the total charge, the total charge is presumed to be taxable. The presumption may be overcome by the service provider at the time the transaction occurs by separately stating to the customer a reasonable charge for the taxable services. However, if the charge for the taxable portion of the services is not separately stated at the time of the transaction, the service provider or the purchaser may later establish for the comptroller, through documentary evidence, the percentage of the total charge that relates to nontaxable unrelated services. Examples of acceptable documentation include written contracts detailing the scope of work, bid sheets, tally sheets, schedules of values, and blueprints.

(5) When both increased capacity improvements and taxable services are being performed under the same contract, the parties to the contract should separately identify taxable from nontaxable labor in a contract and the charges applicable to each or the entire contract will be presumed to be for taxable services. Documentation which clearly defines the work being performed should be retained by both parties to show that had the increased capacity improvements and taxable services been done independently of each other, the cost of each would be reasonably near the allocation of charges. Examples of acceptable documentation include written contracts which detail the scope of work, bid sheets, tally sheets, schedules of values, and blueprints. If there is not a written contract signed by both parties clearly showing agreement as to the taxable and nontaxable work being performed, the customer and the service provider must prepare, at the time of the transaction, a written certification verifying the allocation of charges for increased capacity improvements and taxable services. The comptroller may recalculate the charges if the allocation appears unreasonable and either party may be held responsible for the additional tax due.

(6) A service provider's customer must be able to substantiate by way of documentary evidence that repair, remodeling, restoration, or modification services performed on a production unit increase the unit's capacity as defined in subsection (a)(5) of this

section. If the person performing the service does not have the certification set out in paragraph (5) of this subsection, the service provider must presume that the service is taxable and collect tax. If the service provider's customer has documentation to prove that the labor increases the capacity of a production unit, the customer may issue an exemption certificate in lieu of paying tax to the service provider. The certificate must state that the labor increases the production unit's capacity as defined in subsection (a)(5) of this section, and that the customer will be liable for any additional tax due in the event that it is determined that taxable services were performed. A service provider who accepts such a certificate should follow the guidelines set out in paragraph (1) of this subsection and §3.291 of this title (relating to Contractors).

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

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

TRD-9603561 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: April 3, 1996

Proposal publication date: October 20, 1995

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

Subchapter HH. Mixed Beverage Tax

• 34 TAC §3.1001

The Comptroller of Public Accounts adopts new §3.1001, concerning the mixed beverage gross receipts tax, without changes to the proposed text as published in the January 12, 1996, issue of the *Texas Register* (21 TexReg 303).

Administration of this tax, including the tax reports, audits, and responsibility for obtaining security instruments for the tax transferred from the Texas Alcoholic Beverage Commission to the Comptroller's Office January 1, 1994. This transfer resulted from the enactment of House Bill 1445, 73rd Legislature, 1993, which repealed the Alcoholic Beverage Code, Chapter 202, and created new Tax Chapter 183, Mixed Beverage Tax under Tax Code, Title 2. This new section includes mixed beverage permit definitions and an allowance for bad debts as enacted in House Bill 1419 and Senate Bill 643, 74th Legislature, 1995.

The new section is intended to define the tax, provide definitions for terms in both the Alcoholic Beverage Code and Chapter 183, define what is included in and what is excluded from the tax base, and to reference sales and use tax taxability issues for some of the receipts common to holders of mixed beverage tax permit holders.

No comments were received regarding adoption of the new section.

The new section 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 new section implements the Tax Code, §183.001 and §183.021.

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

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

TRD-9603563 Martin Cherry
Chief, General Law
Comptroller of Public Accounts

Effective date: April 3, 1996

Proposal publication date: January 12, 1996

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part VI. Texas Department of Criminal Justice

Chapter 151. General Provisions

• 37 TAC §§151.4, 151.6, 151.51, 151.53, 151.71

The Texas Department of Criminal Justice (TDCJ) adopts an amendment to §151.4 and new §§151.6, 151.51, 151.53, and 151.71, concerning general provisions, without changes to the proposed text as published in the January 23, 1996, issue of the *Texas Register* (21 TexReg 575).

The amendment to §151.4 incorporates a new subsection (a), adds changes to former subsection (c), and adds new subsections (e)-(g) to the original rule which was effective February 15, 1993, (18 TexReg 590). The amendment was proposed in order to comply with Government Code, §492.007, which requires opportunity for public appearance before the Board of Criminal Justice, balanced against the constraint of the Open Meetings Act, specifically Government Code, §551.042, which prohibits deliberation on issues raised before the Board but not posted for deliberation. New §151.6 covers the steps required to petition the agency for adoption of a rule, as required by Texas Government Code, §2001.021. New §151.51 establishes guidelines and eligibility criteria for authorizing custodial officer certification and hazardous duty pay to employees of the Texas Department of Criminal Justice under the authority of Texas Government Code, §§659.062, 813.506, and 815.505; and House Bill 1, General Appropriations Act, 74th Legislature, 1995. New §151.53 provides procedures regarding applications for and administration of multiple employments with the State of Texas by employees of the Texas Department of Criminal Justice, as required by Texas Government Code, Chapter 574, to comply with Texas Constitution, Article XVI, §40. Finally, new §151.71 concerns the marking of state vehicles of the Department of Criminal Justice in accordance with Article 6701m-1, Texas Civil Statutes.

Adoption of these rules will increase accountability of the Department of Criminal Justice and clarify procedures for meetings of the Board.

No comments were received regarding adoption of the amendment and new sections.

The amendment and new sections are adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board; Texas Government Code, Chapter 574, and §§492.007, 551.042, 659.062, 813.506, 815.505, and 2001.021; House Bill 1, General Appropriations Act, 74th Legislature, 1995; and Texas Civil Statutes, Article 6701m-1.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9603708

Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Effective date: April 8, 1996

Proposal publication date: January 23, 1996

For further information, please call: (512) 463-9693

• 37 TAC §151.21

The Texas Department of Criminal Justice adopts new §151.21, concerning prohibition on carrying weapons, with changes to the proposed text as published in the January 23, 1996, issue of the *Texas Register* (21 TexReg 578).

The new section was proposed in response to the passage of Article 4413(29ee), Revised Statutes, and authorized by Penal Code, §30.05, Attorney General Opinion Number DM-363 (August 30, 1995), and Attorney General Letter Opinion Number 95-058 (September 15, 1995).

The adoption will enhance safety on property owned by TDCJ and clarity of notice to handgun license holders of the rights of the property owner.

A comment was received from a State Representative, a sponsor of Senate Bill 60 in the 74th Legislature, creating Article 4413(29ee), Revised Statutes. The comment stated that the proposal violates the legislative intent of the enactment, in two ways: it ignores the removal by the legislature of language in Senate Bill 60 that would have prohibited carrying licensed handguns in any government buildings; and it ignores the specific definition of the "premises" of a correctional facility as not including driveways, parking lots, etc.

The Board made an adjustment to the proposal in response to this comment, the addition of subsection (c)(5), which provides an exception for a handgun licenseholder who secures his weapon in the trunk of his vehicle prior to entering "TDCJ property" as defined in the rule. This balances TDCJ's safety concerns against the practical concern reflected in the comment that a licenseholder traveling across the state to visit a prison has no legal recourse upon arrival. The Board's public safety concerns over agency property force it to rely on the legal authority of Attorney General Opinion Number DM-363 and Letter Opinion Number 95-058, interpreting the law that did ultimately pass, to the extent that this authority differs from individual legislator's expressions of intent.

The specific wording of the proposed signs in subsection (d)(2) was also taken out of the rule in order to allow for flexibility in implementation, in response to an internal TDCJ comment.

The new section is adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board. The proposal was in response to Article 4413(29ee), Revised Statutes, and authorized by Penal Code, §30.05, Attorney General Opinion Number DM-363, and Attorney General Letter Opinion Number 95-058.

§151.21. Prohibition on Carrying Weapons.

(a) Policy.

(1) It is criminal trespass for a person to enter or remain on property of the Texas Department of Criminal Justice (TDCJ) with a deadly weapon on his person or in his vehicle.

(2) It is a felony under Penal Code, §46.035, for a person licensed to carry a handgun under Article 4413(29ee), Revised Statutes, to carry a handgun on the premises of a correctional facility, regardless of whether the handgun is concealed.

(3) In addition to the prohibitions in paragraphs (1) and (2) of this subsection, an employee of TDCJ is prohibited from carrying a firearm in a state-owned vehicle, except as provided in the Use of Force Plan or other applicable agency policies, no employee may use or carry a firearm on his person or in his vehicle while on duty.

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

(1) Deadly weapon—A firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury, or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(2) Exempt employee—An employee in the position of warden, assistant warden, or an administrative position eligible for custodial officer certification and hazardous duty pay under §151.51(d)(1)(D) of this title (relating to Custodial Officer Certification and Hazardous Duty Pay Guidelines).

(3) Firearm—Any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

(4) Handgun—Any firearm that is designed, made, or adapted to be fired with one hand.

(5) Property of TDCJ-

(A) land owned or leased by TDCJ;

(B) a building owned, leased, contracted for, or operated by TDCJ, including a correctional facility, parole office, and office space; and

(C) an area controlled or owned by TDCJ that is appurtenant to a building owned, leased, contracted for, or operated by TDCJ, such as a driveway, parking lot, walkway, or sidewalk.

(c) Exceptions.

(1) An exempt employee may carry a firearm in his vehicle for purposes of responding to emergency situations involving inmates or confinees, or on his person in the event of an actual emergency situation.

(2) State-owned housing, other than Bachelor Officers' Quarters, is excepted from this rule, only to the extent that weapons are secured under lock and key within the house.

(3) A person who is authorized by law, other than Article 4413(29ee), Revised Statutes, to carry a firearm, is excepted from this rule, including a security officer who has a defense to prosecution for Unlawful Carrying Weapons, §46.02, Penal Code.

(4) The written consent of the executive director or his designee to an individual is effective to create an exception from this rule.

(5) A person who is licensed under Article 4413(29ee), Revised Statutes, to carry a handgun, does not trespass on TDCJ property with the handgun if the gun is secured in the locked trunk of a vehicle, or a locked compartment of a vehicle if the vehicle does not have a trunk, before the vehicle enters TDCJ property.

(d) Duties of the Executive Director.

(1) The executive director shall ensure that agency policies are consistent with this rule. Policies adopted to ensure the safety and security of correctional facilities may be more restrictive than this rule and may encompass weapons not covered by this rule.

(2) The executive director shall ensure that signs are posted in English and Spanish to provide adequate notice of the substance of this section.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's authority. Issued in Austin, Texas, on March 18, 1996.

TRD-9803708 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

Effective date: April 8, 1996

Proposal publication date: January 23, 1996

For further information, please call: (512) 463-9693



Chapter 155. Reports and Information Gathering

Subchapter B. Site Selection and Facility Names

• 37 TAC §155.21

The Texas Department of Criminal Justice (TDCJ) adopts new §155.21, concerning naming of TDCJ units and facilities, without changes to the proposed text as published in the January 23, 1996, issue of the *Texas Register* (21 TexReg 578).

Adoption of the new rule will enable clear guidance for a community interested in influencing the name of a facility in the community.

No comments were received regarding adoption of the new section.

The new section is adopted under the Government Code, §492.013, which grants general rulemaking authority to the Board.

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

Issued in Austin, Texas, on March 18, 1996.

TRD-9803707 Carl Reynolds
General Counsel
Texas Department of Criminal Justice

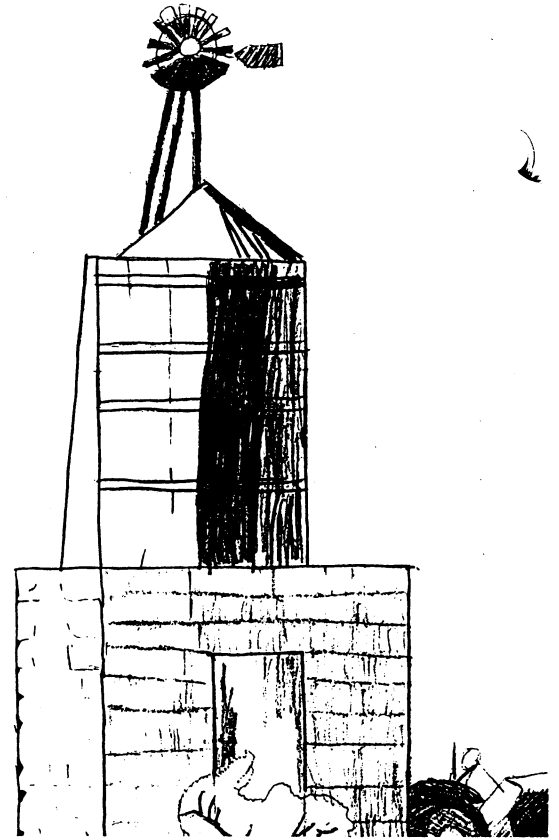
Effective date: April 8, 1996

Proposal publication date: January 23, 1996

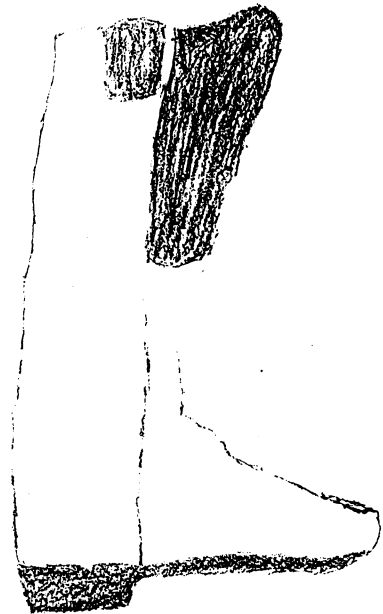
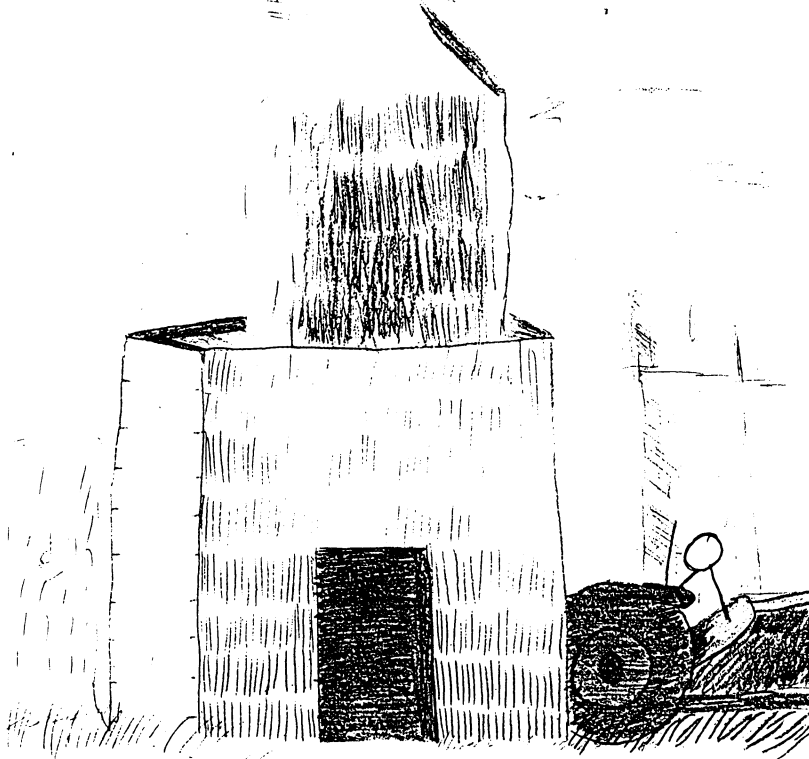
For further information, please call: (512) 463-9693



Name: Amanda McCallum
Grade: 9
School: Brady High School, Brady ISD



THE COFFEYVILLE Boot



Name: Doug Lyon
Grade: 11
School: Brady High School, Brady ISD

Name: Shawn Razani
Grade: 10
School: Brady High School, Brady ISD

Shawn

TABLES AND GRAPHICS

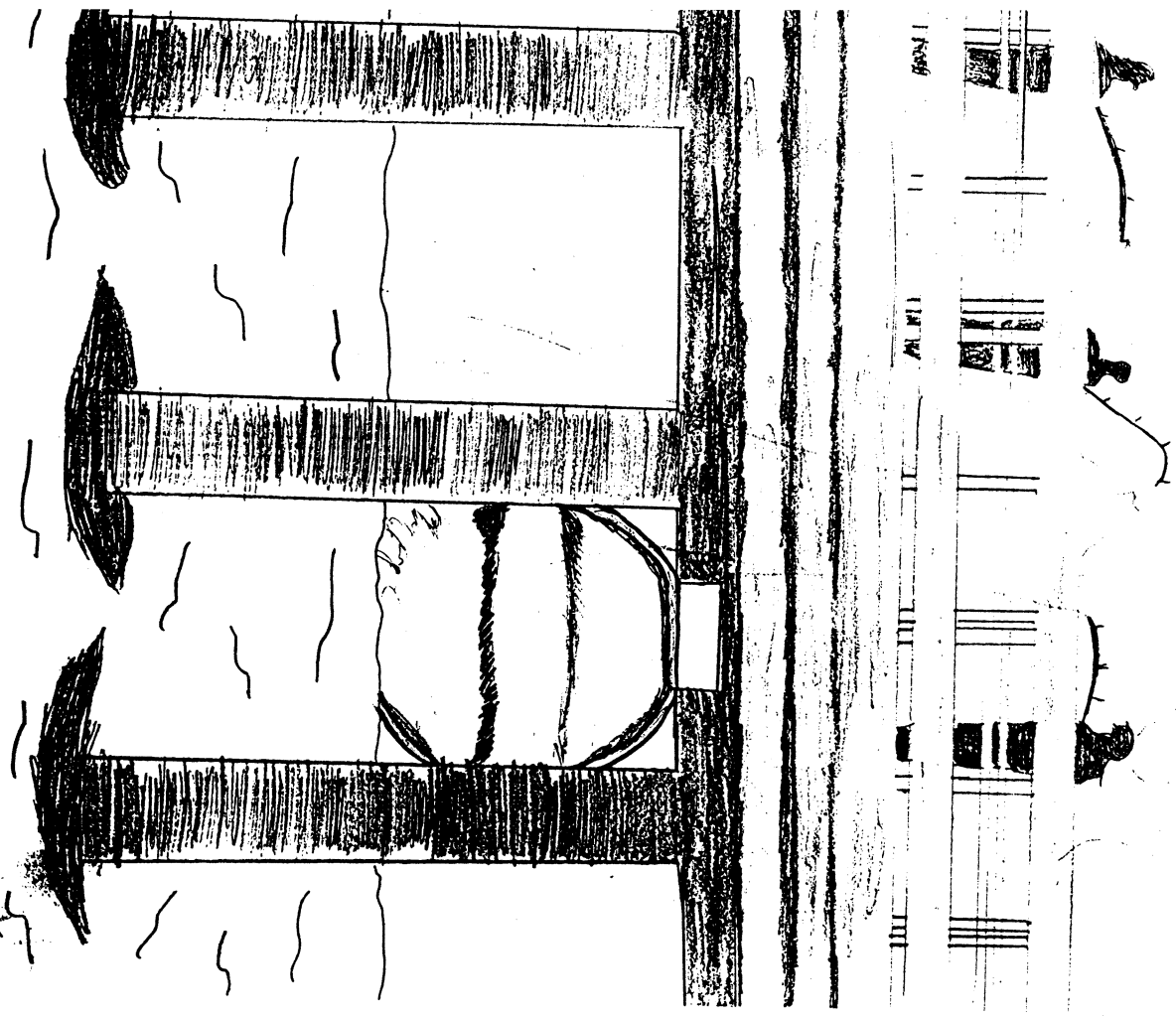
Graphic material from the emergency, proposed, and adopted sections is published separately in this tables and graphics section. Graphic material is arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

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: 30 TAC §114.6(c)(2)(C)(ii)

<u>Household Size (Persons)</u>	<u>Adjusted Gross Income</u>
1	\$ 9,072
2	\$ 12,264
3	\$ 15,468
4	\$ 18,660
5	\$ 21,864
6	\$ 25,056
7	\$ 28,260
8	\$ 31,452
9	\$ 34,656
10	\$ 37,872

Name: Daniel Virdell
Grade: 9
School: Brady High School, Brady ISD



Name: Josh Jordan
Grade: 10
School: Brady High School, Brady 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).

Texas State Board of Public Accountancy

Thursday, March 28, 1996, 9:00 a.m.

333 Guadalupe Street, Tower III, Room 910

Austin

Board Meeting

AGENDA:

Consideration of: committee reports from technical standards review, behavioral enforcement qualifications, continuing professional education, quality review, regulatory compliance, rules, major case and rules subcommittee on specialization committees, adoption of board rules, board orders, proposals for decision and motions; consultation to seek the advice of the board's attorney concerning pending or contemplated litigation (executive session) and Ethics, Advisory Opinions.

Contact: J. Randel (Jerry) Hill, 333 Guadalupe, Tower III, Room 900, Austin, Texas 78701-3900, (512) 502-5542.

Filed: March 19, 1996, 4:55 p.m.

TRD-9603873

Texas Commission on Alcohol and Drug Abuse

Friday, March 29, 1996, 11:00 a.m.

3930 Kirby, Suite 207, Texas Youth Commission

Houston

Revised Agenda

Regional Advisory Consortium (RAC), Region 6

AGENDA:

Call to order; review and approval of minutes; discussion of operations of RAC; discussion of needs/resource assessments for Region 6; and adjournment.

(Street location of previously posted meeting has been changed; an agenda item has been deleted; and the contact person has changed.)

Contact: Jackie Cook, 710 Brazos, Austin, Texas 78701, (512) 867-8805.

Filed: March 19, 1996, 3:53 p.m.

TRD-9603852

Texas Board of Chiropractic Examiners

Thursday, March 28, 1996, 9:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Enforcement Committee

AGENDA:

The Enforcement Committee of the Texas Board of Chiropractic Examiners will meet to consider, discuss, take any appropriate action and/or approve cases #94-29, 95-05, 95-06, 95-08 through 95-11, 95-200, 95-239, 95-261, 95-296, 95-215, 95-276, 95-319, 95-199, 95-305, 95-297, 95-324, 95-66, 95-195, 95-179, 95-186, and 96-03 through 96-132

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin, Texas 78701, (512) 305-6700.

Filed: March 19, 1996, 10:00 a.m.

TRD-9603818

Texas Department of Commerce

Thursday, April 4, 1996, 10:00 a.m.

1700 North Congress Avenue, Room 210-F

Austin

Capital Certified Development Corporation

AGENDA:

Bring meeting to order; approve minutes; treasurer's report; loan activity report; manager's report, and annual report; consider issuing guidelines concerning concentrations of credit; approve staff attendance at 1996 NADCO annual meeting and training; accept resignation of board members; consider the election of new board members, interim vice president, and secretary; appoint Nomination Committee; consider passage of resolution concerning prepayment of Joint Venture Properties 504 loan; adjourn.

Contact: Colleen L. Rowland, P.O. Box 12728, Austin, Texas 78711-2728, (512) 936-0266 or Fax: (512) 936-0520.

Filed: March 19, 1996, 2:21 p.m.

TRD-9603841



Texas Diabetes Council

Friday, April 5, 1996, 10:00 a.m.

Room T-607, Texas Department of Health, 1100 West 49th Street Austin

AGENDA:

The council will discuss and possibly act on: approval of minutes from the January 29, 1996 meeting; director's report (update on managed care work group) ; Texas Diabetes Council year-to-date progress reports (community-based diabetes program presentation by Presidio County Project County Judge Jake Brisbin); South Texas Hospital Project (Leonel Vela, M.D., Director, Public Health Region 11); diabetes and pregnancy program; public information programs; and special projects); Low Rio Grande Valley Diabetes Task Force on strategic planning; presentation of preliminary budget recommendations for fiscal year 1997; release of requests for applications for continuation grants; appointment of representatives to joint committee for review of diabetes education materials with American Diabetes Association, Texas Affiliate; nominations committee; and planning committee.

Contact: Amy Pearson, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7534. 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: March 19, 1996, 9:50 a.m.

TRD-9603815



Interagency Council on Early Childhood Intervention

Thursday, March 28, 1996, 9:00 a.m.

1100 West 49th Street

Austin

Board

AGENDA:

Public comment. Discussion and approval of minutes from February 22, 1996 meeting. Discussion and approval of the Early Childhood Intervention Advisory Committee and director's forum report. Discussion and approval to authorize the executive director to designate persons to approve payment vouchers for the Interagency Council on Early Childhood Intervention. Discussion and approval of the Equal Employment Opportunity Plan for the Interagency Council on Early Childhood Intervention. Discussion and approval of emergency

funds request for services. Discussion of strategic planning and budgeting process for the legislative appropriations request for fiscal year 1998-1999. Report on the public hearing process and status of federal application. Discussion of plans for agency self study prior to the Office of Special Education Programs monitoring visit. Discussion of plans for relocation of the Interagency Council on Early Childhood Intervention State Office to the Brown-Healy Building, 4900 North Lamar Boulevard, Austin, Texas. FYI.

Contact: Linda B. Hill, 1100 West 49th Street, Austin, Texas 78756-3199, (512) 502-4900.

Filed: March 20, 1996, 9:49 a.m.

TRD-9603883



State Employee Charitable Campaign

Tuesday, March 26, 1996, 10:00 a.m.

1918 Texas Street

El Paso

Local Employee Committee-El Paso

AGENDA:

Discussion/action items:

- 1. New member orientation
- 2. Review local Campaign manager applications
- 3. Announce Local Employee Committee chair confirmation
- 4. Review local organization applications

Contact: Chris Worley, 1918 Texas Street, El Paso, Texas 79901, (915) 533-2434 or Fax: (915) 532-2104.

Filed: March 20, 1996, 9:31 a.m.

TRD-9603881

Wednesday, March 27, 1996, 3:00 p.m.

2207 Line Avenue

Amarillo

Local Employee Committee-Amarillo

AGENDA:

Discussion/action items:

- 1. Selection of local campaign manager
- 2. Plan for 1996 campaign
- 3. Review application approval/denial process
- 4. Create timetable
- 5. Establish subcommittees

Contact: Dianna Phillips, 2207 Line Avenue, Amarillo, Texas 79106, (806) 376-6359 or Fax: (806) 376-9343.

Filed: March 19, 1996, 2:49 p.m.

TRD-9603845

Thursday, March 28, 1996, 11:00 a.m.

14th Street and Congress Avenue, Room E.1

Austin

State Policy Committee

AGENDA:

Discussion/action items:

1. State Policy Committee member orientation. Open Meetings Act training

2. Approval of the March 7, 1996 meeting minutes

3. Update on comptroller's rules changes

4. Update from State Advisory Committee

5. Discuss status of organizations receiving administrative exemptions

6. Review 1996 statewide federation application appeals

7. Review 1996 Local Employee Committee chair appointments and SPC/LEC assignments

8. Set next meeting date and agenda

Contact: Mary Ellen Burns, 505 East Huntland Drive, Suite 455, Austin, Texas 78752, (512) 450-0840 or Fax: (512) 450-0108.

Filed: March 19, 1996, 4:40 p.m.

TRD-9603868

Wednesday, April 10, 1996, 2:00 p.m.

4000 Southpark Drive, Suite 1200

Tyler

Local Employee Committee-Tyler

AGENDA:

Discussion/action items:

1. Review applications received from local agencies and federations and determine eligibility

2. Set next meeting agenda

Contact: Linda Davis, 4000 Southpark Drive, Suite 1200, Tyler, Texas 75703, (903) 581-6376 or Fax: (903) 581-6376.

Filed: March 18, 1996, 10:48 a.m.

TRD-9603746

◆ ◆ ◆
Office of the Governor

Friday, March 29, 1996, 10:00 a.m.

221 East 11th Street

Austin

Ad Hoc Committee to Revise the Code of Criminal Procedure

AGENDA:

I. Welcoming remarks

II. Discuss revisions to Chapters 11, 14, 20, 28, 30, 42.12, 44, 46, 46A, 47-52 and further changes to 37 and proposed 37A

III. Review progress on previous articles still needing technical changes

IV. Closing remarks

Contact: Johnny Sutton or Sylvia Brittain, P.O. Box 12428, Austin, Texas 78711, (512) 463-2198.

Filed: March 19, 1996, 9:24 a.m.

TRD-9603808

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Texas Health Care Information Council

Thursday-Friday, March 28-29, 1996, 9:00 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

AGENDA:

The council will discuss and possibly act on: approval of minutes; overview of meeting; selection of vice-chair; presentation on hospital discharge data systems; report on Physicians, Hospitals and Quality Issues Seminar; short term data analysis proposal; subcommittee reports (hospital discharge data subcommittee; public health data subcommittee report; and appointments subcommittee report (rulemaking for technical advisory committee)); administrative issues; public comment; and setting of next meeting.

Contact: Ann Henry, 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: March 19, 1996, 4:22 p.m.

TRD-9603858

Thursday, March 28, 1996, 5:00 p.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Hospital Discharge Data Subcommittee (HDDS)

AGENDA:

The subcommittee will discuss and possibly act on: goals and objectives of the HDDS Committee; rulemaking process under the Texas Administrative Procedures Act (procedural requirements and potential technical assistance needed from the Texas Department of Health); preliminary identification of matters on which formal rulemaking is required to establish the HDDS; possible contract with the National Association of Health Data Organizations (NAHDO) for technical assistance in development of a rule; process and timelines for development of the HDDS (rulemaking, staffing, equipment, information resources plan and development of material for the next biennial budget; allocation of tasks among HDDS committee members; and selection of date for next meeting.

Contact: Ann Henry, 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: March 19, 1996, 4:22 p.m.

TRD-9603857

Friday, March 29, 1996, 7:30 a.m.

Room M-652, Texas Department of Health, 1100 West 49th Street
Austin

Public Health Data Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on workplan for review of public health data collection systems.

Contact: Ann Henry, 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: March 19, 1996, 4:20 p.m.

TRD-9603855

Friday, March 29, 1996, 7:30 a.m.

Room M-739, Texas Department of Health, 1100 West 49th Street
Austin

Appointments Subcommittee

AGENDA:

The subcommittee will discuss and possibly act on: Technical Advisory Committee bylaws; and workplan for appointments to the Technical Advisory Committee.

Contact: Ann Henry, 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: March 19, 1996, 4:21 p.m.

TRD-9603856



Board of Law Examiners

Friday, March 29, 1996, 9:30 a.m.

Suite 500, Tom C. Clark, 205 West 14th Street
Austin

Hearings Panel

AGENDA:

The hearings panel will hold public hearings and conduct deliberations, including the consideration of proposed orders, on character and fitness of the following applicants and/or declarants: Donald W. Dickson II; Jay T. Whilhite; Michael D. Papania; Lief K. Rasmussen; Christopher L. Carman; Stuart C. Yoes; David A. Cuellar. (Character and fitness deliberations may be conducted in executive session, pursuant to §82.003(a), Texas Government Code.)

Contact: Rachael Martin, P.O. Box 13486, Austin, Texas 78711-3486, (512) 463-1621.

Filed: March 18, 1996, 1:54 p.m.

TRD-9603755



Texas Life, Accident, Health and Hospital Service Insurance Guaranty Association

Wednesday, March 27, 1996, 9:30 a.m.

301 Congress Avenue, Suite 500, Board Room
Austin

Audit Committee Meeting

AGENDA:

Consideration and possible action on: 1) Approval of the October 25, 1995 minutes; 2) Independent audit of the financial statements of the Association for the year ended December 31, 1995; 3) Ongoing internal control projects conducted on an out source basis; 4) Executive session; 5) Matters discussed in executive session; and 6) Next meeting date.

Contact: C. S. LaShelle, 301 Congress Avenue, #500, Austin, Texas 78701, (512) 476-5101.

Filed: March 18, 1996, 1:44 p.m.

TRD-9603754



Texas State Board of Medical Examiners

Wednesday, March 27, 1996, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Hearings Division

AGENDA:

Probation appearance, 9:00 a.m.-William W. Follett III, M.D., El Paso, Texas

Probation appearance, 9:15 a.m.-Dennis M. Shaughnessy, M.D., Midland, Texas

Probation appearance, 9:30 a.m.-Ben C. Malabanan, M.D., Dallas, Texas

Probation appearance, 9:45 a.m.-William L. Cowden, M.D., Richardson, Texas

Probation appearance, 10:00 a.m.-Weldon E. Bond, D.O., Arlington, Texas

Probation appearance, 10:15 a.m.-Brandt H. McCorkle, D.O., Mineola, Texas

Probation appearance, 10:30 a.m.-Richard F. Morrison, M.D., Dallas, Texas

Probation appearance, 10:45 a.m.-James M. Rampoldi, M.D., Denton, Texas

Probation appearance, 11:00 a.m.-George R. Smith, M.D., Mt. Pleasant, Texas

Termination request, 11:15 p.m.-Seung K. Hong, M.D., Richardson, Texas

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.07(b) and §2.09(o), Texas Revised Civil Statutes, regarding pending or contemplated litigation.

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016 or Fax: (512) 305-7008.

Filed: March 19, 1996, 8:14 a.m.

TRD-9603805



Texas Mental Health and Mental Retardation Board

Thursday, March 28, 1996, 9:00 a.m.

1241 West Mockingbird Lane (Champagne Ballroom)

Dallas

Ad Hoc Committee on Mental Retardation and Managed Care

AGENDA:

1. Review of minutes of previous meeting
2. Welcome and review agenda
3. Presentation of focus groups summary report
4. Consideration of preliminary report recommendations in light of focus group input
5. Discussion of final report format and approval process
6. Wrap-up

If ADA assistance or deaf interpreters are required, notify TXMHMR, (512) 206-4506 (voice or RELAY TEXAS), Ellen

Hurst, 72 hours prior to the meeting.

Contact: Ellen Hurst, P.O. Box 12668, Austin, Texas 78711, (512) 208-4506.

Filed: March 19, 1996, 10:18 a.m.

TRD-9603820

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Texas Natural Resource Conservation Commission

Wednesday, March 27, 1996, 9:30 a.m.

12118 North Interstate 35, Room 201S, Building E

Austin

AGENDA:

The commission will consider addendum to the agenda. Items to be considered are a contract and a rule.

(Registration for 9:30 a.m. agenda starts 8:45 a.m. until 9:25 a.m.)

Contact: Doug Kitts, 12100 Park 35 Circle, Austin, Texas 78753, (512) 239-3317.

Filed: March 19, 1996, 2:28 p.m.

TRD-9603842

Friday, March 29, 1996, 10:00 a.m.

Building A-Room 310A, 12124 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by Windsor Water Company for a change in water rates effective November 1, 1995, for its service area located in McLennan County, Texas. SOAH Docket Number 582-96-0380.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 18, 1996, 2:58 p.m.

TRD-9603759

Monday, April 1, 1996, 10:00 a.m.

Building F-Room 31034, 12015 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application to the Texas Natural Resource Conservation Commission by the City of Palestine to amend its water Certificate of Convenience and Necessity (CCN) Number 12135 to provide water utility service in Anderson County, Texas. The proposed utility service area is located generally south and southwest of downtown Palestine, Texas and is generally bounded on the north by State Highway Loop 256, on the south by County Road 2140, and the east by Range Road, and on the west by U.S. Highway 79 and the western boundary of CCN Number 10796. The total area being requested includes approximately 3.625 acres and one current customer. SOAH Docket Number 582-96-0381.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 19, 1996, 12:14 p.m.

TRD-9603828

Thursday, April 4, 1996, 10:00 a.m.

Smith County Courthouse-Central Jury Room, 100 North Broadway
Tyler

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Stanley McCurley for a change in water rates with the Texas Natural Resource Conservation Commission effective January 15, 1996, for its service area located in Henderson and Smith Counties, Texas. SOAH Docket Number 582-96-0382.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 19, 1996, 11:59 a.m.

TRD-9603824

Tuesday, April 9, 1996, 10:00 a.m.

Building F-Room 5108, 12015 Park 35 Circle (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Northridge Acres Homeowners Association with the Texas Natural Resource Conservation Commission to acquire the facilities of and to transfer Certificate of Convenience and Necessity Number 12493 from Northridge Acres Water Supply Corporation. CCN Number 12493 authorizes the provision of water utility service in Travis and Williamson Counties, Texas. The proposed utility service area is located approximately five miles southwest of downtown Round Rock, Texas and is generally bounded on the north by FM 1325, on the south by Prairie Lane, and on the east and west by Terrane Drive. SOAH Docket Number 582-96-0441.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 19, 1996, 11:59 a.m.

TRD-9603825

Thursday, April 11, 1996, 10:00 a.m.

Building E-Room 254S, 12118 North IH-35 (TNRCC Complex)

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Payne Utilities, Inc. for a change in water rates with the Texas Natural Resource Conservation Commission effective January 1, 1996, for its service area located in Montgomery and San Jacinto Counties, Texas. SOAH Docket Number 582-96-0442.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 19, 1996, 11:59 a.m.

TRD-9603826

Monday, April 22, 1996, 10:00 a.m.

Rockwall County Courtroom, 1101 Ridge Road

Rockwall

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application by Buffalo Creek Utility, Inc. with the Texas Natural Resource Conservation Commission

sion for an amendment to Permit Number 11974-01 to authorize an increase in the discharge of treated domestic wastewater effluent. The discharge is to be increased from a volume not to exceed an average flow of 125,000 gallons per day to a volume not to exceed an average flow of 200,000 gallons per day. The applicant is also requesting a variance to the buffer zone requirements in accordance with 30 TAC Chapter 309. 13(e)(1)(A). The proposed wastewater treatment facilities will incorporate acceptable means of noise and odor abatement. The wastewater treatment facilities are approximately 400 feet south of Rockwall Lake Dam and approximately 400 feet northwest of the point where Farm-to-Market Road 3097 crosses Buffalo Creek in Rockwall County, Texas. The treated effluent is discharged into Buffalo Creek; thence to the East Fork Trinity River in Segment Number 0819 of the Trinity River Basin. SOAH Docket Number 582-96-0443.

Contact: Susan Prior, P.O. Box 13025, Austin, Texas 78711-3025, (512) 475-3445.

Filed: March 19, 1996, 12:00 p.m.

TRD-9603827

Friday, May 3, 1996, 9:00 a.m.

12015 North Interstate 35, TNRCC Building F, Room 2210

Austin

AGENDA:

The State Small Business Compliance Advisory Panel will meet with the TNRCC Small Business Assistance Program to work with this program to insure that small businesses have every opportunity to come into compliance with environmental regulations. (Kathy Ramirez)

Contact: Kathy Ramirez, 12015 Park 35 Circle, Austin, Texas 78753, (512) 239-1820.

Filed: March 19, 1996, 11:17 a.m.

TRD-9603822

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Texas Board of Occupational Therapy Examiners

Thursday, March 28, 1996, 9:00 a.m.

Columbia Rehabilitation Hospital, 300 Waymore, Conference Room 500

El Paso

Applications Committee

AGENDA:

I. Call to order

II. Discussion and possible action regarding the following applicants: Faye E. McGowan, Page J. Hewit, Mimi M. Shaw, Randall S. Brinson and Amy D. George.

III. Adjournment

Contact: Joy Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: March 19, 1996, 4:40 p.m.

TRD-9603867

Friday, March 29, 1996, 10:00 a.m.

333 Guadalupe, Suite 2-510

Austin

AGENDA:

I. Call to order

II. Approval of minutes of October 27, 1995 and December 1, 1995 meetings

III. Public comments

IV. Report from Texas Occupational Therapy Association

V. Review and possible action of rules proposed by the board and published in the *Texas Register* as follows: Chapters 362, 369, 371, 370, 374, 375

VI. Discussion and appointment of alternates from the board to the Executive Council of Physical Therapy and Occupational Therapy Examiners

VII. Discussion and appointment of a representative from the board to the Health Professions Council

VIII. Discussion of the definition of occupational therapy

IX. Discussion of possible changes to the Texas Occupational Therapy Practice Act in the next legislative session

X. Report from the Investigations Committee and possible action on case #95-20

XI. Report from the Applications Committee

XII. Discussion and possible action on the application of Amy D. George

XIII. Coordinator's report

XIV. Executive director's report

XV. Presiding officer's report

XVI. Discussion and possible action on the next meeting date
Adjournment

Contact: Joy Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: March 19, 1996, 4:40 p.m.

TRD-9603865

Friday, March 29, 1996, 10:00 a.m.

333 Guadalupe, Suite 2-510

Austin

AGENDA:

I. Call to order

II. Approval of minutes of October 27, 1995 and December 1, 1995 meetings

III. Public comments

IV. Report from Texas Occupational Therapy Association

V. Review and possible action of rules proposed by the board and published in the *Texas Register* as follows: Chapters 362, 369, 370, 371, 374, 375

VI. Discussion and appointment of alternates from the board to the Executive Council of Physical Therapy and Occupational Therapy Examiners

VII. Discussion and appointment of a representative from the board to the Health Professions Council

VIII. Discussion of the definition of occupational therapy

IX. Discussion of possible changes to the Texas Occupational Therapy Practice Act in the next legislative session

X. Report from the Investigations Committee and possible action on case #95-20

- XI. Report from the Applications Committee
- XII. Discussion and possible action on the application of Amy D. George
- XIII. Coordinator's report
- XIV. Executive director's report
- XV. Presiding officer's report
- XVI. Discussion and possible action on the next meeting date
- XVII. Adjournment

Contact: Joy Vaughn, 333 Guadalupe, Suite 2-510, Austin, Texas 78701, (512) 305-6900.

Filed: March 19, 1996, 4:40 p.m.

TRD-9603866

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Texas Parks and Wildlife Department

Wednesday-Thursday, March 27-28, 1996, 1:00 p.m. and Noon, respectively.

Lower Colorado River Authority, Board Room-Hancock Building, 3701 Lake Austin Boulevard

Austin

Water and Wildlife Workshop 1996

AGENDA:

March 27, 1996: Welcome; preliminary comments; summary of past water and wildlife workshops; staff briefing-consensus based water planning/Trans-Texas, environmental criteria; water planning and the regulatory process; open discussion on above topics; March 28, 1996: Status of field studies and future plans; open discussion; summary; final comments; conference adjourns

Contact: Dr. Larry D. McKinney, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4642.

Filed: March 18, 1996, 1:41 p.m.

TRD-9603753

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Texas State Board of Podiatric Medical Examiners

Thursday-Friday, March 28-29, 1996, 10:00 a.m. and 8:00 a.m., respectively.

333 Guadalupe, Tower II, Room 400A

Austin

AGENDA:

Thursday, March 28, 1996, reading of the minutes; president's, vice-president's, executive director's and treasurer's reports; public comments; discussion on Hyperbaric Oxygen Therapy-Dr. Peters; discussion on the role of Podiatric Medical Assistants, their regulation and the Health Department Radiologic Technologist Rules; discussion on audit report; discussion on letter from James Tuggle; examination report; discussion on rule changes; discussion and approval of new licenses; discussion on examination consultant contract; budget report; complaint status report; discussion to accept policies and procedures from Comptroller, LBB, ERS, Auditors and Texas State Library from their manuals; possible discussion and possible action on agreed orders for Oscar Bracks, DPM, Robert Darrigan, DPM, Gary Mellon, DPM, Oscar T. New, DPM and Paul Resignato, DPM; approval of CME guidelines.

Friday, March 29, 1996, any unfinished business from March 28th; board discussion in executive session with executive director and staff and possible board action concerning evaluation, employment, reassignment, duties, discipline, or expectations of board or to hear complaints, questions, or receive responses from executive director and staff regarding evaluation under the Texas Government Code, §§551.071, 551.074, and 551.075; discussion of agency strategic plan; election of officers; set time, place and date for next scheduled meeting. NOTE: Agenda items may be taken out of order.

Contact: Janie Alonzo, P.O. Box 12216, Austin, Texas 78711-2216, (512) 305-7000.

Filed: March 19, 1996, 9:45 a.m.

TRD-9603823

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Texas Department of Protective and Regulatory Services

Thursday, March 28, 1996, 10:00 a.m.

701 West 51st Street, First Floor, Room 103-W

Austin

Child Care Administrators and Facilities Advisory Committee

AGENDA:

Call to order and welcome. Discussion with PRS board chair and executive director. Orientation to role of advisory committee. Orientation to child care licensing issues. Appointment of nominating committee. Developing draft work plan for the committee. Scheduling future meetings. Adjourn.

Contact: Paul Grubb, P.O. Box 149030, Austin, Texas 78714-9030, (512) 438-3736.

Filed: March 20, 1996, 9:54 a.m.

TRD-9603884

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Public Utility Commission of Texas

Wednesday, March 27, 1996, 9:00 a.m.

7800 Shoal Creek Boulevard

Austin

AGENDA:

There will be an open meeting for discussion, consideration, and possible action on: secretary's report; Docket Numbers 14454 (SOAH Number 473-95-1179); 15020, 15133, 14697; Project Number 14045; procedures for handling filings required pursuant to the new transmission rule, 23.67; Texas-New Mexico Power Community Choice Proposal; Project Numbers 15000, 15001, and 15002; Docket Numbers 14499 (SOAH Number 473-95-1169), 14659 (SOAH Number 473-95-1210), 14658 (SOAH Number 473-95-1209); Project Number 14440; Docket Numbers 13732 (SOAH Number 4732-95-1176), and 15025 (SOAH Number 473-95-1572); Project Number 15332; Docket Numbers 13162, 13173, 15167, 15189, 15197; Project Numbers 14517, 14929, and 15345; commission's response to the Federal Telecommunications Act of 1996, including, but not limited to actions taken by the Federal Communications Commission; filings submitted to the commission under Title I of the Federal Telecommunications Act of 1996; Project Number 13538; project assignments, correspondence, staff reports and agency administrative procedures; Travis building project; budget, fiscal matters and strategic planning; approval of strategic plan-Phase I; 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: March 19, 1996, 2:15 p.m.

TRD-9603840

Wednesday, March 27, 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 in closed session: City of Bryan, Texas and Texas Municipal Power Agency vs. Public Utility Commission, Commissioner Pat Wood, III, Commissioner Robert W. Gee, and Commissioner Judy Walsh; Cause Number 96-03198; Travis County District Court.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 19, 1996, 4:12 p.m.

TRD-9603854

Wednesday, March 27, 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 in closed session: Cause Number 96-01106 AT&T vs. Public Utility Commission, Travis County District Court and Cause Number 96-01107 AT&T vs. State of Texas and the Public Utility Commission, Travis County District Court.

Contact: Paula Mueller, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: March 19, 1996, 4:41 p.m.

TRD-9603869



Texas Senate

Tuesday, April 2, 1996, 10:00 a.m.

Henry Wade Juvenile Justice Center, Central Jury Room, First Floor, 2600 Lonestar Drive

Dallas

Juvenile Justice and Child Support (Interim)

AGENDA:

- I. Call to order
- II. Roll call and opening remarks
- III. Committee business
- IV. Invited speakers
- V. Public testimony
- VI. Other business
- VII. Adjourn

Contact: Krissy Looney, P.O. Box 12068, Austin, Texas 78711, (512) 463-0395.

Filed: March 19, 1996, 3:37 p.m.

TRD-9603848

Wednesday, April 3, 1996, 1:00 p.m.

Holiday Inn DFW West, 3005 Airport Freeway

Bedford

Economic Development

AGENDA:

The Senate Economic Development Committee will meet to hear public testimony on the use and effectiveness of state and local economic development incentives and programs.

Contact: Barbara Henderson, P.O. Box 12068, Austin, Texas 78711, (512) 463-0365.

Filed: March 19, 1996, 3:38 p.m.

TRD-9603849

Friday, April 19, 1996, 10:00 a.m.

South Padre Island Convention Center, Room 201, 7355 Padre Boulevard

South Padre Island

Natural Resources

AGENDA:

- I. Call to order and roll call
- II. Discussion of regulation of aquaculture industry in Texas:
 - Texas Department of Agriculture
 - General Land Office
 - Texas Parks and Wildlife
 - Texas Natural Resource Conservation Commission
- III. Public testimony on aquaculture industry in Texas
- IV. Adjournment

Contact: Carol McGarah, P.O. Box 12068, Austin, Texas 78711, (512) 463-0390.

Filed: March 19, 1996, 3:38 p.m.

TRD-9603850



The Texas A&M University System

Friday, March 22, 1996, 8:30 a.m.

Foyer, John B. Coleman Library, Third Street, Prairie View A&M University

Prairie View

Board of Regents

AGENDA:

Open house forum for discussion of student related issues

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603761

Friday, March 22, 1996, 9:30 a.m.

Room 108 (Open Session) and Room 508 (Closed Session), Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Board of Regents

AGENDA:

Consider, act, and vote on the following: appropriation for design and select project architect/engineer for Electronic Learning Center, WTAMU and Southern Crop Improvement Facility, TAES; initiate projects for Science building addition, TAMU-CC, Agronomy Circle completion, TAMU, TTI Research Building; appropriation for preliminary design and approve new project site and budget for Dairy Products Teaching and Res Lab, TAMU; authorize chancellor to take actions on energy conservation initiatives, TAMU; act on bids for Eller Building Energy Conservation Measures, TAMU; correct and approve board minutes; name facilities at TAMU; adopt resolution in memory of Peyton McKnight; select board's candidate for membership to board of nonprofit corporation to invest funds under the management and control of the UT board; appoint vice pres for Student Affairs and Special Services, TAMU-K; appoint interim vice pres for Finance and Admin, PVAMU; award honorary degrees to Wilhelmina Delco, PVAMU and Edward Knipling, TAMU; grant emeritus titles; grant tenure; confirm appointments and promotions; create Academy for Advanced Telecommunications and Learning Technologies, TAMU; authorization to present proposals to Texas Higher Ed Coordinating Board initiating Bachelor of Science in Criminology at TAMU-K, Bachelor of Social Work at TAMU-K, divide current department of Biological Science at TSU, expand authority for Instructional Telecommunications at WTAMU, substantive curriculum change for Harrington Certificate in String Quartet Performance at WTAMU; authorize memo of agreement between TEES and ETSU; authorize memo of agreement between TEES and Angelo State University; close TEES Space Res Center; approve new fees and increased fees effective Fall 1996 at the Academic Institutions; approve local depository for TAMU-K; establish scholarship endowment, TAMU; authorization to negotiate and enter into lease agreement with Stephenville ISD, TSU; Accept report of appropriations by chancellor or CEOs; accept gifts, grants, loans and bequests; confirm vending machine contracts, TEEX; overview of system activities overview and programs and activities at PVAMU

Closed session discussions items: consultation with system attorneys on pending and proposed litigation and matters recognized as attorney-client confidential and privileged; matters involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal, or to hear complaints or charges against an officer or employee; appointments of interim vice president for Finance and Administration at PVAMU and vice president for Student Affairs and Special Services at TAMU-K

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603762



Friday, March 22, 1996, 10:15 a.m. (or upon recess of meeting of Board)

Room 108, Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Facilities Planning and Building Committee

AGENDA:

Consideration, action, and vote on the following: appropriation for

design and select project architect/engineer for Electronic Learning Center, WTAMU; initiation of a project for Science building addition, TAMU-CC, appropriation for design and selection of the project architect/engineer for the Southern Crop Improvement Facility, TAES; initiation of a project for Agronomy Circle completion, TAMU, appropriation for preliminary design and approval of new project site and budget for Dairy Products Teaching and Research Lab, TAMU; authorization for the chancellor to take actions on energy conservation initiatives, 1995, TAMU; action on bids for the Eller Oceanography and Meteorology Building Energy Conservation Measures, TAMU; initiation of a project for a Texas Transportation Institute Research Building, TTI

Reports: status of system construction projects and status of projects under construction

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603766

Friday, March 22, 1996, 3:30 p.m. (or upon recess of meeting of Board)

Room 108, Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Committee for Academic Campuses

AGENDA:

Consideration, action, and vote on the following: create academy for Advanced Telecommunications and Learning Technologies, TAMU; authorization to present proposals to Texas Higher Education Coordinating Board (THECB) initiating a new program leading to a Bachelor of Science in Criminology, TAMU-K; authorization to present proposal to THECB initiating a new program leading to a Bachelor of Social Work, TAMU-K; authorization to present proposal to THECB to divide current Department of Biological Sciences into two departments (Department of Biological Sciences and Department of Nursing), TSU; authorization to present proposal to THECB for expansion of authority for Instructional Telecommunications, WTAMU; authorization to present proposal to THECB initiating a substantive curriculum change for Harrington Certificate in String Quartet performance; WTAMU

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603764

Friday, March 22, 1996, 4:15 p.m. (or upon recess of the meeting of the Committee for Academic Campuses)

Room 108, Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Committee for Service Units

AGENDA:

Consideration, action, and vote on the following: authorization to execute memorandum of agreement between the Texas Engineering Experiment Station and East Texas State University, TEES; authorization to execute memorandum of agreement between Texas Engineering Experiment Station and Angelo State University, TEES; closure of Texas Engineering Experiment Station Space Research Center

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603763

Friday, March 22, 1996, 4:45 p.m. (or upon adjournment or recess of the meeting of the Committee for Service Units)

Room 108, Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Executive Committee

AGENDA:

Consideration, action, and vote on the following: correction and approval of board minutes; naming of facilities at TAMU; adoption of a resolution in memory of Regent Emeritus Peyton McKnight; selection of board's candidate for membership to the Board of Directors of the nonprofit corporation to invest funds under the management and control of the UT board, including the PUF; appointment of vice president for Student Affairs and Special Services, TAMU-K; appointment of interim vice president for Finance and Administration, PVAMU; awarding of honorary Doctorate degree to Mrs. Wilhelmina Fitzgerald Delco, PVAMU; awarding of honorary Doctor of Science degree to Edward F. Knipling, TAMU; granting of emeritus titles; granting of tenure; confirmation of appointments and promotions.

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603765

Friday, March 22, 1996, 5:00 p.m. (or upon recess or adjournment of meeting of Executive Committee)

Room 108, Third Street, John B. Coleman Library, Prairie View A&M University

Prairie View

Finance and Audit Committee

AGENDA:

Consideration, action, and vote on the following: approval of new fees and increased fees effective Fall 1996 at the academic institutions; approval of local depository for TAMU-K; establishment of "Edward H. Gohmert Memorial Scholarship Endowment," TAMU; authorization to negotiate and enter into a lease agreement with the Stephenville Independent School District, TSU; acceptance of report of appropriations by the chancellor or chief executive officers; acceptance of gifts, grants, loans and bequests; confirmation of vending machine contracts, TEEEX

Contact: Vickie Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600.

Filed: March 18, 1996, 3:22 p.m.

TRD-9603767



Texas State Technical College System

Friday, March 22, 1996, 1:00 p.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

Discussion and review of the following TSTC Policy Committee minute orders and reports:

Committee of the Whole-1:00 p.m.

Policy Committee for Instruction and Student Services-1:15 p.m.

Policy Committee for Human Resources and Development-1:45 p.m.

Policy Committee for Facilities-2:15 p.m.

Policy Committee for Fiscal Affairs-2:45 p.m.

Committee of the Whole-3:45 p.m.

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 18, 1996, 2:38 p.m.

TRD-9603757

Saturday, March 23, 1996, 9:00 a.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Board of Regents

AGENDA:

The Board of Regents will discuss and act on the following minute orders:

Classes meeting with less than ten students, requests for budget change, signature authorizations, tuition and fees for fiscal year 1997, board plan rates for fiscal year 1997, aircraft pilot training technology flight training fees, sale of excess property at TSTC Waco/Marshall East Texas Center, sale of excess property at TSTC Harlingen, lease agreement between the City of Sweetwater and TSTC System for Campsite Number 118 of Section Number 63 on the Shores of Lake Sweetwater, lease agreement between City of Sweetwater and TSTC System for the administration office at TSTC Sweetwater, sale of excess property at TSTC Sweetwater, request for Texas Higher Education Coordinating board approval of the Science and Technology building construction project at TSTC Harlingen, award a contract for roof replacement at Medical Science building (Building D) and Allied Health building (Building L) and roof repair at Industrial Technology (Building I) and Chemical/Instrumentation building (Building J) at TSTC Harlingen, approve agreement terminating employment contract and separation agreement for Chancellor Cecil L. Groves, reassignment of employee and appointment of interim chancellor, adopt process for selection of permanent chancellor including appointment of search committee and adopt process for seeking candidates for a permanent chancellor

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 19, 1996, 1:23 p.m.

TRD-9603832

Saturday, March 23, 1996, 9:15 a.m.

Texas State Technical College Waco, Student Recreation Center Multi-Purpose Room, 3801 Campus Drive

Waco

Board of Regents Closed Meeting

AGENDA:

Following Item VII of the agenda and shown as Item VIII, the Board of Regents will recess from open meeting into closed meeting in accordance with Chapter 551 of the Texas Government Code for the specific purpose provided in §§551.071, 551.072, 551.074, and 551.075 and will discuss the following:

Maria Christina Lucio vs. Texas State Technical College and J. Gilbert Leal, State of Texas vs. L. D. Truitt, Roy Savage, and Ron DeSpain, James A. Bule vs. TSTC, Truett W. Bates vs. Texas State Technical College, et al, consider and discuss agreement terminating employment contract of Chancellor Cecil L. Groves and chancellor's separation agreement, consider and discuss employee reassignment and appointment of interim chancellor, consider and discuss procedure for selection of permanent chancellor, report and discussion of prospective lease agreement at TSTC Waco campus

Contact: Sandra J. Krumnow, 3801 Campus Drive, Waco, Texas 76705, (817) 867-4890.

Filed: March 19, 1996, 1:25 p.m.

TRD-9603833

◆ ◆ ◆
Texas Southern University

Wednesday, April 3, 1996, 9:30 a.m.

3100 Cleburne/Hannah Hall, Room 111

Houston

Legislative

AGENDA:

Meeting to consider a report from the administration on proposed legislation affecting the university.

Contact: Janet Lightfoot, 3100 Cleburne, Houston, Texas 77004, (713) 529-8911.

Filed: March 20, 1996, 9:13 a.m.

◆ ◆ ◆
TRD-9603879

◆ ◆ ◆
Texas Turnpike Authority

Monday, March 25, 1996, 8:30 a.m.

Doubletree Hotel Lincoln Centre, 5410 LBJ Freeway

Dallas

Emergency Revised Agenda

Board of Directors

AGENDA:

The revised agenda includes the addition of Item Number 15, consider approval of the terms of a compromise settlement with former TTA employees.

Reason for Emergency: Immediate need to consider and act upon a window of opportunity in which to consider and accept an offer to settle without litigation a claim against the Texas Turnpike Authority from former employee(s).

Contact: Jimmie G. Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200.

Filed: March 19, 1996, 9:56 a.m.

TRD-9603817

◆ ◆ ◆
University of Texas Health Science Center at San Antonio

Wednesday, March 27, 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: March 18, 1996, 4:37 p.m.

TRD-9603778

◆ ◆ ◆
Texas Water Development Board

Wednesday, March 27, 1996, 1:00 p.m.

Lower Colorado River Authority Board Room, Hancock Building, 3701 Lake Austin Boulevard

Austin

AGENDA:

This meeting is a workshop for discussion among commissioners, board members, staff and invited guests. No public testimony or comment will be accepted except by invitation of commissioners or board members. The meeting participants will consider:

1. Overview of the consensus based state water planning program.
2. Environmental water needs criteria.
3. Status report for the Trans-Texas Water Program.
4. Status of instream flow and freshwater inflow studies.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: March 19, 1996, 2:11 p.m.

TRD-9603838

Thursday, March 28, 1996, 8:30 a.m.

Lower Colorado River Authority Board Room, Hancock Building, 3701 Lake Austin Boulevard

Austin

AGENDA:

This meeting is a workshop for discussion among commissioners, board members, staff and invited guests. No public testimony or comment will be accepted except by invitation of commissioners or board members. The meeting participants will consider:

1. Overview of the consensus based state water planning program.
2. Environmental water needs criteria.
3. Status report for the Trans-Texas Water Program.
4. Status of instream flow and freshwater inflow studies.

Contact: Craig D. Pedersen, P.O. Box 13231, Austin, Texas 78711, (512) 463-7847.

Filed: March 19, 1996, 2:11 p.m.

TRD-9603839

Texas Workers' Compensation Insurance Fund

Tuesday, March 26, 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, March 26, 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: March 18, 1996, 2:46 p.m.

TRD-9603758

Wednesday, March 27, 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 February 28, 1996, board meeting; action items; consideration of amendments to board travel and expense policy; consideration of amendments to fund retirement plan; financial report; fund status report; informational items; report of the Administration Committee; report of the Finance Committee; report of the Operations Committee; report of the Organizational Effectiveness Committee; public participation; executive session; action items resulting from executive session deliberations; announcements; adjourn

Contact: Jeanette Ward, 100 Congress Avenue, Austin, Texas 78701, (512) 404-7142.

Filed: March 19, 1996, 2:55 p.m.

TRD-9603846

Texas Workforce Commission

Tuesday, March 26, 1996, 9:00 a.m.

Room 644, TEC Building, 101 East 15th Street

Austin

AGENDA:

Prior meeting notes; staff reports; presentation from National and Community Service Act Commission (AmeriCorps); report from JTPA 8.0%/Texas Education Agency; presentation of internal audit report summary; discussion, consideration, and possible action with regard to transfer of programs pursuant to House Bill 1863; discussion, consideration, and possible action with regard to submitted applications for certification of various local workforce development boards; discussion, consideration, and possible action on proposed rule to establish procedures for local TWC offices to participate in

competitive bidding process for service provision and establishing an independent evaluation of results and outcomes of performance; consideration and possible action on staff recommendation for publication of proposed amendments to the State JTPA rules; 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 Dockets 12 and 13; and set date of next meeting.

Contact: C. Kingsbery Otto, 101 East 15th Street, Austin, Texas 78778, (512) 475-1119.

Filed: March 18, 1996, 4:01 p.m.

TRD-9603769

Regional Meetings

Meetings Filed March 18, 1996

The Alamo Council of Governments Management Committee met at 118 Broadway, Suite 400, San Antonio, March 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-9603747.

The Austin-Travis County MHMR Center (Emergency Meeting.) Human Resources Committee met at 1700 South Lamar Boulevard, Building #1, Suite 102A, Austin, March 20, 1996, at 4:30 p.m. (Reason for emergency: Only time that four board members can meet.) Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9603750.

The Cash Water Supply Corporation Board of Directors met at the Corporation Office, FM 1564 at Highway 34, Greenville, March 25, 1996, at 7:00 p.m. Information may be obtained from Eddy W. Daniel, P.O. Box 8129, Greenville, Texas 75404-8129, (903) 883-2695. TRD-9603749.

The Education Service Center, Region VIII Board of Directors will meet at 2501 Ferguson Road, Hot Biscuit Restaurant, Mt. Pleasant, March 28, 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-9603751.

The Golden Crescent Regional Planning Commission Board of Directors will meet at 568 Big Bend Drive, Victoria, March 27, 1996, at 5:00 p.m. Information may be obtained from Rhonda G. Stasny, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9603770.

The Lee County Appraisal District Board of Directors will meet at 218 East Richmond Street, Giddings, March 27, 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-9603777.

The San Antonio-Bexar County Metropolitan Planning Organization Transportation Steering Committee met at the International Conference Center of the Convention Center Complex, San Antonio, March 25, 1996, at 1:30 p.m. Information may be obtained from Charlotte A. Roszelle, 603 Navarro, Suite 904, San Antonio, Texas 78205, (210) 227-8651. TRD-9603760.

The Stephens County Rural WSC (Annual Meeting) met at the Stephens County Agriculture Building, Highway 180 East, Breckenridge, March 28, 1996, at 7:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9603768.

Meetings Filed March 19, 1996

The Austin Transportation Study Governance Review Committee met at the Austin Municipal Annex, 301 West Second Street, Second Floor Large Conference Room, Room 240, Austin, March 22, 1996, at 10:30 a.m. Information may be obtained from Michael R. Aulick, P.O. Box 1088-Annex, Austin, Texas 78767, (512) 499-2275. TRD-9603807.

The Austin-Travis County MHMR Center Planning and Operations Committee met at 1430 Collier Street, Board Room, Austin, March 22, 1996, at 12:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9603819.

The Central Counties Center for MHMR Services Board of Trustees will meet at 3401 Range Road, Temple, March 28, 1996, at 7:00 p.m. Information may be obtained from Eldon Tietje, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, Ext. 301. TRD-9603837.

The Education Service Center, Region XIII Board of Directors met at 5701 Springdale Road, Room H, Austin, March 25, 1996, at 12:30 p.m. Information may be obtained from Dr. Roy Benavides, 5701 Springdale Road, Austin, Texas 78723, (512) 919-5300. TRD-9603831.

The Gulf Bend Center Board of Trustees will meet at 1502 East Airline, Victoria, March 26, 1996, at Noon. Information may be obtained from Agnes Moeller, 1502 East Airline, Victoria, Texas 77901, (512) 575-0611. TRD-9603874.

The Houston-Galveston Area Council Transportation Policy Council will meet at 3555 Timmons, Second Floor, Conference

Room A, Houston, March 29, 1996, at 9:30 a.m. Information may be obtained from Alan C. Clark, P.O. Box 22777, Houston, Texas 77227-2777, (713) 627-3200. TRD-9603851.

The Middle Rio Grande Development Council (Revised Agenda.) Texas Review and Comment System, MRGDC Conference Room, 209 North Getty Street, Uvalde, March 27, 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-9603806.

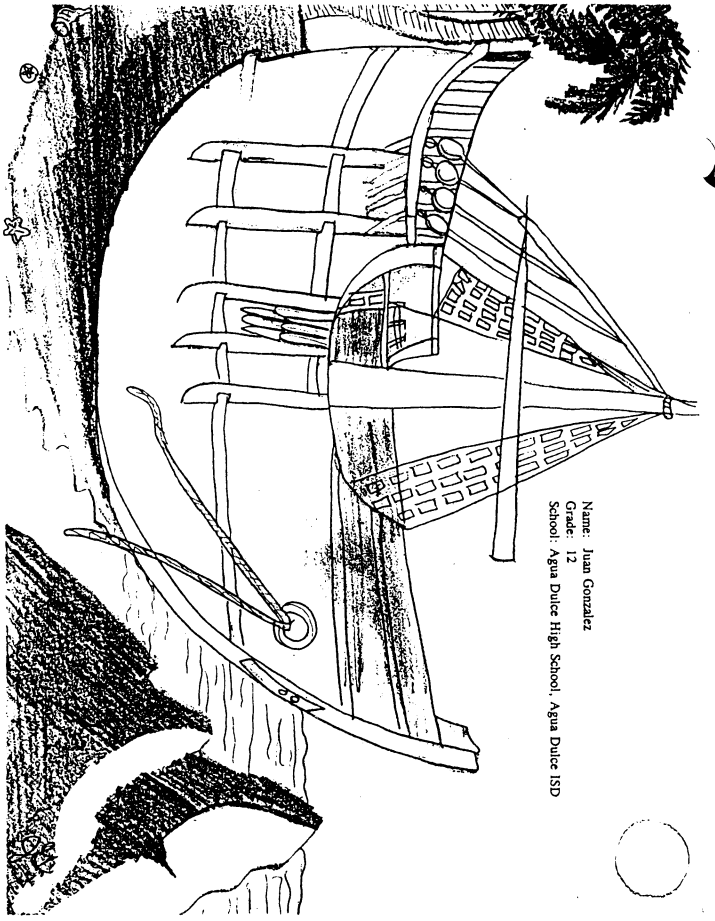
The North Texas Regional Library System (Revised Agenda.) Board of Directors will meet at 1111 Foch Street, Fort Worth, March 28, 1996, at 1:30 p.m. Information may be obtained from Charlene McMorrow, 1111 Foch Street, Suite 100, Fort Worth, Texas 76107, (817) 335-6076. TRD-9603829.

The Southwest Milam Water Supply Corporation Board met at 114 East Cameron, Rockdale, March 25, 1996, at 7:00 p.m. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9603853.

The Wise County Appraisal District Wise County Appraisal Review Board will meet at 206 South State, Decatur, March 28, 1996, at 9:00 a.m. Information may be obtained from Deidra Deaton, 206 South State Street, Decatur, Texas 76234, (817) 627-3081. TRD-9603844.

Meetings Filed March 20, 1996

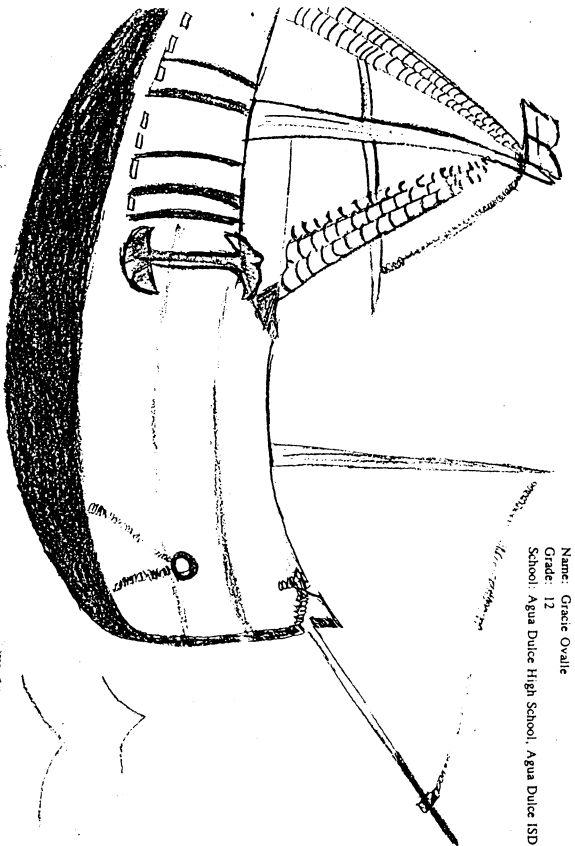
The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, March 27, 1996, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9603887.



Name: Juan Gonzalez
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD

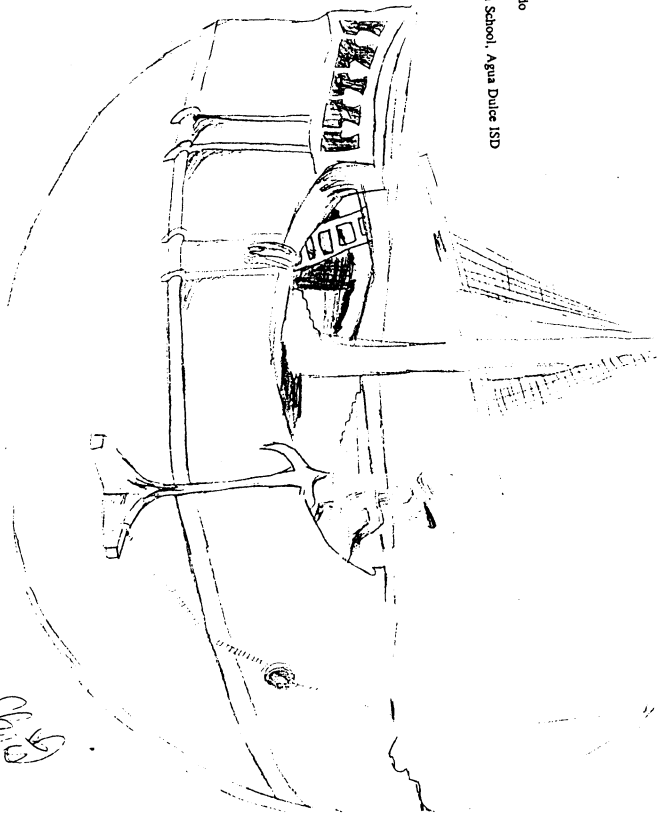


Name: Peral Gonzalez
Grade: 11
School: Agua Dulce High School, Agua Dulce ISD



Name: Grace Ovalle
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD

Name: Christiana Acevedo
Grade: 12
School: Agua Dulce High School, Agua Dulce ISD



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IN ADDITION

The **Texas Register** is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Texas Commission on Alcohol and Drug Abuse and Texas Department of Mental Health and Mental Retardation

Notice of Request for Proposals

Texas Commission on Alcohol and Drug Abuse (TCADA) under the authority of the Texas Health and Safety Code, Title 6, Subtitle B, Chapter 461, and the Texas Department of Mental Health and Mental Retardation (TDMHMR) under the authority of the Texas Health and Safety Code, Title 7, Subtitle A, Chapter 533, are jointly issuing a Request for Proposals (RFP) for the evaluation component of the Dual Diagnosis (Mental Illness/Chemical Dependency) Pilot Project.

TCADA and TDMHMR are cooperating in the study of integrated treatment approaches for persons with co-occurring mental illness and substance abuse diagnosis pursuant to SCR 88 of the 74th Legislature. This RFP requests proposals from public and private non-profit entities to evaluate two to four pilot projects of integrated treatment approaches for persons with dual disorders. The treatment pilots will be announced April 17, 1996. The evaluator will be designed to study these pilots. The goals of the evaluation are: (1) To identify and evaluate key program and partnership elements in successful programs so that these efforts can be replicated; (2) To determine the effect of an integrated treatment approach on both client level and system level outcomes, including the impact of integrated treatment on recidivism to the mental health, substance abuse, and criminal justice systems; (3) To conduct an analysis of the costs of an integrated treatment approach.

To obtain a complete copy of the RFP, contact Patrick Haney, Interagency Dual Diagnosis Coordinator, Texas Department of Mental Health and Mental Retardation, P.O. Box 12668, Austin, Texas 78711-2668, (512) 206-4763

The closing date for receipt of applications by TDMHMR is 5:00 p.m., on May 10, 1996.

Technical assistance on this RFP will be offered by TDMHMR and TCADA staff for all potential applicants. The technical assistance workshop will be conducted from 10:00 a.m. to 3:00 p.m. on Friday, April 19, 1996, at the Texas Department of Mental Health and Mental Retardation, Central Office Auditorium, 909 West 45th Street, Austin, Texas 78756. The workshop will be devoted to a discussion of RFP requirements and technical assistance with application preparation. Contact person: Patrick Haney, Interagency Dual Diagnosis Coordinator, (512) 206-4763, Fax: (512) 206-4723.

Individuals needing auxiliary aids or services should notify Patrick Haney at (512) 206-4763 at least five working days prior to the workshop by mail or telephone.

Issued in Austin, Texas, on March 18, 1996.

TRD-9603776

Sharon Logan
Interim Executive Director
Texas Commission on Alcohol and Drug
Abuse
and
Ann K. Utley
Chair, Texas MHMR Board
Texas Department of Mental Health and
Mental Retardation.

Filed: March 18, 1996

Office of the Attorney General Texas Solid Waste Disposal Act Settlement Notice

Notice is hereby given by the State of Texas of the following proposed resolution of an environmental enforcement lawsuit under the Texas Solid Waste Disposal Act. Prior to entry of a judgment in an enforcement action brought under the Texas Solid Waste Disposal Act, the State shall permit the public to comment in writing on the proposed judgment. The Attorney General will consider any written comments and may withdraw or withhold consent to the proposed agreed judgment if the comments disclose facts or considerations that indicated the consent is inappropriate, improper, inadequate, or inconsistent with the requirement of the Texas Solid Waste Disposal Act.

Case Title and Court: State of Texas v. Tinsie Chemical Company, Inc., Anthony Miglicco, Christopher A. Dittmar, Shahed Lateef, Texas City Terminal Railway Company, and Board Of Trustees of the Galveston Wharves, Cause Number 93-14042 in the 53rd District Court of Travis County, Texas.

Nature of the Settlement: The State of Texas proposes to settle the liability of Chris A. Dittmar, one of the Defendants in the previously-referenced matter. Chris A. Dittmar was a corporate officer responsible for the operation and was personally involved with matters relating to the operation of the Tinsie Chemical facility in Texas City, Texas (the "Dock Road Facility"). Tinsie operated an industrial waste treatment facility at the Dock Road Facility. Tinsie's operations were responsible for contamination of the Site through leaks and spills from tanks and other equipment. Dittmar was also involved in placing storage tanks on property owned by the Port of Galveston (the "Bradner Street Site"). Tinsie subsequently went out of business and abandoned a number of tanks and containers at the Dock Road Facility and the Bradner Street Site.

Proposed Agreed Judgment: The State proposes to sever Chris A. Dittmar from the previously-referenced action and enter into an Agreed Final Judgment that contains provisions for injunctive relief and civil penalties, as follows:

Injunctive Relief: Chris A. Dittmar is permanently enjoined from owning, operating or otherwise participating in the operation of any (1) commercial industrial or hazardous waste management facility and/or business, (2) waste water treatment facility and/or business, or (3) industrial or hazardous waste the treatment, storage or disposal business in the State of Texas.

Civil Penalties: The judgment requires the Defendant to pay \$10,000 in civil penalties to the State.

For a complete description of the proposed settlement, the complete proposed Agreed Final Judgment should be reviewed. Requests for copies of the judgment and written

comments on the judgment should be directed to Albert M. Bronson, Assistant Attorney General, Office of the Texas Attorney General, P.O. Box 12548, Austin, Texas 78711-2548; telephone (512) 463-2012, fax (512) 320-0911. Written comments must be received within 30 days of publication of this notice to be considered.

Issued in Austin, Texas, on March 18, 1996.

TRD-9603744
Suzanne Marshall
Special Assistant Attorney General
Office of the Attorney General

Filed: March 18, 1996

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**Office of Consumer Credit
Commissioner**

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Articles 1.04 and 1.05, as amended (Texas Civil Statutes, Articles 5069-1.04 and 1.05).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	03/25/96-03/31/96	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	04/01/96-04/30/96	10.00%	10.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603836
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner

Filed:

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**Texas Department of Health
Designation of a Site Serving a
Medically Underserved Population**

The Department of Health is required under Texas Civil Statutes, Article 4495b, §3.06, to designate sites serving medically underserved populations. In addition, the department is required to publish notice of its designations in the *Texas Register* and to provide an opportunity for public comment on the designations.

Accordingly, the department has designated the following as a site serving a medically underserved population: the Student Health Center at the University of Texas at Dallas, located at 2601 North Floyd Road, Richardson (Dallas County), Texas. Designation is based on proven eligibility as a site serving a disproportionate number of clients

eligible for federal, state or locally funded health care programs.

Oral and written comments on this designation may be directed to Demetria Montgomery, M.D., Chief, Bureau of Community Oriented Primary Care, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756; (512) 458-7771. Comments will be accepted for 30 days from the date of this notice.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603834
Susan K. Steeg
General Counsel
Texas Department of Health

Filed: March 19, 1996

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**Licensing Actions for Radioactive
Materials**

The Texas Department of Health has taken actions regarding licenses for the possession and use of radioactive materials as listed in the table below. The subheading labeled "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Austin	Motorola Semiconductor Products	L04952	Austin	0	03/08/96
Big Spring	Fina Oil & Chemical	L04950	Big Spring	0	03/12/96
Ingleside	Gulf Coast Inspection Incorporated	L04934	Ingleside	0	03/14/96
Mesquite	Mesquite Imaging Center	L04914	Mesquite	0	03/07/96
Sugarland	Advanced Cardiac Care Association	L04936	Sugarland	0	03/12/96

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Abilene	Abilene Regional Medical Center	L02434	Abilene	39	03/01/96
Abilene	Abilene Cardiology Consultants, P.A.	L04315	Abilene	13	03/07/96
Austin	Seton Medical Center	L02896	Austin	41	03/06/96
Austin	Shivers Cancer Center	L01761	Austin	35	02/29/96
Austin	Austin Radiological Association Medical Science	L03970	Austin	5	02/29/96
Baytown	Bayer Corporation	L01577	Baytown	41	02/29/96
Baytown	Baycoast Medical Center	L02462	Baytown	21	02/29/96
Beaumont	Outpatients Diagnostic Center	L03888	Beaumont	21	03/05/96
Caldwell	Burleson St. Joseph Health Center	L03260	Caldwell	11	03/14/96
Channelview	Via NDT Engineering and Testin	L04322	Austin	30	02/29/96
Clute	Non-Destructive Inspection Corp	L02712	Lake Jackson	45	03/07/96
Conroe	Columbia Regional Medical Center	L01769	Conroe	34	03/01/96
Corpus Christi	Columbia Northwest Hospital	L02977	Corpus Christi	12	03/01/96
Corsicana	Columbia Navarro Regional Hospital	L02458	Corsicana	19	03/14/96
Dallas	Medical City Hospital Dallas	L01976	Dallas	92	03/05/96
Dallas	Southern Methodist University	L02887	Dallas	13	03/07/96
Dallas	Southwest & Johnson X-Ray Co., Inc.	L04603	Dallas	2	03/11/96
Dallas	Heart Place	L04607	Dallas	7	03/06/96
Dallas	Gee Consultants, Inc.	L04766	Dallas	2	03/11/96
Duncanville	The Center	L03717	Duncanville	12	03/13/96
El Paso	Johnson & Johnson Medical, Inc.	L04178	El Paso	8	03/14/96
Evadale	Temple-Inland Forest Products, Inc.	L01095	Silsbee	41	03/13/96
Fort Worth	Radiology Associates	L03953	Fort Worth	15	03/05/96

CONTINUED AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
-----	----	-----	----	-----	-----
Henrietta	Clay County Memorial Hospital	L03228	Henrietta	9	03/07/96
Houston	Allied Testing Laboratories	L00880	Houston	35	03/04/96
Houston	Rice University Dept of Biochemistry and Cell Biology	L01772	Houston	14	03/13/96
Houston	WHMC, Inc.	L02224	Houston	30	03/04/96
Houston	Sheldon Rubenfeld, M.D.	L04410	Houston	4	03/07/96
Houston	Baker Hughes INTEQ	L04452	Houston	22	03/11/96
Houston	Phoenix Non-Destructive Co., Inc.	L04454	Channelview	23	03/06/96
Kerrville	Sid Peterson Memorial Hospital	L01722	Kerrville	17	03/14/96
Luling	Luling Perforators, Inc.	L03958	Luling	6	02/29/96
Nederland	Mid-Jefferson Hospital	L01756	Nederland	27	03/07/96
Nederland	Anatec, Inc.	L04865	Nederland	6	03/06/96
Orange	Chevron Chemical Company	L00031	Orange	36	03/04/96
Pittsburgh	Pitt-Des Moines, Inc.	L04502	Pittsburgh	10	02/29/96
Port Arthur	Texaco Group, Inc. Fuels and Lubricants Research	L00227	Port Arthur	24	03/13/96
San Antonio	Cancer Therapy and Research Center	L01922	San Antonio	40	03/07/96
San Antonio	City Public Service	L02876	San Antonio	14	03/04/96
San Antonio	Trinity University	L01668	San Antonio	22	02/29/96
Sugarland	Fort Bend Imaging, Inc.	L04459	Sugarland	8	02/29/96
Sweeny	Phillips 66 Company	L00337	Sweeny	35	03/06/96
Texas City	Amoco Chemicals Corporation	L00354	Texas City	25	03/14/96
Texas City	Marathon Oil Company	L04431	Texas City	6	03/11/96
The Woodlands	Memorial Hospital - The Woodlands	L03772	The Woodlands	15	03/14/96
Throughout Texas	Texas Department of Transportation	L00197	Austin	76	03/12/96
Throughout Texas	Professional Service Industries, Inc.	L00203	Houston	87	03/08/96
Throughout Texas	E. I. du Pont de Nemours & Company	L00314	La Porte	66	03/13/96
Throughout Texas	Longview Inspection	L01774	La Porte	105	03/13/96
Throughout Texas	CBI Na-Con, Inc.	L01902	Houston	34	03/01/96
Throughout Texas	Syncor International Corporation	L01911	Houston	91	03/06/96
Throughout Texas	H & G Inspection Company, Inc.	L02181	Houston	102	03/13/96
Throughout Texas	K & N Perforators	L02300	Victoria	22	03/11/96
Throughout Texas	Terra Engineers, Inc.	L02464	Lubbock	26	03/12/96
Throughout Texas	Phillips Petroleum Company Borger Complez	L02480	Borger	26	03/06/96
Throughout Texas	Chevron U.S.A. Inc.	L02669	El Paso	8	03/11/96
Throughout Texas	Southern Technical Services	L02683	Lake Jackson	57	03/12/96
Throughout Texas	Scientific Measurement Systems, Inc.	L02696	Austin	29	03/06/96
Throughout Texas	METCO	L03018	Houston	51	03/06/96
Throughout Texas	Apollo Perforators, Inc.	L03020	Odessa	11	03/06/96
Throughout Texas	San Antonio Development Agency	L04174	San Antonio	10	03/11/96
Throughout Texas	Environmental Drilling Services, Inc.	L04209	Austin	6	03/06/96
Throughout Texas	SGS Industrial Services	L04460	Deer Park	27	03/07/96
Throughout Texas	PCI Services	L04596	Corpus Christi	2	03/11/96
Throughout Texas	El Paso Inspection	L04599	El Paso	8	03/11/96
Throughout Texas	Tri-Star Wireline, Inc.	L04791	Webster	2	03/05/96
Throughout Texas	Tierra Testing & Consulting, Incorporated	L04822	San Antonio	2	03/11/96
Tyler	The University of Texas Health Center	L04117	Tyler	11	03/12/96
Victoria	Victoria Regional Medical Center	L03575	Victoria	12	02/29/96
Vinton	Border Steel Mills, Inc.	L03137	El Paso	10	03/05/96
Wichita Falls	Clinics of North Texas	L00523	Wichita Falls	26	03/12/96
Wichita Falls	Bethania Regional Health Care Center	L01844	Wichita Falls	45	03/01/96

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
Alvin	Alvin Medical Center	L02474	Alvin	17	03/06/96
Austin	Robert L. Rock, M.D.	L00570	Austin	16	03/07/96
Brenham	Brenham Veterinary Hospital	L00658	Brenham	13	03/07/96
Dallas	St. Paul Medical Center	L01065	Dallas	38	03/06/96
Groves	Doctors Hospital	L02091	Groves	22	03/07/96
Harlingen	Valley Diagnostic Medical and Surgical Clinic P.A.	L02933	Harlingen	21	03/12/96
San Antonio	Northeast Medical Center Radiology	L02926	San Antonio	7	03/05/96
Stafford	Burzynski Research Institute, Inc.	L02948	Stafford	11	03/13/96
Throughout Texas	Houston Department of Health	L00149	Houston	57	03/11/96
Throughout Texas	Danny R. Anderson Consultants, Inc.	L02476	El Paso	12	03/11/96
Throughout Texas	City of Bryan Engineering Division	L03002	Bryan	8	03/11/96
Throughout Texas	Pro Inspection Incorporated	L03906	Odessa	13	03/07/96
Throughout Texas	Murillo & Associates, Inc.	L04417	Beaumont	6	03/11/96

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend-ment #	Date of Action
Austin	Shivers Cancer Center	L03726	Austin	9	02/29/96
Baytown	USX Ce-Tex Center	L02656	Baytown	10	03/05/96
Houston	Submar, Inc.	L03891	Houston	8	03/11/96
Pasadena	Pasadena General Hospital	L03504	Pasadena	14	03/14/96

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 March 19, 1996.

TRD-9603843 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: March 19, 1996

◆ ◆ ◆
Request for Proposals

The Texas Department of Health announces the availability of approximately \$1 million in Maternal and Child Health Block Grant funds for the provision of preventive and primary health services to public school populations. A maximum of \$125,000 per program annually is planned for up to eight programs serving school-age children. Funds are for fiscal year 1996-1997, beginning June 1, 1996, and ending August 31, 1997.

Qualifying programs must:

- (1) demonstrate an unmet need for health services in the student population to be served;
- (2) be planned and directed by a local advisory body which includes but is not limited to parents of students served, school administrators, school nurses, local physicians, and representatives of local agencies serving students;
- (3) be supervised and monitored by a physician who has expertise in the care of children and adolescents;
- (4) demonstrate referral linkages for provision of emergency care and other specialized acute and chronic health care services, and mechanisms for the efficient and confidential exchange of medical information among providers;
- (5) provide assurance that students will not receive services at the school health center unless a parent or guardian executes a consent form approved by the advisory body.

Applicants will be judged on the basis of proposal narratives and budget documents.

Applications must be received by TDH on or before May 15, 1996. Requests for applications and other inquiries should be directed to: School Health Program, Bureau of Women and Children, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Phone inquiries may be directed to John R. Dillard, M.Ed., at (512) 458-7111, extension 2782.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603847 Susan K. Steeg
General Counsel
Texas Department of Health

Filed: March 19, 1996

Texas Department of Insurance
Amendment to the Plan of Operation for
the Texas Workers' Compensation
Insurance Fund

The Commissioner of Insurance, or his designee, will consider approval of a filing made by the Texas Workers' Compensation Insurance Fund ("Fund") pursuant to Article 5.76-3, §5 of the Texas Insurance Code, pertaining to the Plan of Operation for the Texas Workers' Compensation Insurance Fund. The amendments proposed to the Plan of Operation reflect organizational changes that have occurred in the Fund since the present Plan of Operation was approved.

A copy of the filing is available for review in the office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78714-9104. For further information or to request a copy of the filing, please contact Sylvia Gutierrez (512) 463-6327 (refer to reference number W-0296-07).

This filing is subject to Department approval without a hearing unless an objection is filed with Nancy Moore, Deputy Commissioner, Workers' Compensation, Texas Department of Insurance, Mail Code 202-1A, P.O. Box 149092, Austin, Texas 78714-9092 within 20 days after publication of this notice.

Issued in Austin, Texas, on March 20, 1996.

TRD-9603888 Alicia M. Fectel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: March 20, 1996

◆ ◆ ◆
Notice of Application by Healthcare
Partners Plans, L.C., Tyler, Texas for
Issuance of a Certificate of Authority
to Establish and Operate an HMO in
the State of Texas

Notice is given to the public of the application of HEALTHCARE PARTNERS PLANS, L.C., Tyler, Texas for the issuance of a certificate of authority to establish and operate a health maintenance organization (HMO) offering basic health care services in the State of Texas in compliance with the Texas HMO Act and rules and regulations for HMOs. The application is subject to public inspection at the offices of the Texas Department of Insurance, HMO Unit, 333 Guadalupe, Hobby Tower I, Sixth Floor, Austin, Texas.

Upon consideration of the application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to issue a certificate of authority to HEALTHCARE PARTNERS PLANS, L.C. without a public hearing.

Issued in Austin, Texas, on March 20, 1996.

TRD-9603889 Alicia M. Fectel
General Counsel and Chief Clerk
Texas Department of Insurance

Filed: March 20, 1996

Texas Natural Resource Conservation Commission

Extension of Comment Period March 14, 1996

In the March 12, 1996, issue of the *Texas Register* (21 TexReg 2134), the Texas Natural Resource Conservation Commission (TNRCC) published notice of public hearings concerning revisions to Chapter 114, concerning the vehicle inspection and maintenance program, and to the State Implementation Plan. The hearings are scheduled for April 8, 9, and 10, 1996.

The deadline for receipt of written comments was published as April 12, 1996, but has been extended to April 26, 1996, to allow commenters additional time to compile and submit comments.

Copies of the proposed rules are available from the TNRCC Office of Policy and Regulatory Development, 12100 North IH-35, Building F, Austin. For further information, contact Heather Evans at (512) 239-1970.

Issued in Austin, Texas, on March 14, 1996.

TRD-9603714

Kevin McCalla
Director, Legal Services Division
Texas Natural Resource Conservation
Commission

Filed: March 18, 1996

Texas Department of Transportation Notices of Awards

In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services. The request for qualifications for professional engineering services was published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7419, 7420 and 7421).

The consultant will provide professional engineering services for the design and construction administration phases for the following:

TxDOT Project: 9610JACKS, County of Cherokee. The engineering firm for these services is: PSA Engineering. The total value of the contract is \$121,800 and the contract period started on January 11, 1996, and will continue until the completion of the project.

TxDOT Project: 9614LLANO, City of Llano. The engineering firm for these services is: Smith-Western Engineering, Inc. The total value of the contract is \$129,128 and the contract period started on January 8, 1996, and will continue until the completion of the project.

TxDOT Project: 9621RIOGR, Starr County. The engineering firm for these services is: PSA Engineering, Inc. The total value of the contract is \$118,268 and the contract period started on February 9, 1996, and will continue until the completion of the project.

TxDOT Project: 9617HEARNE, City of Hearne. The engineering firm for these services is: O'Malley Engineers. The total value of the contract is \$116,409 and the contract period started on February 9, 1996, and will continue until the completion of the project.

TxDOT Project: 9619CARTH, County of Panola. The engineering firm for these services is: KSA Engineering, Inc. The total value of the contract is \$53,601 and the contract period started on February 22, 1996, and will continue until the completion of the project.

TxDOT Project: 9621EDINB, City of Edinburg. The engineering firm for these services is: PSA Engineering, Inc. The total value of the contract is \$212,730 and the contract period started on February 9, 1996, and will continue until the completion of the project.

TxDOT Project: 9601SHRMN, City of Sherman. The engineering firm for these services is: PSA Engineering, Inc. The total value of the contract is \$90,240 and the contract period started on February 9, 1996, and will continue until the completion of the project.

TxDOT Project: 9620JASPR, County of Jasper. The engineering firm for these services is: C. T. Brannon, Corp. The total value of the contract is \$331,632 and the contract period started on February 7, 1996, and will continue until the completion of the project.

TxDOT Project: 9607JUNCT, County of Kimble. The engineering firm for these services is: PSA Engineering, Inc. The total value of the contract is \$156,350 and the contract period started on February 27, 1996, and will continue until the completion of the project.

TxDOT Project: 9616ROBST, Nueces County. The engineering firm for these services is: Shearer, Coym & Rehmet Engineering Company. The total value of the contract is \$111,049 and the contract period started on February 22, 1996, and will continue until the completion of the project.

TxDOT Project: 9610WLSPT, City of Wills Point. The engineering firm for these services is: C. T. Brannon Corporation, Inc. The total value of the contract is \$31,190 and the contract period started on February 7, 1996, and will continue until the completion of the project.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603872

Robert E. Shaddock
General Counsel
Texas Department of Transportation

Filed: March 19, 1996

In accordance with the Government Code, Chapter 2254, Subchapter A, the Texas Department of Transportation publishes this notice of a consultant contract award for providing professional engineering services. The request for proposals for professional engineering services was published in the September 15, 1995, issue of the *Texas Register* (20 TexReg 7418).

The consultant will provide professional engineering services for the Airport Action Plan for the following:

TxDOT Project: 0000SF95, City of Brady. The engineering firm for these services is: KSA Engineering, Inc. The total value of the contract is \$25,000 and the contract period started on January 23, 1996.

TxDOT Project: 00000SF95, City of Taylor. The engineering firm for these services is: KSA Engineering, Inc. The total value of the contract is \$25,000 and the contract period started on January 23, 1996.

TxDOT Project: 00000SF95, City of Granbury. The engineering firm for these services is: KSA Engineering, Inc.

The total value of the contract is \$25,000 and the contract period started on January 22, 1996.

TxDOT Project: 9610PALES, City of Palestine. The engineering firm for these services is: Bucher, Willis & Ratliff. The total value of the contract is \$22,500 and the contract period started on February 22, 1996.

TxDOT Project: 9616ROCKPT, County of Aransas. The engineering firm for these services is: Bucher, Willis & Ratliff, Inc. The total value of the contract is \$68,300 and the contract period started on February 28, 1996.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603877 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: March 19, 1996



Request for Proposals

Notice of invitation: The Texas Department of Transportation (TxDOT) pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, intends to engage an Engineer to provide services including routine BRINSAP safety inspections, secondary scour screening, and PONTIS elemental inspections. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

The Laredo District anticipates the award of three contracts, 22-6XXP5001, 22-6XXP5002, and 22-6XXP5003

to perform the specified services on both ON and OFF System structures in the District's eight counties.

Deadline: A letter of interest notifying TxDOT of a provider's intention to submit a proposal will be accepted by fax at (210) 712-7401, or mailed to the TxDOT Laredo District Office, P.O. Drawer 2219, Laredo, Texas 78044-2219, or hand delivered to TxDOT Laredo District Office, 302 Washington Street, Laredo, Texas 78040. Letters of interest will be received until Friday, April 12, 1996 at 5:00 PM. The Letter of interest must include the provider's name, address, telephone number, fax number, name of provider's contact person and reference to a TxDOT contract number. Upon receipt of the letter of interest a Request for Proposal packet will be issued.

Proposal Submittal Deadline: Proposals for contract 22-6XXP5001, 22-6XXp5002, and 22-6XXP5003 will be accepted until 5:00 PM on Friday, April 26, 1996 at the TxDOT Laredo District Office mentioned address.

Agency Contact: Requests for additional information regarding this notice of invitation should be directed to Juan A. Bernal, P.E., Consultant Contracts Engineer/BRINSAP Coordinator, at (210) 712-7463 or fax (210) 712-7401.

Issued in Austin, Texas, on March 19, 1996.

TRD-9603871 Robert E. Shaddock
 General Counsel
 Texas Department of Transportation

Filed: March 19, 1996



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>		

Name: Jason C. Perez
Grade: 11
School: Harlandale High School, Harlandale ISD



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.