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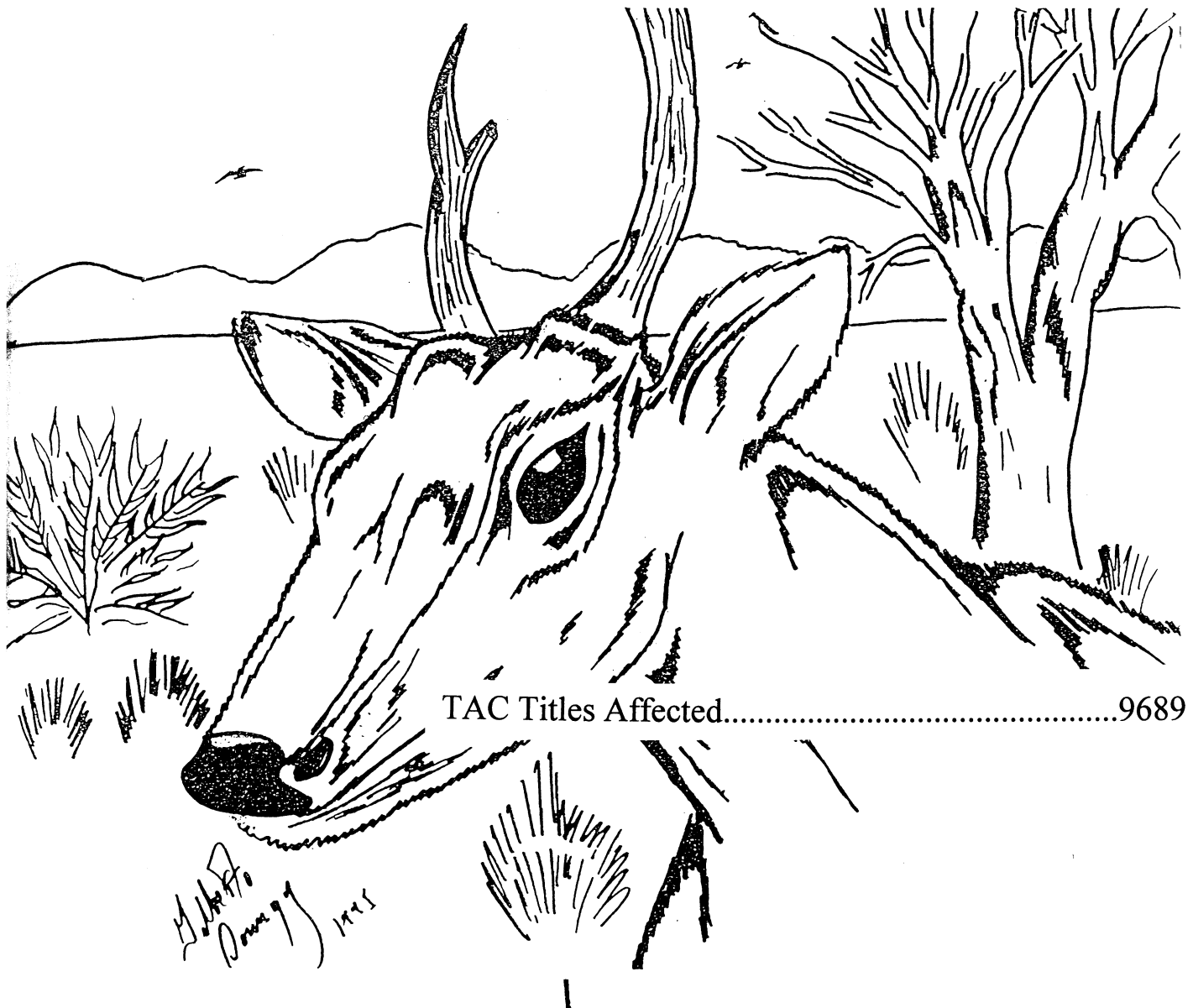
FLOOR REFERENCE

OCT 11 1996

TEXAS REGISTER

Volume 21 Number 74 October 4, 1996

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This month's front cover artwork:

Artist: Gilberto Dominguez

8th grade

Central Middle School, Galveston 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.

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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 1. ADMINISTRATION

Part XII. Advisory Commission on State Emergency Communications

Chapter 251. Regional Plans-Standards

1 TAC §251.6

The Advisory Commission on State Emergency Communications (ACSEC) proposes an amendment to §251.6 in accordance with Chapter 771 of the Texas Health and Safety Code, establishes guidelines for strategic plans, amendments and equalization surcharge allocation for 9-1-1 emergency service fees and equalization surcharges to support the planning, development, and provision of 9-1-1 service throughout the State of Texas. The amendment provides for modifying the cap increases for four - and ten - channel recorders. These changes keep pace with the rising costs of the equipment.

James D. Goerke, executive director for ACSEC, has determined that for each year of the first five years the section is in effect, there will be no fiscal impact on state or local government as a result of enforcing or administering the section. Mr. Goerke has also determined that there will be no fiscal effect on local employment or the local economy.

Mr. Goerke 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 administration and enforcement of the section will be the more efficient administrative regulation of strategic plans, amendments and equalization surcharge allocation. There is no anticipated economic cost to persons required to comply with the rule as proposed.

Comments on the proposal must be submitted in writing within 30 days after publication of the proposal in the *Texas Register* to Mary Boyd, Executive Director, ACSEC, 333 Guadalupe Street, Suite 2-212, Austin, Texas 78701.

The amendment is proposed pursuant to the Health and Safety Code, Chapter 771, and the Texas Administrative Code, Part XII, Chapter 251, Regional Plans and Standards.

The proposed rule affects the Health and Safety Code, Chapter 771, and the Texas Administrative Code, Part XII, Chapter 251, Regional Plans and Standards.

§251.6. Guidelines for Strategic Plans, Amendments, and Equalization Surcharge Allocation.

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

(f) Funding Parameters. The Commission will look favorably on plan amendments for ancillary equipment that will improve the effectiveness and reliability of 9-1-1 call delivery systems. This will include the following when the equipment is for 9-1-1 call delivery: surge protection devices, uninterrupted power source (UPS), power backup, voice recorders, paging systems for 9-1-1 call delivery, security devices, and other back-up communication services.

(1) (No change.)

(2) Voice Recording Equipment. Voice Loggers may be approved when the primary use of the equipment is in support of the 9-1-1 call-taking and call-delivery function. Extra capacity on such systems may be used for other public safety functions (such as dispatch), however, 9-1-1 funding will not be authorized for systems whose capacity clearly exceed actual or anticipated 9-1-1 requirements. Shared funding of larger systems to accommodate both a 9-1-1 PSAP and a PSAP operating agency's other needs will be considered. Other considerations include:

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

(D) The funding of **recording devices** [built-in cassette recorders] to transfer information from another recorder will be approved only upon specific justification of need.

(E)-(F) (No change.)

(G) When the operator of a 9-1-1 PSAP and the providers of emergency services desire to use the same recording equipment funded by Regional Plan, the following guidelines will apply to determine the amount to be funded by the Commission:

(i)-(ii) (No change)

(iii) When the recording requirements of the other agency requires additional features or capabilities than would be required by the PSAP alone, the Commission will fund the equivalent amount of the system needed to serve the PSAP alone. For instance, if the PSAP could use a **recording** [cassette recorder] system to record the delivery of 9-1-1 calls, but another agency needs to record a radio channel that requires the capacity of a **larger**[reel-to-reel] recorder, the Commission will fund the equivalent cost of the **smaller** [cassette] system.

(H) (No change.)

(I) In reviewing requests for recording systems, the Commission will award funding, when justified, for the actual costs of basic recording systems not to exceed **\$10,000** [**\$6,000**] on **4-channel**

or equivalent systems, and not to exceed \$20,000 [\$10,000] on up to 10-channel or equivalent recording systems. Requests for any other recording systems will require separate approval by the Commission.

(J) (No change.)

(g)-(h) (No change.)

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9614021

James D. Goerke

Executive Director

Advisory Commission on State Emergency Communications

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 305-6911

TITLE 10. COMMUNITY DEVELOPMENT

Part V. Texas Department of Commerce

Chapter 181. Texas Leverage Fund Program

10 TAC §§181.1-181.10

The Texas Department of Commerce (Commerce) proposes new §§181.1-181.10, concerning rules relating to loans to industrial development corporations under Commerce's Texas Leverage Fund Program. The new rules include general provisions governing the program, program loan limitations, eligible projects, contents of applications, denial of applications, general terms and conditions of Commerce's financial commitments, loan approvals, loan closings, and loan administration.

W. Lane Lanford, Chief Administrative Officer, has determined that for the first five-year period the rules are in effect there will be no fiscal impact on local or state government, other than to an eligible city's industrial development corporation electing to utilize the loan program and to Commerce. Mr. Lanford estimates that during the first five-year period the rules are in effect Commerce will receive increased revenue in an indeterminate amount from administration fees earned from program loans. The revenue will vary based upon the actual number of program loans funded and the amount of individual program loans. Mr. Lanford estimates there will be no additional cost to Commerce of administering or enforcing the rules during the first five-year period since costs are reimbursed through program administration fees earned. No cost will be incurred by any member of the public other than an eligible city and its industrial development corporation electing to make application for a program loan which may have minimal cost in submitting the application. If the application for a program loan is approved by Commerce, there will be additional minimal costs to the eligible city and its industrial development corporation associated with the loan closing which will vary depending upon fees and costs of counsel representing the city's industrial development corporation. However, it is anticipated that such

costs will be greatly offset by the benefit from the loan for economic development in the city.

Mr. Lanford also has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of enforcing the rules is that consistent and uniform guidelines will be in place for an eligible city's industrial development corporation to make application for a program loan to finance the cost of an eligible project. An eligible city's industrial development corporation which makes application and is approved by Commerce for the loan program will also benefit from cost savings in the form of reduced financing costs and expenses under this program versus the actual financing costs and expenses associated with a city's or its industrial development corporation's own individual bond issue to fund its economic development projects.

Mr. Lanford has determined that there is no anticipated impact on local employment.

Written comments on the proposed rules should be submitted to Chris Jones, Assistant General Counsel, Texas Department of Commerce, 1700 Congress, Suite 136; or P.O. Box 12728, Austin, Texas 78711-2728 within 30 days of publication of the proposed rules. Comments may be faxed to Mr. Jones at (512) 936-0415. Comments received more than 30 days after publication of the rules will not be considered.

The new sections are proposed under the authority of Texas Government Code, §481.075 and §481.005(d). Texas Government Code §481.075 and Texas Civil Statutes, Article 5190.6, §4A and §4B are affected by the rules.

§181.1. General Rules.

(a) Introduction. Pursuant to the authority granted by the Texas Government Code, Chapter 481, as amended and the Administrative Procedure Act, Texas Government Code, Chapter 2001, Subchapter B, Rulemaking, as amended, the Texas Department of Commerce (Commerce) prescribes the following rules regarding practice and procedure applicable to local industrial development corporations established pursuant to the Development Corporation Act of 1979, Texas Civil Statutes, Article 5190.6, §4A and §4B, as amended. The rules relate to loans made to industrial development corporations under Commerce's Texas Leverage Fund Program.

(b) Authority.

(1) Pursuant to the provisions of the Constitution of the State of Texas, Article III, §52-a, adopted by the voters of the State of Texas on November 3, 1987, and the Texas Government Code, Chapter 481, as amended, Commerce, an agency of the State of Texas, is authorized to provide for the issuance of revenue bonds or notes for the purpose of providing money to fund economic development programs.

(2) The Commerce policy board adopted a Master Resolution as of September 9, 1992 establishing a \$300,000,000 Taxable Commercial Paper Note Program Series A for the purpose of providing money to establish certain Commerce loan programs. By First Supplemental Resolution dated as of September 9, 1992, the policy board authorized the issuance of \$25,000,000 in aggregate principal amount at any one time outstanding of its Taxable Commercial Paper Notes Series A to fund economic development programs.

(c) Delegation of Authority to Executive Director. Pursuant to the Texas Government Code, §481.075(a) and the Master Resolution, the policy board has delegated to the executive director, or his/her designee, the authority to approve each loan made under the Texas Leverage Fund Program. Further, the policy board delegated to the executive director, or his/her designee, all necessary authority in regard to collection, settlement and enforcement of each and every loan approved and funded under this program.

§181.2. Definitions.

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

Act—The Development Corporation Act of 1979, Texas Civil Statutes, Article 5190.6, as amended.

Applicant—An IDC filing an application for a Texas Leverage Fund program loan.

Application—The information submitted by an applicant to Commerce, including supporting documentation and schedules, required by Commerce for loan underwriting and loan approval under this program.

Approval—The executive director's, or his/her designee's, approval of the terms and conditions for a program loan and loan agreement between Commerce and the IDC.

Bank—The financial institution providing credit facilities for this program.

Blighted or economically depressed areas—As defined by the Act, §2(10) and 10 TAC §180.2.(a)(3)(D).

Board of directors—The governing body of an IDC.

City—The governmental entity creating the IDC.

Commerce—The Texas Department of Commerce.

Cost—As defined by the Act, §2(4) as applied to the use of program loan proceeds to fund eligible projects.

Debt Service Coverage Ratio—The ratio of the projected or actual sales and use tax receipts generated by the levy and collection of the economic development sales and use tax by the city for the benefit of an IDC, which sales and use tax receipts shall be determined by using the lowest 12 consecutive months of sales and use tax receipts of the 18 months immediately preceding the date of determination thereof, to the scheduled maximum annual principal of and interest on the program loan plus the scheduled maximum annual principal of and interest on any other debt or obligation existing on the date of the program loan secured in whole or in part by and payable from such economic development sales and use tax on a parity with the proposed program loan and giving the holder thereof an equal and ratable claim to the proceeds of the economic development sales and use tax. In the event that an economic development sales and use tax has not been previously collected or has not been collected for at least 18 months, then there shall be estimated by Commerce the economic development sales and use tax that may have been collected over that period had such economic development sales and use tax been in place.

Development areas—As defined by the Act, §2(10) and 10 TAC §180.2.(a)(3)(L).

Economic development sales and use tax—That certain sales and use tax that may be levied by a city for the benefit of an IDC under either §4A or §4B of the Act.

Executive director—The executive director of Commerce.

Federally assisted new communities—As defined by the Act, §2(10) and 10 TAC §180.2.(a)(3)(O).

Full time equivalent job—Permanent employment for 1,820 hours or more per year or 35 hours or more per week per person.

IDC—An industrial development corporation created by a city pursuant to the Act, §4A or §4B.

Interest rate—The floating prime or base rate published in the Wall Street Journal from time to time (Wall Street Journal Prime Rate) or the interest rate in effect under the Program guidelines from time to time.

Largest Four Year Sales Tax Decline—A decline in the total sales tax receipts of the city calculated as follows: $(HIGH - LOW)/HIGH \times 100$ For the purpose of this definition "LOW" shall mean the lowest sum of sales tax revenue receipts collected by a city for any calendar year (adjusted for changes in sales tax rates) during the four year period preceding the date of calculation, as determined from the most recent June 30 or December 31, as applicable, for which sales tax data is available, and "HIGH" shall mean the highest sum of sales tax revenue received collected for any calendar year (adjusted for changes in sales tax rates) during the four year period preceding the date of calculation, as determined from the most recent June 30 or December 31, as applicable, for which sales tax data is available and which occurred in a calendar year preceding the calendar year in which the "LOW" occurred.

Largest Fifteen Year Sales Tax Decline—A percentage decline in the total sales tax receipts of a participating city calculated as follows: $(HIGH - LOW)/HIGH \times 100$ For purposes of this definition "LOW" shall mean the lowest sum of sales tax revenue receipts collected by the city for any calendar year (adjusted for changes in sales tax rates) during the 15 year period preceding the date of calculation, as determined from the most recent December 31, and "HIGH" shall mean the highest sum of sales tax revenue receipts collected for any calendar year (adjusted for changes in sales tax rates) during this same period and which occurred in a calendar year preceding the calendar year in which the "LOW" occurred.

Parity debt—Debt or other obligations, existing or incurred during the term of the program loan, secured in whole or in part by and payable from the economic development sales and use tax receipts of the city on a parity with the program loan and giving the holder an equal and ratable claim to the proceeds of the economic development sales and use tax.

Policy board—The Commerce policy board.

Program—The Texas Leverage Fund.

Program guidelines—The Commerce guidelines relating to the program in effect at any particular time pursuant to the Act and the authority granted by the policy board to Commerce under the Master Resolution and First Supplemental Resolution, as amended.

Program loan—Loan from Commerce to the IDC under the program.

Project—An eligible project as defined by the Act.

Projected Debt Service—The scheduled maximum annual debt service on all parity debt including any program loan.

Rating—The long-term general obligation debt rating assigned by a rating agency. Any reference in these rules to the rating structure of one rating agency shall be deemed to include a reference to the equivalent rating or ratings of the other rating agency.

Rating agency—Standard & Poor's Corporation, Moody's Investors Service and Fitch Investors Service, Inc.

Resolution—The resolution, order, ordinance, or other official action by the governing body of the city or IDC.

Rules—The rules of Commerce.

State—The State of Texas.

Texas Enterprise Zone Act—Texas Government Code, §§2303.001 et seq., as amended.

Texas Leverage Fund—The economic development program of Commerce pursuant to which Commerce makes loans, meeting certain criteria approved by the policy board in accordance with the Master Resolution and First Supplemental Resolution, as amended, to certain local industrial development corporations to fund the cost of certain eligible projects as defined by the Act and which loans are secured by and paid from the economic development sales and use tax receipt proceeds.

Trustee—A corporation with corporate trust powers serving in the capacity of trustee under the Texas Department of Commerce Taxable Commercial Paper Notes Series A pursuant to a trust agreement between the corporation and Commerce as authorized by the policy board under the Master Resolution and First Supplemental Resolution, as amended.

User—An individual, partnership, corporation, or any other private entity, whether organized for profit or not for profit, or a city, county district, or any other political subdivision or public entity of the state or federal government.

§181.3. Program.

Established by the Commerce policy board pursuant to the authority recited in §181.1(b) of this title (relating to authority), the program provides a source for IDCs to leverage economic development sales and use tax receipt proceeds. Commerce provides a program loan to the IDC to fund the cost of an eligible project as defined by the Act and in accordance with Commerce's program guidelines. The program loan is secured by a pledge to Commerce of the IDC's economic development sales and use tax receipt proceeds.

§181.4. Program Loan Limitations.

Commerce's maximum total program loans outstanding at any one time, including any unfunded program loan commitments, shall not exceed \$25,000,000, or any lesser amount as determined by Commerce and the Bank from time to time.

§181.5. Eligible Projects.

(a) Section 4A City Projects. The projects of an applicant created pursuant to the Act, §4A must meet the definition of "Project" as that term is defined by the Act, §2(10), subject to the limitations imposed by the Act, §4A(i). The costs of the following types of projects are eligible for program loans for §4A applicants:

(1) Land, building, equipment, facilities, and improvements found by the board of directors to be required or suitable for the promotion of development and expansion of:

(A) manufacturing and industrial facilities;

(B) distributions centers; or

(C) small warehouse facilities capable of serving as decentralized storage and distribution centers.

(2) Land, building, equipment, facilities, and improvements found by the board of directors required or suitable for the promotion of commercial development and expansion of:

(A) blighted or economically depressed areas and development areas;

(B) federally designated empowerment zones and enterprises communities designated under the Internal Revenue Code of 1986, §1391;

(C) federally assisted new communities located within a home-rule city;

(D) enterprise zones designated under the Texas Enterprise Zone Act;

(3) Infrastructure improvements necessary for economic development tied to a specific business or documented as part of an economic development plan, including:

(A) railroad spurs, extensions, switches, and turnouts;

(B) water and sewer lines;

(C) road construction;

(D) natural gas lines;

(E) electric overhead power lines and transformers;

(F) harbor/channel dredging;

(G) drainage channels and ponds;

(H) pre-treatment facilities;

(I) landfills, incinerators, and related equipment;

(J) purchase of land, easements, right of ways and engineering services related to eligible infrastructure items;

(K) general aviation business service airports that are integral parts of an industrial park;

(L) port related facilities to support waterborne commerce; and

(M) transportation facilities, solid waste disposal facilities, or air or water pollution control facilities, provided that:

(i) such facilities are not the primary project; and

(ii) such facilities benefit property acquired for a permissible project which is the primary project.

(b) Section 4B City Projects. An applicant created pursuant to the Act, §4B must meet the definition of "Project" as that term is defined by the Act, §4B(a)(2). The cost of the following types of projects are eligible for a program loan for a §4B applicant:

(1) Land, buildings, equipment, facilities, and improvements included in the definition of "Project" as that term is defined by the Act, §2(10), including recycling facilities;

(2) Land, buildings, equipment, facilities, and improvements found by the board of directors of applicant to be required or suitable for use for professional and amateur (including children's) sports, athletic, entertainment, tourist, convention, and public park purposes and events, including:

- (A) stadiums;
- (B) ball parks;
- (C) auditoriums;
- (D) amphitheaters;
- (E) concert halls;
- (F) learning centers;
- (G) parks and park facilities;
- (H) open space improvements;
- (I) municipal buildings;
- (J) museums;
- (K) exhibition facilities; and

(L) related store, restaurant, concession, automobile parking facilities, related area transportation facilities, related roads, streets, water and sewer facilities, and other related improvements that enhance any of those facilities enumerated in this paragraph.

(3) Land, buildings, equipment, facilities, and improvements found by the board of directors of applicant to promote or develop new or expanded business enterprises, including a project to provide:

- (A) public safety facilities;
- (B) streets and roads;
- (C) drainage and related improvements;
- (D) demolition of existing structures;
- (E) general municipally owned improvements;
- (F) any improvements or facilities that are related to any of those projects; and

(G) any other project that the board of directors in its discretion determines promotes or develops new or expanded business enterprises.

(c) Special Rules for Commercial Projects in Blighted or Economically Depressed Areas and Development Areas. Under the Act, the financing of the cost of eligible projects for commercial use is confined to, among others, geographic areas within the corporate limits of a city found and determined by the governing body of such city to be either a blighted area or economically depressed (or areas immediately adjacent thereto) or a development area. Rules for establishing a blighted area are set forth in 10 TAC §180.2(b)(9)(A). Rules for establishing an economically depressed area or a development area are set forth in 10 TAC §180.2(b)(9)(B). Such rules are applicable to commercial projects located in blighted or economically depressed areas and development areas for which application is made for a program loan.

§181.6. Consideration of Applications by Commerce.

(a) Application forms. Applications shall be filed by applicants on forms prescribed by Commerce. Applications and other written communications relating to the program shall be addressed to the attention of the Texas Leverage Fund, Texas Department of Commerce, P.O. Box 12728, Austin, Texas 78711-2728. Applications shall be as complete as practicable, not requiring addendum in order to be approved. Requests for an application and program guidelines should also be sent to address indicated.

(b) Assistance. Commerce staff will be available prior to submission of applications to assist applicants in determining program eligibility.

(c) Denial of application. Commerce may deny applications for program loans for the following reasons:

(1) The applicant and/or the city do not submit all required information to Commerce.

(2) The applicant and/or the city do not meet the minimum financial criteria established by Commerce for program loans under the program guidelines in effect at the time application is made.

(3) Commerce is unable to approve program loans due to unavailability of funding.

§181.7. Contents of Application.

Required information. Applications must set forth the information necessary for Commerce to determinate program eligibility. Applications shall include the following information:

(1) IDC information, including:

- (A) applicant's legal name;
- (B) corporate charter number;
- (C) date of incorporation;
- (D) federal employer identification number;
- (E) physical and mailing addresses;
- (F) telephone and fax numbers;
- (G) contact name and title; and
- (H) whether the IDC was created under the Act, §4A or §4B.

(2) information on the election for economic development sales and use tax, including:

- (A) election date;
- (B) date tax effective;
- (C) expiration date (if any);
- (D) rate of tax adopted;
- (E) date tax proceeds first received from comptroller;

and

(F) limitations/restrictions on use of tax receipt proceeds.

(3) information on any election for an additional sales and use tax under Chapter 321, Texas Tax Code, including:

- (A) election date;

- (B) date tax effective;
- (C) rate of tax adopted;
- (D) date tax proceeds first received from the comptroller;
- (E) date tax was repealed or modified after passage;
- (F) if applicable, describe any changes to the tax.

- (4) names and titles of IDC officers and board of directors;
- (5) names, addresses, and telephone and fax numbers of mayor, city manager and city attorney;

(6) executed acknowledgment that all underwriting responsibilities for loans to a user are those of the IDC and city, and that Commerce has no responsibility for loan repayment by the user;

(7) completion of the debt service coverage ratio worksheet in accordance with the instructions provided by Commerce, including:

- (A) the city's general obligation bond rating;
- (B) the rating agency;
- (C) the target funding date for the program loan;
- (D) the program loan amount;
- (E) the term of program loan;
- (F) the IDC's annual debt service amount; and
- (G) the IDC's parity debt service amount.

(8) a listing of all parity and non-parity debt obligations, including:

- (A) creditor's name, address, and telephone and fax numbers;
- (B) loan origination date;
- (C) original loan amount;
- (D) current loan balance;
- (E) monthly loan payment;
- (F) maturity date; and
- (G) collateral description and value.

(9) user information, including:

- (A) business name, address, and telephone and fax numbers;
- (B) contact name and title;
- (C) type of legal entity;
- (D) minority or woman-owned ownership percentage;
- (E) business description including:
 - (i) the standard industrial classification code number;

(ii) industry category;

(iii) current number of employees;

- (iv) total annual sales;
- (v) number of years in business;
- (vi) date started doing business; and
- (vii) brief description of business;

(10) a summary of the project, including:

(A) project address and the county in which located;

(B) the number of full time equivalent jobs created and/or retained as a result of project;

(C) a concise description of the type of project, including:

(i) primary purpose of project;

(ii) ownership of project such as IDC, city, or user;

(iii) components of project such as land, buildings, infrastructure, equipment, facilities, and improvements;

(iv) whether project is located in one of the following designated areas:

(I) blighted or economically depressed area;

(II) development area;

(III) federally designated empowerment zone and enterprise community designated under the Internal Revenue Code of 1986, §1391;

(IV) federally assisted new community;

(V) enterprise zone designated under the Texas Enterprise Zone Act.

(v) applications for §4B projects must include documentation that the project has been published for at least 60 days as required by the Act, §4B(a-1) or §4B(a-2) and that no petition from ten percent or more of the registered voters of the city requesting an election has been received by the city; and

(vi) applications for §4B projects must also include documentation that at least one public hearing was held on the proposed project as required by the Act, §4B(n).

(11) a cost breakdown of the project specifying sources of funds (such as program loan, equity and other) and uses of funds (such as land, infrastructure, building, machinery, equipment, professional fees, debt, working capital and other);

(12) a certification that the representations made by the IDC are true and that no relevant facts have been intentionally omitted;

(13) IDC's articles of incorporation and bylaws;

(14) §4A or §4B sales and use tax ballot proposition (actual wording);

(15) city's economic development plan (infrastructure projects only);

(16) documents in support of the designation by the city of a blighted or economically depressed area or development area;

(17) documents in support of federal designation of empowerment zones or enterprise communities;

(18) documents in support of grants received under of the Housing and Community Development Act of 1974, §107(a)(1), as amended, for federally assisted new communities;

(19) documents in support of enterprise zone designation under the Texas Enterprise Zone Act; and

(20) such other information as may be required by Commerce in order to make a prudent loan decision on the project application and to insure that the project and cost are eligible under the Act.

§181.8. General Terms and Conditions of Commerce's Financial Commitment.

(a) Permissible use of financial commitment. Commerce's financial commitment shall be used to finance the cost of the project identified in the application in accordance with the Act and Commerce's program guidelines.

(b) Eligibility. To be eligible to participate, a city must not have experienced a "Largest Four Year Sales Tax Decline" of greater than ten percent.

(c) Minimum amount of loan. There is no minimum loan amount.

(d) Maximum amount of loan. No city with a rating of BBB+/Baa or better shall account for more than \$3,000,000 of program loans outstanding at any one time. No city with a rating less than BBB+/Baa, or city with no rating shall account for more than \$2,000,000 of program loans outstanding at any one time.

(e) Interest. The program loan shall bear an interest rate as provided by the program guidelines in effect from time to time.

(f) Maximum loan term. No program loan may be amortized for a period longer than 15 years.

(g) Security. All program loans must be secured by a first lien pledge of tax receipt proceeds sufficient, as of the loan closing date, to comply with a "Debt Service Coverage Ratio", based on loan term and the "Largest Fifteen Year Sales Tax Decline", as required under the program guidelines.

(h) Pledge of tax receipt proceeds. All program loans must be on a parity with or superior to any other debt obligations secured by the tax receipt proceeds and owing or incurred while any portion of the program loan is outstanding to insure that Commerce shall have no less than an equal claim to all pledged tax receipt proceeds.

(i) Other parity debt. If parity debt exists or is incurred during the term of the program loan, the "Debt Service Coverage Ratio" based on total "Projected Debt Service" must exceed the ratios set forth under the Program guidelines by a factor of 0.1 as of both the closing date of the program loan and the closing date of any parity debts subsequently incurred.

(j) Cross-default. The program loan shall be cross-defaulted with all parity debt obligations and Commerce must be notified in advance of the issuance of any parity debt obligations.

(k) Purpose of loan. The purpose of the program loan and the use of funds must comply with all applicable requirements of the Act and the Commerce Program guidelines. IDCs are permitted to use the proceeds of a program loan to fund the eligible cost of any eligible project as defined by the Act and the Commerce program guidelines.

(l) Program loan approval. The program loan approval shall be evidenced by a loan commitment letter issued by Commerce to the applicant. The loan commitment requires formal acceptance and response by the applicant and the city within 45 days from the date of the loan commitment letter. All program loan agreements must be approved by the executive director, or his/her designee, before loan closing.

(m) Conditions precedent to loan closing. The following events shall be conditions precedent to the closing of the program loan:

(1) Delivery to Commerce of an opinion of counsel from counsel representing the IDC addressed to Commerce, the Trustee, and the Bank in form and substance acceptable to Commerce;

(2) Delivery to Commerce of evidence of voter and city council approval of the economic development sales and use tax under the Act, §4A or §4B in a form acceptable to Commerce;

(3) Delivery to Commerce of a certificate of the chief financial officer of the city in a form acceptable to Commerce that the "Debt Service Coverage Ratio" required by the Commerce program guidelines has been met;

(4) Delivery to Commerce of an incumbency, signature identification and authority certificate for the IDC and the city in form and substance acceptable to Commerce;

(5) Delivery to Commerce of a certified copy of a resolution of the IDC authorizing and approving the program loan and pledging the economic development sales and use tax receipts in favor of Commerce;

(6) Delivery to Commerce of a copy of a letter addressed to the Texas State Treasury providing wire transfer instructions for the program loan proceeds; and

(7) Delivery to Commerce of a certified copy of a resolution of the city authorizing and approving the program loan of the IDC.

§181.9. Loan Closing.

(a) Time and Place. A loan closing shall take place at the office of Commerce or such other place as Commerce shall designate. The time of a loan closing shall be mutually agreeable to Commerce and the applicant, but in no event later than six months from the date of the loan commitment letter.

(b) Documents. The following documents shall be executed and delivered to Commerce in a form acceptable to Commerce, prior to funding of the program loan:

(1) Loan agreement executed by the applicant, the city, and Commerce;

(2) Promissory note executed by the applicant;

(3) Uniform Commercial Code financing statement executed by the applicant and Commerce.

(c) Funding of loan. The program loan proceeds shall be made by wire transfer according to instructions specified by the IDC.

§181.10. Loan Administration.

(a) Loan servicing. Commerce shall perform all loan administration services for the program loan except for the receipt of loan payments.

(b) Loan payments. All payments of principal and interest and any prepayments on the program loan shall be payable by the IDC by wire transfer to the Trustee on the first business day of each month.

(c) Principal and interest payment adjustments. The program loan shall provide for equal monthly principal and interest payments. Payment amounts shall be adjusted by Commerce upon a change in interest rate or a prepayment to amortize the loan over its original term.

(d) Other payments. All repayments to the IDC under any loan, lease or sale agreement to any user in excess of the scheduled payments provided by such agreements, including prepayments, proceeds of condemnation awards, foreclosure proceeds, insurance payments or other monies not reinvested in the collateral, or proceeds from the disposition of an asset, shall be used by the IDC to prepay a like principal amount on the program loan.

(e) Reporting. The IDC shall provide to Commerce within 15 days after the end of each quarter ending November 30, February 28 (or February 29 during a leap year), May 31, and August 31, the following written reports:

(1) A quarterly payment status report, including the principal and interest balance outstanding on the program loan, and all indebtedness of the IDC secured by the economic development sales and use tax; and

(2) Quarterly reports on the rating, economic development sales and use tax revenues, and the "Debt Service Coverage Ratio" of the city, which shall also take into account any parity debt incurred after the date of the program loan.

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

Issued in Austin, Texas, on September 25, 1996.

TRD-9614025

Lane Lanford

Chief, Administrative Officer

Texas Department of Commerce

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 936-0181

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TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

22 TAC §461.7

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.7, concerning Inactive Status. The amendment is being proposed in order to consolidate all rules regarding inactive status for licensees/certificands.

Sherry L. Lee, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal

implications for state or local government as a result of enforcing or administering the rule.

Ms. Lee also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to make the rules easier to understand and follow and to better inform the public of the Board's requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

The proposed amendment does not affect other statutes, articles, or codes.

§461.7. License Statuses [Inactive Status].

(a) **Active Status.** Any person with a license/certificate on active status may practice psychology pursuant to that license/certificate. Any license that is not on inactive, delinquent or restricted status is considered to be on active status.

(b) **Inactive Status.**

(1) A person may place his/her active certificate and/or license on an inactive status for a period of two years. Individuals may not continue on inactive status beyond two years without having returned to active status. After two years on inactive status, a license or certificate shall be automatically voided, unless the licensee or certificand is actively licensed in psychology in another state or province, in which case the licensee or certificand must submit proof of annual renewal of the other license to the Board. Persons who seek inactive status for their certification and/or licensure are required to return their certificate and license to the Board. See Chapter 473 of this title (relating to Fees).

(2) Individuals on inactive status must provide proof of compliance with Board Rule 461.11 of this title (relating to Continuing Education) before reactivation will occur.

(3) Individuals who placed their license/certificate on inactive status prior to January 31, 1992, who wish to return to active status must request reactivation from the Board in writing. The Board may require the person to take or retake any relevant examination. The Board may also require other knowledge or skill training experience.

(c) **Delinquent Status.** A person who fails to renew his/her license/certificate for any reason when required is considered to be on delinquent status. Any license/certificate delinquent for more than one consecutive year shall be void.

(d) **Restricted status.** Any license that is currently subject to disciplinary action and/or sanction is considered to be on restricted status. A person practicing under a restricted license/

certificate must comply with any restrictions placed thereon by the Board.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613968

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 4, 1996

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



22 TAC §461.11

The Texas State Board of Examiners of Psychologists proposes an amendment to §461.11, concerning Continuing Education. The amendment is being proposed in order to specify the categories of programs accepted by the Board, to broaden the listing of recognized organizations providing continuing education, to specify the number of continuing education hours given for specific activities, to specify the number of hours which may be banked by a licensee/certificand, and to specify the requirement that a Continuing Education Declaration Form be submitted with each annual renewal form by all certificands/licensees.

Sherry L. Lee, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Lee also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that all certificands/licensees are aware of the exact number of continuing education hours awarded in specific areas, to ensure that all certificands/licensees are aware of the exact number of continuing education hours which may be banked, to ensure that the information submitted by certificands/licensees in compliance with the continuing education requirement is uniform, making the rule easier to understand by all certificands/licensees and the general public. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, TX 78701, (512) 305-7700.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

The proposed amendment does not affect other statutes, articles, or codes.

§461.11. Continuing Education.

(a) Requirements. All certificands/licensees of the Board **must** [are obligated to] continue their professional education by **completing** [beyond the years of formal degree related training. Each certificand/licensee is required to obtain] 12 hours of continuing education **during each** [credits per] year **that they hold a certificate and/or license from the Board. Of these** [These] 12 hours, **four** must be **acquired through a formal continuing education program as defined** [received from programs as detailed] in **paragraph** [paragraphs] (1) [and (2)] of this subsection. **The remaining eight hours may be from either formal programs** [with a minimum of four hours of continuing education received from a formal continuing education program] as defined in paragraph (1) of this subsection **or from other continuing education experiences as defined in paragraph (2) of this subsection.**

(1) Formal Continuing Education Programs (**Category I**) [Program]. **This category may be fulfilled by completing or presenting** [Attendance and completion of relevant formally organized accredited workshops or courses or presentation of such] a workshop or course **from a Board recognized organization. The same workshop or course may not be used for credit more than once** [for a one-time credit only]. **To count under this category, the course or workshop** [There] must be **approved or sponsored by a Board recognized organization and must have** a pre-assigned number of continuing education [credit] hours [under the auspices of:]. **Examples of Board recognized organizations include:**

(A) regionally accredited **institutions** [institution] of higher education;

(B) **the** American Psychological Association;

(C) **National Psychological Associations;**

(D)[(C)] **Regional Psychological Associations** [Association];

(E)[(D)] **State Psychological Associations** [Association];

(F)[(E)] **Local Psychological Associations;**

(G)[(F)] **the** American Medical Association; **or**

(H)[(G)] other **Board** recognized professional bodies or groups.

(2) Other Continuing Education Experiences (**Category II**). **This category may be fulfilled by acquiring** [The Board will accept a maximum of eight hours of] continuing education **hours** [received] from the **four** [five] categories **as described in subparagraphs (A)-(D) of this paragraph** [of continuing education experiences found in this paragraph. The categories of continuing education experiences and the number of hours of continuing education for each category are as follows]:

(A) Meetings. **Attendance or presentation at** [Registered attendance at relevant] professional meetings **relating to psychology** [(international, national, regional, state, local)]. **Three hours per day for attendance; actual number of hours spent, with a maximum of three, per presentation.**

(B) Workshops, seminars and courses. **Attendance or presentation** [Registered attendance] at [relevant non- accredited] workshops, seminars or academic courses **relevant to psychology not included in paragraph (1) of this subsection.** Number of actual

[attendance] hours **for attendance; actual number of hours spent, with a maximum of three, per presentation.**

(C) Publications. **Articles** [Books, articles] published by applicant in relevant professional books, journals, or periodicals - **four hours**. [Three hours in a non-refereed journal; six hours in a refereed journal.] **Books authored or co-authored and published by a publishing company - eight hours. Editing a book or writing a book chapter - six hours.**

[(D) Presentations. Presentations by applicant at relevant professional meetings (international, national, regional, state, or local). Number of clock hours for a maximum of three hours per presentation.]

(D)[(E)] Individual Study. Self-study of professional materials including relevant books, journals, periodicals, tapes, and other materials, and preparation of relevant lectures and talks to public groups. Preparation credit may not be claimed under this category for presentation credited under paragraph (1) of this subsection. Four hours maximum.

(3) (No change.)

(b) Banking. Continuing education hours received from formal continuing education programs (See subsection (a)(1) of this section) **in excess of four hours during any one year period** may be [stored or] banked **for no longer than an additional two years provided that eight hours of Category II are also completed each year by the licensee/certificand** [over a three year period. For example, if a formal continuing education program offering 30 hours is taken in one year, up to 12 hours may be submitted for that year and the remaining hours saved for distribution over the next two years.]

(c) Documentation. The Board will accept as documentation of continuing education:

(1) (No change.)

(2) for hours received from other continuing education experiences (see subsection (a)(2) of this section) **documentation** [a registration receipt] from the workshop, seminar, course and/or meeting will be required; the table of contents or the article [in its entirety] will be required for **publications** [publications/presentations].

(d) **Declaration Form** [Audit]. Licensees/certificands will sign **and submit a completed Continuing Education Declaration Form with the annual** [a declaration on their] renewal form **specifying the continuing education they received for that period. This does not alter the responsibility of licensees/certificands to reply truthfully to any question concerning continuing education on the renewal form itself** [stating that they have met the continuing education requirements, and they will maintain continuing education records for five years. The Board will audit 10% of licensees/certificands each year for compliance with the continuing education requirements. Upon receipt of an audit notification, the requested compliance documentation will be mailed to the Board's office along with the annual renewal notice and renewal fees in order to renew and avoid non-compliance penalties].

(e) **Record Maintenance.** Licensees/certificands shall **maintain continuing education records for five years.**

(f) **Audit.** The Board will **audit 10% of licensees/certificands each year for compliance with the continuing education**

requirements. The Board will notify a licensee or certificand by mail that they have been selected for an audit. Upon receipt of an audit notification, the licensee or certificand must mail the requested proof of his/her compliance with annual continuing education requirements back to the Board along with his/her annual renewal notice and renewal fees in order to renew and avoid non-compliance penalties. All licensees/certificands shall comply with any Board requests for documentation and information concerning compliance with continuing education and/or Board audits.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613969

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 4, 1996

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



Chapter 463. Applications

22 TAC §463.5

The Texas State Board of Examiners of Psychologists proposes an amendment to §463.5, concerning Application File Requirements. The amendment is being proposed in order to clarify the process by which an application for licensure is handled by the Board when a complaint is filed against an applicant, to clarify the application requirements for the licensed specialist in school psychology and to inform the public that any individual applying under reciprocity from another state must have been actively licensed and in good standing for the preceding five years in that state.

Sherry L. Lee, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Lee also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that the general public of the State of Texas is receiving the best possible psychological services from qualified individuals and to ensure that all licensees/certificands and the general public are aware of the Board's requirements. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

The proposed amendment does not affect other statutes, articles, or codes.

§463.5. Application File Requirements.

An application file must be complete and contain whatever information or examination results the Board requires. An incomplete application remains in the active file for 90 days, at the end of which time, if still incomplete, it is void. If certification or licensure is sought again, a new application and filing fee must be submitted. No applicant can have more than one application as described in paragraphs (2), (3) and/or (5) of this section pending before the Board at one time. For any applicant against whom a complaint is filed with this Board, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. **If the complaint is not resolved within 180 days after an application has been held in abeyance, the Board shall review the complaint and make a determination as to whether to issue the license notwithstanding the complaint. In making the determination, the Board shall consider any relevant factor, including the potential for harm to the public if the license is granted, and the nature and severity of the allegations.** The applicant will be permitted to take all required exams as scheduled but will not be certified or licensed until approved by the Board.

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

(6) Licensed Specialist in School Psychology. A completed application for licensure as a specialist in school psychology includes **one of the following**, in addition to the requirements set forth in paragraph (1) of this section:

[(A) One of the following:]

(A)[(i)] Documentation from the National School Psychologists' Certification Board sent directly to the Board indicating the applicant holds current valid certification as a National Certified School Psychologist; or

(B) [(ii) The] **Documentation of the following sent directly to the Board:**

(i) transcripts **that** [submitted must] verify that the applicant has met the requirements set forth in §463.32 of this title (relating to Licensed Specialist in School Psychology); [and]

(ii) [(B)] **proof of the internship required by Board Rule §463.32 of this title (relating to Licensed Specialist in School Psychology)** if the applicant did not graduate from either a training program approved by the National Association of School Psychologists or a training program in school psychology accredited by the American Psychological Association[, proof of the internship required by Board Rule §463.32 of this title (relating to Licensed Specialist in School Psychology)]; **and**

(iii) [(C) Documentation sent directly from the Education Testing Service of] the score that the applicant [has] received on the School Psychology Examination **sent directly from the Education Testing Service.**

(7) License/Certificate by Reciprocity. A completed application for certification or licensure by reciprocity with this Board must include, in addition to the requirements in paragraph (1) of this section:

(A) (No change.)

(B) Documentation that the applicant **has been actively** [is currently] licensed and [has been] in good standing in one jurisdiction for the five years immediately preceding filing application in Texas;

(C) - (G) (No change.)

(8)-(9) (No change.)

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613970

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 4, 1996

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



Chapter 465. Rules of Practice

22 TAC §465.22

The Texas State Board of Examiners of Psychologists proposes an amendment to §465.22, concerning Psychological Records. The amendment is being proposed in order to clarify the requirements for retention and release of test data and protocols to ensure test security and validity of the test for other consumers of psychological services.

Sherry L. Lee, Executive Director, has determined that for the first five-year period the rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Ms. Lee also has determined that for each year of the first five years the rule is in effect the public benefit anticipated as a result of enforcing the rule will be to ensure that the public's interest in ensuring the availability of effective assessment tools and that the Board's rule is in accordance with national standards and practices regarding same. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Janice C. Alvarez, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700.

The amendment is proposed under Texas Civil Statutes, Article 4512c, which provide the Texas State Board of Examiners of Psychologists with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

The proposed amendment does not affect other statutes, articles, or codes.

§465.22. Psychological Records.

(a) (No change.)

(b) Content of Records.

(1) For purposes of this rule, psychological records include any information that can be used to document the delivery, progress, or results of any psychological services; including, but not limited to:

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

(E) any assessment, plan for intervention, consultation, handwritten notes, summary reports and/or testing reports [and relevant supporting data]; and

(F) (No change.)

(2) (No change.)

(3) Records include information stored in a computer [or computer data base].

(c) (No change.)

(d) Access to Records

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

(5) **Test** [Raw] data and protocols belong to the psychologist. [Raw data and protocols are not a matter of public record]. **Test** [Raw] data and protocols shall be made available only to another qualified **mental health professional** [and licensed psychologist] and only upon receipt of proper written authorization from the patient/client or other individual legally authorized to release psychological records on behalf of a patient or client.

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

(e) Retention of Records.

(1) (No change.)

(2) In the absence of specific other laws and regulations as specified in paragraph (1) of this subsection supra, complete records **and test data and protocols** shall be maintained for a minimum of ten years after the last contact with the client. If the client is a minor, the record period is extended until ten years after the age of majority.

(3) (No change.)

(f) (No change.)

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613971

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Earliest possible date of adoption: November 4, 1996

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



TITLE 30. ENVIRONMENTAL QUALITY

Part I. Texas Natural Resource Conservation Commission

Chapter 295. Water Rights, Procedural

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §§295.21, 295.22 and 295.202 concerning additional requirements for storage of appropriated surface water in aquifers under Texas Water Code §§11.153-11.155.

The proposed amendments to §§295.21, 295.22 and 295.202 will fully implement recent legislation in House Bill 1989 (Regular Session, 74th Legislature, 1995) which directs the TNRCC to investigate the feasibility of storing appropriated surface water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects, as defined in the proposed amendment to §297.1 of this title (relating to Definitions), which would store appropriated surface water in specific aquifers for subsequent retrieval and beneficial use.

The commission previously adopted new and amended rules in Chapters 295, 297 and 331 of this title (related to Water Rights, Procedural; Water Rights, Substantive; and Underground Injection Control, respectively) (see 21 TexReg 5441, June 14, 1996). The previously adopted rules specify where a project participant can pursue a pilot demonstration (Phase I) project in the state. They further provide the authorization procedures and technical requirements a project participant must adhere to in order to complete a Phase I study to determine the feasibility of a site for ultimate storage and retrieval.

The purpose of these proposed amendments to this chapter is to further define and specify those additional permitting and technical procedures and requirements a project sponsor will have to complete in order to obtain a Phase II (permanent authorization) permit for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer for subsequent retrieval and beneficial use.

Proposed amendments to §295.21, Aquifer Storage and Retrieval Projects, adds a provision which requires a project sponsor to file an application for a permit under Texas Water Code, §11.121 and authorization under Chapter 331 of this title (relating to Underground Injection Control) prior to commencing any actual storage of state water for later retrieval and beneficial use. Such application for the above authorizations will not be accepted by the executive director for processing until the project sponsor has successfully completed a Phase I (pilot demonstration) project.

In accordance with House Bill 1989 (1995), proposed amendments to §295.21 further provide that prior to June 1, 1999, the commission will not issue any final orders authorizing the storage of state water underground for subsequent beneficial use for projects other than a Phase I project.

Proposed amendments to §295.22, Additional Requirements for the Underground Storage of Surface Water for Subsequent Retrieval and Beneficial Use, will clarify which additional application requirements are applicable to either Phase I and/or Phase II aquifer storage and retrieval projects.

Proposed amendments to §295.22 provide that in addition to the appropriate application for authorization of a Phase II aquifer storage and retrieval project, the applicant will have to provide a final report on the Phase I project, a detailed operations plan, a proposed monitoring plan, a report identifying any potential impacts within one-quarter mile of the project area and any

other information as determined by the executive director to be necessary for the protection of underground sources of drinking water.

Proposed amendments to §295.22 specify that any applicant for a permit which proposes to store state water underground for later retrieval and beneficial use, who does not have the power of condemnation shall provide a copy or copies of duly acknowledged agreement(s) between the applicant and the landowner(s) regarding the placement of any project installations upon the landowner's property or the storage of state water underneath the landowner's property for later retrieval.

Proposed amendments to §295.22 states that in addition to the requirements of §§295.121-295.123 of this title (relating to Requirements, Drawings Not To Be Folded, and Content Requirements of Maps, respectively), the applicant shall provide information relating to an overall plan of the project area, names and locations of underground formations, cross sections and profiles of the underground formations in which state water will be stored, location of any "critical area" as designated under Chapter 294 of this title (relating to Underground Water Management Areas) which coincide with the project area, location of any buffer zones or areas, location and ownership of all domestic, public water supply, irrigation and commercial wells within specified areas and any other information the executive director may require to determine the feasibility of a project.

Proposed amendments to §295.202 provides the additional reporting requirements that a water right holder will have to comply with regarding an aquifer storage and retrieval project. These requirements would include the need to submit to the executive director a detailed operations report the fifth year after the date of issuance of the Phase II authorization and every ten years thereafter, unless specified otherwise by the executive director. In addition, the executive director shall review the operations report and may pursue the appropriate amendments to the authorization(s) if the executive director determines that circumstances have significantly changed from those under which the authorization was originally granted.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as proposed are in effect there will be fiscal implications as a result of administration and enforcement of the sections. The effect on state government will be an increase in cost of approximately \$40,000 per year. The effects on local governments are related to potential requirements for underground water districts for coordination of aquifer storage and retrieval projects under their jurisdiction.

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the permitting process for aquifer storage and retrieval and in the management and preservation of surface water resources. There are no economic costs anticipated for persons not required to comply with these sections or for small businesses. These sections will affect applicants for aquifer storage and retrieval projects and are not anticipated to materially affect the total costs of those projects.

The Commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that Assessment. The specific purpose of the rule is to further define and specify those additional permitting and technical procedures and requirements to obtain a Phase II (permanent authorization) permit or permit amendment for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer. The rules will substantially advance this specific purpose by providing application requirements and specific technical and administrative requirements for these types of projects in order to protect water quality and prevent waste of state water. Promulgation and enforcement of these rules will not burden private real property which is the subject of these rules because the activities subject to the rule are undertaken voluntarily and the requirements seek to protect water quality of existing resources and prevent the waste of state water resources.

A public hearing on the proposal will be held October 31, 1996, at 10:00 a.m. in Room 2210 of TNRCC Park 35 Circle Office Complex, Building F located at 12015 North Interstate 35, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in the order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments on the proposal should mention Log Number 95172-295-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Comments may be faxed to (512) 239-4687, but must be followed up with the submission of the written comments. Written comments must be received by 5:00 p.m., November 4, 1996. For further information, please contact Steve Musick at (512) 239-4514.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Subchapter A. Requirements of Water Use Permit Application

Additional Requirements for the Storage of Appropriated Surface Water in Aquifers

30 TAC §295.21, §295.22

The amendments are proposed under the Texas Water Code, §5.103, and §5.105, which authorize the TNRCC to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed amendments implement the Texas Water Code, §§11.153-11.155, which authorize the TNRCC to investigate the feasibility of storing appropriated water in various aquifers around the state by encouraging the issuance of permits

for aquifer storage and retrieval projects which would store appropriated water for subsequent retrieval and beneficial use.

There are no other rules, statutes, or codes that will be affected by this proposal.

§295.21. Aquifer Storage and Retrieval Projects.

(a) (No Change.)

(b) Except as provided by subsection (c) of this section, **an** [the] applicant shall file the appropriate application and obtain the issuance of **the following**:

(1) a temporary or term permit under Chapter 297 of this title (relating to Water Rights, Substantive) and the necessary authorization under Chapter 331 of this title (relating to Underground Injection Control) prior to commencement of construction of Phase I of an aquifer storage and retrieval project, as defined in §297.1 of this title (relating to Definitions); **or**

(2) **a permit under §297.11 of this title (relating to Permit Under Texas Water Code, §11.121) and the necessary authorization under Chapter 331 of this title (relating to Underground Injection Control) prior to actual storage of state water for underground storage and retrieval for purposes other than a Phase I project.**

(A) **An application for permit under paragraph (2) of this subsection will not be accepted for processing by the executive director until such time as the applicant has obtained the necessary authorizations and successfully completed a Phase I project.**

(B) **A final order granting a permit or amendment to a permit authorizing the storage of appropriated water in aquifers for subsequent beneficial use, for purposes other than a Phase I project, will not be issued before June 1, 1999.**

(c) A water right permit is not required for Phase I of an aquifer storage and retrieval project that proposes the temporary storage of appropriated surface water in an aquifer for **testing and** subsequent retrieval and beneficial use if the diversion and purpose of use (e.g., municipal, industrial, etc.) of the surface water is covered by an existing water right. The water right holder or person holding a valid contract with a water right holder shall notify the executive director, in writing, of the proposed temporary storage and shall submit the information required by §295.22 of this title (relating to Additional Requirements for Storage of Surface Water for Subsequent Retrieval and Beneficial Use) with the written notification not later than 60 days prior to the proposed **temporary** storage of water in an applicable aquifer. Upon completion of Phase I of the project, an amendment to the existing water right is required for permanent authorization to store appropriated surface water in an aquifer for subsequent retrieval and beneficial use.

(d) (No change.)

§295.22. Additional Requirements for the Underground Storage of Surface Water for Subsequent Retrieval and Beneficial Use.

(a) **Phase I projects.** In addition to the **applicable** information required by Subchapter A of this chapter (relating to Requirements of Water Use Permit Application), the appropriate permit application must include:

(1) **all information sufficient to demonstrate compliance with Chapter 331, Subchapter K of this title (relating to**

Additional Requirements for Class V Aquifer Storage Wells) and those portions of Chapter 331, Subchapters A and H of this title (relating to General Provisions and Standards for Class V Wells, respectively) which relate to aquifer storage injection wells [information required for an application for a permit for a Class V injection well (under 30 TAC Chapters 305 and 331)];

(2) a map or plat showing the proposed depth and location of all injection facilities, retrieval wells, and the aquifer in which the water will be stored;

(3) if applicable, a letter from the Texas Water Development Board indicating an area has been designated in accordance with §11.155 (b)(3) of the Texas Water Code; and

(4) if applicable, the application for storage of surface water in an underground water reservoir or a subdivision of an underground water reservoir, as defined by Chapter 35 of the Texas Water Code, that is under the jurisdiction of an underground water conservation district, must include:

(A) evidence of [acknowledging] service, by certified mail, of a copy of the application or notification submitted in accordance with §295.21 of this title (relating to Aquifer Storage and Retrieval Projects) to the underground water conservation district having jurisdiction over the aquifer; and

(B) a copy of an agreement, if any, reached by the applicant with the underground water conservation district reflecting the applicant's consent to cooperate in the development of, and abidance with, the rules governing the injection, storage, or retrieval of appropriated surface water in the underground water reservoir or a subdivision thereof.

(b) **Phase II projects.** In addition to the information required by subsection (a) of this section, the appropriate permit application must include:

(1) **a copy of the final report on the Phase I project required under §331.185(b) of this title (relating to Monitoring and Reporting Requirements);**

(2) **an operations plan for the life of the project detailing the following:**

(A) **injection rates and volumes;**

(B) **frequency of injection periods;**

(C) **retrieval rates and volumes;**

(D) **frequency of retrieval periods;**

(E) **radial distances of travel from the injection wells on an annual basis;**

(F) **maximum extent of travel for the life of the project; and**

(G) **location of all injection, retrieval and monitoring wells.**

(3) **a report identifying any potential impacts to artificial penetrations within one-quarter mile of the perimeter of the buffer zone, as described in subsection (e)(5) of this section;**

(4) **a proposed monitoring plan which would address the quality of water injected and retrieved and the water levels of the receiving body of underground water within the perimeter of**

the buffer zone and within one-quarter mile of the perimeter of the buffer zone. In addition, the proposed monitoring plan shall describe how waters injected and retrieved will be measured and reported;

(5) other information as determined by the executive director as necessary for the protection of underground sources of drinking water.

(c) **Control of Stored State Water.** If the applicant does not have the power of condemnation and proposes to store state water in and withdraw it from underneath or to place any installation upon the land of another, the name(s) and address(es) of such landowner(s) shall be given. A copy of a duly acknowledged written easement, consent, or license from the landowner(s) or of a written lease or other evidence of agreement between the landowner(s) and the applicant shall be filed with the application.

(d) **Map Requirements.** All maps, plats and drawings accompanying the application shall be submitted in accordance with §§295.121-295.123 of this title (relating to Requirements, Drawings Not To Be Folded and Content Requirements of Maps, respectively).

(e) **Additional Map Requirements.** In addition to the preceding requirements, maps or plats submitted with the application for an aquifer storage and retrieval project shall include the following, if applicable:

(1) an overall plan of the project area showing the locations and extent of the proposed works and the locations of all pertinent features, including structures, pipelines, roads, natural springs, artesian wells and property lines. Also, such plan shall include all proposed or existing injection and retrieval facilities, by course and distance from a corner of an original land survey and/or other survey point of record, associated with the aquifer storage and retrieval project;

(2) name(s) and location(s) of the underground formation(s) in which state water will be stored for later retrieval and the general direction of flow indicated;

(3) cross sections and profiles of the underground formation(s) into which water will be injected and stored, any underground formation which confines the injection interval, any underground formation(s) located between the storage area and the land surface and the actual and/or proposed operating depths of all planned injection and retrieval facilities;

(4) if applicable, the location of any area or areas proposed for underground storage which would be within any part or portion of a critical area designated or proposed for designation by the commission under Chapter 294 of this title (relating to Underground Water Management Areas).

(5) for Phase II projects, the location of a buffer zone surrounding the land surface area under which the underground storage of state water will occur and beyond which pumpage by other wells will not interfere or significantly affect the movement or storage of the state water.

(6) for Phase II projects, the location and ownership of all existing domestic, public water supply, irrigation, or commercial wells within one-quarter mile of the perimeter of the

buffer zone described in this subsection, indicated by appropriate symbols to differentiate these works from the proposed works;

(7) all elevations shall be referred to mean sea level datum;

(8) any additional information the executive director may require to determine the feasibility of the project.

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 September 23, 1996.

TRD-9614037

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: November 4, 1996

For further information, please call: (512) 239-4640



Subchapter F. Miscellaneous

30 TAC §295.202

The amendment is proposed under the Texas Water Code, §§5.103, and §5.105, which authorize the TNRCC to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed amendment implements the Texas Water Code, §§11.153-11.155, which authorize the TNRCC to investigate the feasibility of storing appropriated water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects which would store appropriated water for subsequent retrieval and beneficial use.

There are no other rules, statutes, or codes that will be affected by this proposal.

§295.202. Reports.

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

(e) **Operations Report for Aquifer Storage and Retrieval Projects.**

(1) On the five year anniversary date of the issuance of the permit or permit amendment, and every ten years thereafter or upon a more frequent schedule established by the executive director, the permittee shall provide the executive director with an operations report describing what efforts the permittee has made to:

(A) protect the state water stored in the receiving aquifer from unauthorized withdrawals; and

(B) maximize the retrieval and beneficial use of the stored water without experiencing unreasonable losses of state water.

(2) The operations report shall identify and provide:

(A) any potential or real impacts realized by the project operator during the operation of the project;

(B) all data, information and analyses associated with any monitoring done in accordance with the project;

(C) a comparison of actual movement of injected state water with the modeling predictions submitted with the application for permit under Chapter 295 of this title (relating to Water Rights, Procedural);

(D) an assessment of the project in terms of the protection of ground water quality; and

(E) any additional information the executive director determines is necessary for the protection of underground sources of drinking water.

(3) The executive director shall review the report described in this subsection. If the executive director determines that the circumstances, under which the permit was granted, have significantly changed, the executive director may pursue an amendment to such permit in accordance with §305.62 of this title (relating to Amendment).

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 September 23, 1996.

TRD-9614038

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: November 4, 1996

For further information, please call: (512) 239-4640



Chapter 297. Water Rights, Substantive

Subchapter A. Definitions

30 TAC §297.1

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes an amendment to §297.1 concerning permits for the storage of appropriated surface water in aquifers under Texas Water Code §§11.153-11.155.

The proposed amendment to §297.1 will fully implement recent legislation in House Bill 1989 (Regular Session, 74th Legislature, 1995) which directs the TNRCC to investigate the feasibility of storing appropriated surface water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects, as defined in the proposed amendment to §297.1 of this title (relating to Definitions), which would store appropriated surface water in specific aquifers for subsequent retrieval and beneficial use.

The commission previously adopted new and amended rules in Chapters 295, 297 and 331 of this title (related to Water Rights, Procedural; Water Rights, Substantive; and Underground Injection Control, respectively) (see 21 Tex Reg 5441, June 14, 1996). The previously adopted rules specify where a project participant can pursue a pilot demonstration (Phase I) project in the state. They further provide the authorization procedures and technical requirements a project participant must adhere to

in order to complete a Phase I study to determine the feasibility of a site for ultimate storage and retrieval.

The purpose of the proposed amendment to this chapter is to further define and specify those additional permitting and technical procedures and requirements a project sponsor will have to complete in order to obtain a Phase II (permanent authorization) permit for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer for subsequent retrieval and beneficial use.

Proposed amendment to §297.1, Definitions, will amend the term "aquifer storage and retrieval project" to clarify that Phase I of a project will require commission authorization by a temporary or term permit whereas a Phase II project would require authorization by a permit or permit amendment.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years the section as proposed are in effect there will be fiscal implications as a result of administration and enforcement of the section. The effect on state government will be an increase in cost of approximately \$40,000 per year. The effects on local governments are related to potential requirements for underground water districts for coordination of aquifer storage and retrieval projects under their jurisdiction.

Mr. Minick also has determined that for the first five years this section as proposed is in effect the public benefit anticipated as a result of enforcement of and compliance with the section will be improvements in the permitting process for aquifer storage and retrieval and in the management and preservation of surface water resources. There are no economic costs anticipated for persons not required to comply with the section or for small businesses. The section will affect applicants for aquifer storage and retrieval projects and are not anticipated to materially affect the total costs of those projects. The Commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that Assessment. The specific purpose of the rule is to further define and specify those additional permitting and technical procedures and requirements to obtain a Phase II (permanent authorization) permit or permit amendment for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer. The rules will substantially advance this specific purpose by providing application requirements and specific technical and administrative requirements for these types of projects in order to protect water quality and prevent waste of state water. Promulgation and enforcement of these rules will not burden private real property which is the subject of these rules because the activities subject to the rule are undertaken voluntarily and the requirements seek to protect water quality of existing resources and prevent the waste of state water resources.

A public hearing on the proposal will be held October 31, 1996, at 10:00 a.m. in Room 2210 of TNRCC Park 35 Circle Office Complex, Building F located at 12015 North Interstate 35, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in the order of registration. Open discussion within the audience will not occur during the hearing;

however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments on the proposal should mention Log Number 95172-295-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Comments may be faxed to (512) 239-4687, but must be followed up with the submission of the written comments. Written comments must be received by 5:00 p.m., November 4, 1996. For further information, please contact Steve Musick at (512) 239-4514.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

The amendment is proposed under the Texas Water Code, §5.103, and §5.105, which authorize the TNRCC to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The proposed amendment implements the Texas Water Code, §§11.153-11.155, which direct the TNRCC to investigate the feasibility of storing appropriated surface water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects that would propose to store appropriated water in specific aquifers for subsequent retrieval and beneficial use.

There are no other rules, statutes, or codes that will be affected by this proposal.

§297.1. Definitions.

The following words and terms, when used in this chapter and in Chapter 295 of this title (relating to Water Rights Rules, Procedural), shall have the following meanings, unless the context clearly indicates otherwise:

Aquifer Storage and Retrieval Project-A project with two phases that anticipates the use of a Class V aquifer storage well, as defined in §331.2 of this title (relating to Definitions), for injection into a geologic formation, group of formations, or part of a formation that is capable of underground storage of appropriated surface water for subsequent retrieval and beneficial use. Phase I of the project **requires commission authorization by a temporary or term permit** [is] to determine feasibility for ultimate storage and retrieval for beneficial use. Phase II of the project requires commission authorization by permit or permit amendment after the commission has determined that Phase I of the project has been successful.

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 September 23, 1996.

TRD-9614039

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: November 4, 1996

For further information, please call: (512) 239-4640

Chapter 331. Underground Injection Control

The Texas Natural Resource Conservation Commission (TNRCC or commission) proposes amendments to §§331.9, 331.182 and 331.185, concerning additional standards and requirements for Class V aquifer storage wells.

The proposed amendments to §§331.9, 331.182 and §331.185 will fully implement recent legislation in House Bill 1989 (Regular Session, 74th Legislature, 1995) which directs the TNRCC to investigate the feasibility of storing appropriated surface water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects, as defined in the proposed amendment to §297.1 of this title (relating to Definitions), which would store appropriated surface water in specific aquifers for subsequent retrieval and beneficial use.

The commission previously adopted new and amended rules in Chapters 295, 297 and 331 of this title (related to Water Rights, Procedural; Water Rights, Substantive; and Underground Injection Control, respectively) (see 21 Tex Reg 5441, June 14, 1996) . The previously adopted rules specify where a project participant can pursue a pilot demonstration (Phase I) project in the state. They further provide the authorization procedures and technical requirements a project participant must adhere to in order to complete a Phase I study to determine the feasibility of a site for ultimate storage and retrieval.

The purpose of these proposed amendments to this chapter is to further define and specify those additional permitting and technical procedures and requirements a project sponsor will have to complete in order to obtain a Phase II (permanent authorization) permit for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer for subsequent retrieval and beneficial use.

Proposed amendments to §331.9, Injection Authorized by Rule, provides that any Class V well used to inject a quantity, greater than 1000 gallons per day, of wastewater or wastewater treated to a higher level must obtain a permit from the commission prior to commencement of construction and operation. In addition, this section has been amended to specify that any Class V injection well used for underground storage of state water must obtain the necessary authorizations under §295.21 of this title (relating to Aquifer Storage and Retrieval Projects) prior to commencement of construction and operation and meet the applicable requirements of this chapter.

Proposed amendment to §331.182, Area of Review, will clarify the area of review for a Phase I Class V aquifer storage well and add the requirements for an area of review related to a Phase II Class V aquifer storage well.

Proposed amendment to §331.185, Monitoring and Reporting Requirements, would clarify that monthly water quality analyses are needed for the injected water and that a final report is needed at the conclusion of a Phase I aquifer storage and retrieval project or at the conclusion of a feasibility study completed in association with any other type of aquifer storage project.

Stephen Minick, Strategic Planning and Appropriations Division, has determined that for the first five years these sections as

proposed are in effect there will be fiscal implications as a result of administration and enforcement of the sections. The effect on state government will be an increase in cost of approximately \$40,000 per year. The effects on local governments are related to potential requirements for underground water districts for coordination of aquifer storage and retrieval projects under their jurisdiction.

Mr. Minick also has determined that for the first five years these sections as proposed are in effect the public benefit anticipated as a result of enforcement of and compliance with the sections will be improvements in the permitting process for aquifer storage and retrieval and in the management and preservation of surface water resources. There are no economic costs anticipated for persons not required to comply with these sections or for small businesses. These sections will affect applicants for aquifer storage and retrieval projects and are not anticipated to materially affect the total costs of those projects.

The Commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code Annotated §2007.043. The following is a summary of that Assessment. The specific purpose of the rule is to further define and specify those additional permitting and technical procedures and requirements to obtain a Phase II (permanent authorization) permit or permit amendment for an aquifer storage and retrieval project which would store appropriated surface water in an aquifer. The rules will substantially advance this specific purpose by providing application requirements and specific technical and administrative requirements for these types of projects in order to protect water quality and prevent waste of state water. Promulgation and enforcement of these rules will not burden private real property which is the subject of these rules because the activities subject to the rule are undertaken voluntarily and the requirements seek to protect water quality of existing resources and prevent the waste of state water resources.

A public hearing on the proposal will be held October 31, 1996, at 10:00 a.m. in Room 2210 of TNRCC Park 35 Circle Office Complex, Building F located at 12015 North Interstate 35, Austin. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in the order of registration. Open discussion within the audience will not occur during the hearing; however, a TNRCC staff member will be available to discuss the proposal 30 minutes prior to the hearing and will answer questions before and after the hearing.

Written comments on the proposal should mention Log Number 95172-295-WT and may be submitted to Lutrecia Oshoko, Texas Natural Resource Conservation Commission, Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-4640. Comments may be faxed to (512) 239-4687, but must be followed up with the submission of the written comments. Written comments must be received by 5:00 p.m., November 4, 1996. For further information, please contact Steve Musick at (512) 239-4514.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the hearing should contact the agency at (512) 239-4900. Requests should be made as far in advance as possible.

Subchapter A. General Provisions

30 TAC §331.9

The amendment is proposed under the Texas Water Code, §§5.103, 5.105, and 27.019, and Texas Health and Safety Code, §361.017 and §361.024, which authorize the TNRCC to adopt any rules necessary to carry out its powers and duties under the Texas Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The amendment implements the Texas Water Code, §§11.153-11.155, which authorize the TNRCC to investigate the feasibility of storing appropriated water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects for the storage of appropriated water in certain aquifers for subsequent retrieval and beneficial use.

There are no other rules, statutes, or codes that will be affected by this proposal.

§331.9. *Injection Authorized by Rule.*

(a)-(e) (No Change)

(f) Injection into Class V Wells, unless otherwise provided herein is authorized by virtue of this rule: [; injection into new Class V wells used for the disposal of over 1,000 gallons per day of sewage or sewage effluent must apply for and obtain a permit from the commission prior to operations]

(1) for injection into new Class V wells used for the disposal or storage of over 1,000 gallons per day of wastewater or treated wastewater, a person must submit an application to and obtain a permit from the commission prior to commencement of construction and operations.

(2) for Class V aquifer storage injection wells to be used for underground storage of appropriated surface water, a person must obtain the necessary authorization under §295.21 of this title (relating to Aquifer Storage and Retrieval Projects) from the commission and meet the requirements of this chapter related to aquifer storage injection wells prior to commencement of construction and operation.

(g)-(j) (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 September 23, 1996.

TRD-9614040

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: November 4, 1996

For further information, please call: (512) 239-4640



Subchapter K. Additional Requirements for Class V Aquifer Storage Wells

30 TAC §331.182, §331.185

The rules are proposed under the Texas Water Code, §5.103, and §5.105, which authorize the TNRCC to adopt any rules

necessary to carry out its powers and duties under the Texas Water Code and other laws of Texas and to establish and approve all general policy of the commission.

The amendments implement the Texas Water Code, §§11.153-11.155, which authorize the TNRCC to investigate the feasibility of storing appropriated water in various aquifers around the state by encouraging the issuance of permits for aquifer storage and retrieval projects for the storage of appropriated water in certain aquifers for subsequent retrieval and beneficial use.

There are no other rules, statutes, or codes that will be affected by this proposal.

§331.182. Area of Review.

The area of review for a **Phase I Class V** aquifer storage well is the area determined by a radius of 1/4 mile from the proposed or existing wellbore. **The area of review for a Phase II Class V aquifer storage well is the area determined by a radius of 1/4 mile from the perimeter of a buffer zone as described under §295.22(e)(5) of this title (relating to Additional Requirements for the Underground Storage of Surface Water for Subsequent Retrieval and Beneficial Use).** In the application for authorization, the applicant shall provide information on the activities within the area of review including the following factors and their adverse impacts, if any, on the injection operation:

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

§331.185. Monitoring and Reporting Requirements.

(a) The following must be monitored at the required frequency, and reported to the executive director on a quarterly basis or a schedule to be agreed upon by the executive director:

- (1) (No change.)
- (2) monthly injection **and retrieval** volumes;
- (3) (No change.)
- (4) monthly water quality analyses **of injected water**; and
- (5) (No change.)

(b) A final report for Phase I of **an aquifer storage and retrieval [a] project or a feasibility study of any other aquifer storage project** must be submitted to the executive director within 45 days of the completion of **such** [Phase I of a] **projects** [project] addressing items in §331.186 of this title (relating to Additional Requirements Necessary for Final Project Authorization).

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 September 23, 1996.

TRD-9614041

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Proposed date of adoption: November 4, 1996

For further information, please call: (512) 239-4640



TITLE 31. NATURAL RESOURCES AND CONSERVATION

Part II. Texas Parks and Wildlife Department

Chapter 57. Fisheries

The Texas Parks and Wildlife Department proposes repeal of §57.156 and §57.158, concerning Freshwater Mussels and new §§57.156-57.158, concerning Freshwater Mussels and Clams. This action represents recodification of current regulations as part of the Commission's regulations sunset process.

Proposed new §57.156 (concerning Definitions) provides definitions necessary for implementation of following sections. Proposed new §57.157 (concerning Mussels and Clams) provides general rules, means and methods, bag, possession and size limits, seasons, times and places for taking of mussels and clams. Proposed new §57.158 (concerning Penalties) provides reference to penalties for violations of rules concerning mussels and clams.

Robin Riechers, Staff Economist, has determined that for each of the first five years the repeal of rules and new rules as proposed are in effect, there will be no fiscal implications for state or local governments.

Mr. Riechers also has determined that for each of the first five years the repeal and new rules are in effect the public benefit anticipated as a result of these actions as proposed will be enhanced protection of native stocks of mussels and clams.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repealed and new rules as proposed will not impact local economies.

Comments on the proposed repeal and proposed new rules may be submitted to Earl Chilton, Inland Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4652 or 1-800-792-1112, ext. 4652.

Freshwater Mussels

31 TAC §57.156, §57.158

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Parks and Wildlife Code, §78.006.

The proposed repeals affect Parks and Wildlife Code, §78.006.

§57.156. Definitions.

§57.158. Mussels and Clams.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613918

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642

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Freshwater Mussels and Clams

31 TAC §§57.156-57.158

The new rules are proposed under Parks and Wildlife Code, §78.006.

The proposed new rules affect Parks and Wildlife Code, §78.006.

§57.156. Definitions.

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

Day –As used in these regulations is that period of time that begins at midnight and ends at midnight.

Freshwater mussel –Bivalve mollusks of the family Unionidae (collectively including Amblimidae and Margaritiferidae) as listed by the American Fisheries Society Special Publication 16.

Mussels and clams –As used in these regulations include all freshwater and marine bivalve mollusks except oysters.

§57.157. Mussels and Clams.

(a) General rules.

(1) It is unlawful for any person to take or possess mussels and clams, within a protected size limit, in greater numbers, by other means, or at any time or place, other than as permitted under these rules.

(2) No person may take mussels, clams, or their shells from the public waters of this state for personal use without being licensed under provisions of Parks and Wildlife Code, Chapter 46, Subchapter A, or Chapter 43, Subchapter M.

(3) No person may take mussels, clams, or their shells from the public waters of this state for commercial purposes without being licensed under the provisions of Parks and Wildlife Code, Chapter 78 and Chapter 47, Subchapter A.

(b) Bag, possession, and size limits.

(1) It is unlawful for any person while fishing on public waters to have in his possession mussels and clams in excess of the daily bag limit or within a protected size limit.

(2) No person may take or possess, for personal use, more than 25 pounds, per day, of whole mussels and clams, or 12 pounds of mussel and clam shells from the public waters of this state.

(3) A person may take or possess, for commercial purposes, mussels and clams from the public waters of this state in unlimited quantities, Monday through Friday, of each week.

(4) No person, while on or within 500 yards of any public water of this state, may take or possess, for commercial purposes,

more than 75 pounds of whole mussels and clams, including their shells, on Saturday and Sunday of each week.

(5) A person may take or possess mussels and clams, including their shells, of the following species that will pass through a ring with an inside diameter (I.D.) specified for that species. Figure: 31 TAC §57.157(b)(5)

(c) Means, and methods.

(1) It is unlawful for any person to take or possess mussels and clams taken by any means, or method other than as authorized in these rules or in this subsection.

(2) Mussels and clams may be taken only by hand.

(3) The department may grant permission to use a dredge, in a specified area, to take mussels and clams for commercial purposes.

(d) Seasons, times, and places.

(1) It is unlawful for any person to take mussels and clams from 30 minutes after sunset to 30 minutes before sunrise of each day.

(2) All public waters of the state are open to mussel and clam harvest except that mussels and clams may not be taken from the following reservoirs, rivers, creeks and tributaries:

(A) North Sulphur River from State Highway 50 in Fannin County to State Highway 24 in Delta and Lamar Counties;

(B) South Sulphur River from State Highway 50 in Hunt County to State Highway 154 in Hopkins County;

(C) Sulphur River from State Highway 37 in Franklin County to U.S. Highway 271 in Titus County;

(D) White Oak Creek from State Highway 37 in Franklin County to U.S. Highway 271 in Titus County;

(E) Big Cypress Creek from the dam at Lake Bob Sandlin downstream to U.S. Highway 271 in Camp County;

(F) Sabine River from the dam at Lake Tawakoni downstream to State Highway 19 in Rains and Van Zandt Counties, from FM 14 to State Highway 155 in Smith County and from State Highway 43 downstream to U.S. Highway 59 in Harrison and Panola Counties;

(G) Angelina from its source in Rusk County to its confluence with the Neches River in Jasper County, inclusive of Sam Rayburn Reservoir;

(H) Neches River from the Dam at Lake B.A. Steinhagen downstream to its confluence with Pine Island Bayou in Orange County; 2

(I) Pine Island Bayou from its source in Hardin County to the confluence with the Neches River in Hardin County;

(J) Trinity River from State Highway 34 in Kaufman and Ellis Counties downstream to the FM 85 in Navarro County and from the dam at Lake Livingston downstream to U.S. Highway 59 in Polk County;

(K) Brazos River from U.S. Highway 380 downstream to U.S. Highway 83 in Stonewall County; from the dam at Possum Kingdom Reservoir downstream to the bridge at U.S. High-

way 180 in Palo Pinto County and from the bridge at State Highway 7 downstream to the bridge at Ranch Road 413 in Falls County;

(L) the Colorado River from its source in Dawson County downstream to Ranch Road 1205 in Borden County, from the dam at Lake E.V. Spence downstream to U.S. Highway 277 in Coke County; and from the U.S. Highway 377 bridge in McCulloch and Brown Counties to Ranch Road 45 in Mills and San Saba Counties;

(M) the North Concho River from the State Highway 163 in Sterling County to the city limits of Water Valley in Tom Green County;

(N) the Concho River from the mouth of Kickapoo Creek downstream to the U.S. Highway 83 bridge in Concho County;

(O) the San Saba River from the Ranch Road 1311 bridge in Menard County downstream to the U.S. Highway 87 bridge in McCulloch County;

(P) the Guadalupe River from the State Highway 123 bridge in Guadalupe County downstream to the State Highway 80 bridge in Gonzales County;

(Q) the San Marcos River from its source in Hays County downstream to the confluence with the Guadalupe River in Gonzales County; and

(R) the Comal River from its source downstream to its confluence with the Guadalupe River in Comal County.

(S) Pine Creek from its source in Lamar County to its confluence with the Red River in Red River County;

(T) Sanders Creek from its source in Fannin County to the confluence with the Red River in Lamar County; and

(U) Elm Creek from its source downstream to the dam at Elm Creek Lake at Ballinger City Park in Runnels County.

§57.158. Penalties.

Penalties for violation of §§57.156-57.157 are prescribed in Parks and Wildlife Code, §78.007.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613917

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Permits to Sell Nongame Fish Taken From Fresh Water

31 TAC §§57.377-57.386

The Texas Parks and Wildlife Department proposes repeal of §57.377-57.386 and new §57.377-57.386, concerning Permits to Sell Nongame Fish Taken From Public Freshwater. This

action represents recodification of current regulations as part of the Commission's regulations sunset process.

Proposed new §57.377 (concerning Definitions) provides definitions necessary for implementation of following sections. Proposed new §57.378 (concerning Nongame Fishes Covered by Rules) lists those species for which permits can be issued. Proposed new §57.379 (concerning Prohibited Acts) provides clear delineation of prohibited activities related to taking of nongame fish. Proposed new §57.380 provides permit application procedures and proposed new §57.381 outlines permit specifications and requirements. Proposed new §57.382 provides requirements for harvest and sales reports related to take of nongame fish and new §57.383 proposes a refundable \$50 permit application fee. Proposed new §57.384 provides criteria for permit denial and new §57.385 provides appeal procedures for those whose permits application is denied. Proposed new §57.386 provides reference to penalties for violations of the rules.

Robin Riechers, Staff Economist, has determined that for each of the first five years the repeal of rules as proposed is in effect, there will be no fiscal implications for state or local governments.

Mr. Riechers also has determined that for each of the first five years the repeal and new rules are in effect the public benefit anticipated as a result of the repeal and new rules as proposed will be enhanced protection of native nongame fish species with concomitant access to these species by commercial interests.

There are anticipated economic costs to persons and small businesses required to comply with the new rules as proposed. Persons and businesses wishing to take nongame species for sale will incur costs related to the application fee and reporting requirements.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repealed rules as proposed will not impact local economies.

Comments on the proposed repeal and proposed new rules may be submitted to Ken Kurzawski, Inland Fisheries Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4591 or 1-800-792-1112, ext. 4591.

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Parks and Wildlife Code, §67.0041.

The proposed repeals affect Parks and Wildlife Code, §67.0041.

§57.377. Definitions.

§57.378. Nongame Fishes Covered by These Rules.

§57.379. Prohibited Acts.

§57.380. Permit Exemptions.

§57.381. Permit Applications.

§57.382. Permit Specifications.

§57.383. *Permit Fee.*

§57.384. *Permit Denial.*

§57.385. *Appeal.*

§57.386. *Penalties.*

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9613947

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Permits to Sell Nongame Fish Taken From Public Fresh Water

31 TAC §§57.377-57.386

The new rules are proposed under Parks and Wildlife Code, §67.0041.

The proposed new rules affect Parks and Wildlife Code, §67.0041.

§57.377. *Definitions.*

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

Department -The Texas Parks and Wildlife Department or any authorized employee thereof.

Game fish - Blue catfish, blue marlin, broadbill swordfish, brown trout, channel catfish, cobia, crappie (black and white), flathead catfish, Guadalupe bass, king mackerel, largemouth bass, longbill spearfish, pickerel, red drum, rainbow trout, sailfish, sauger, sharks, smallmouth bass, snook, Spanish mackerel, spotted bass, spotted seatrout, striped bass, tarpon, wahoo, walleye, white bass, white marlin, yellow bass, and hybrids or subspecies of the species listed in this subparagraph.

Non-game fish - All species not listed as game fish, except endangered and threatened fish, which are defined and regulated under separate proclamations.

Public freshwater -All of the state rivers, streams, creeks, bayous, reservoirs, lakes, and portions of those freshwaters not defined as coastal waters in §65.3 of this title (relating to Statewide Hunting and Fishing Proclamation), where public access is available without discrimination.

§57.378. *Nongame Fishes Covered by These Rules.*

A permit to sell the following species of nongame fish taken from public fresh water may be issued if the department determines that the sale is necessary to properly manage the species.

Figure: 31 TAC §57.378

§57.379. *Prohibited Acts.*

Except as exempted by these rules it is unlawful for any person to:

(1) catch for sale, sell or offer for sale nongame fish taken from the public fresh water of the state without a valid permit issued by the department authorizing that activity;

(2) engage in activities authorized by the permit and fail to show on demand to a game warden or other authorized department employee a valid permit authorizing that activity;

(3) to retain or possess any game fish or nongame fish not listed in a valid permit while engaged in activities authorized by the permit;

(4) to fail to immediately return to the water any fish not listed in the permit caught while engaged in activities authorized by the permit; or

(5) violate any provision of the permit.

§57.380. *Permit Application.*

(a) An applicant for a permit to sell nongame fish taken from public fresh waters of this state shall submit a completed notarized application to the department on a form supplied by the department.

(b) The application must be received by the department at least 30 days before the proposed activity.

§57.381. *Permit Specifications and Requirements.*

(a) A permit issued by the department to sell nongame fish taken from public fresh water shall specify:

(1) the name, telephone number and physical address of the permittee;

(2) the location and time where the activity is permitted;

(3) the nongame fish species for which take and sale is allowed;

(4) number of nongame fish for which take and sale is allowed;

(5) the types and number of devices which may be used to take nongame fish; and

(6) the period of time the permit is valid.

(b) A permit issued under these rules is not transferable or assignable.

(c) A permit may list no more than two persons, in addition to the permittee, who may assist in conducting the permitted activity.

(d) The permittee and assistant(s) must have in immediate possession a copy of the permit.

(e) No person may be listed as a permittee or assistant to a permittee on more than one valid permit.

(f) Permits may be amended twice yearly.

(g) Requests for amendments must be submitted to the department in writing and should be received 30 days prior to effective date.

§57.382. *Harvest and Sales Reports.*

Monthly harvest and sales reports must be submitted by the permittee to the department on forms provided by the department.

(1) Harvest and sales reports must be received by the department on or before the 10th day of each month during the period of the permit's validity.

(2) Reports must be submitted for months in which no permitted activity occurred.

(3) Reports must include for each species taken:

- (A) species name;
 - (B) number of individuals;
 - (C) number of pounds;
 - (D) means and methods used to take each species;
 - (E) water body from which each species was taken;
- and
- (F) price received, per pound, of each species sold.

(4) A permittee's failure to submit three consecutive reports will initiate proceedings for permit revocation.

(5) Permittee must maintain sales receipts for all nongame fish sold for a period of one year from date of sale, and these receipts must be available for examination by authorized employees of the department.

§57.383. Permit Fee.

(a) As authorized by the Parks and Wildlife Code, §67.0041, a fee of \$50 will be submitted for each permit application.

(b) The department will refund the permit fee if the permit is denied.

§57.384. Permit Denial.

An original or renewal permit to sell nongame fish will not be granted if:

(1) the applicant or assistant(s) has been finally convicted of a violation of the Texas Parks and Wildlife Code or any rule, regulation, or proclamation issued by the Texas Parks and Wildlife Commission within the previous 12 months;

(2) the applicant or assistant(s) has pending or unresolved citations filed for violation of the Texas Parks and Wildlife Code or any rule, regulation, or proclamation issued by the Texas Parks and Wildlife Commission, or pending or unresolved claims for civil restitution for illegally taken or possessed wildlife resources;

(3) the taking of nongame fish for sale will be detrimental to the target species, species listed as endangered or threatened, or any other nongame or game fish;

(4) the taking of nongame fish for sale can not be accomplished in a manner consistent with the management goals and objectives of the department; or

(5) the applicant or assistant(s) seeking renewal has not complied with all permit specifications and requirements as described in §57.382 of this title (concerning Permit Specifications and Requirements).

§57.385. Appeal.

An opportunity for hearing shall be provided to the applicant for any denial of a permit or issuance of a permit where the conditions of issuance are different from those requested by the applicant.

(1) Request for hearing for appeal must be made in writing no more than 30 days from receipt of the denial notification.

(2) All hearings shall be conducted in accordance with the rules of practice and procedure of the Texas Parks and Wildlife

Department and the Administrative Procedure and Texas Register Act.

§57.386. Penalties.

A person who violates this subchapter or a permit issued pursuant to this subchapter commits an offense punishable by the penalty prescribed by the Texas Parks and Wildlife Code, §67.005.

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9613948

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Chapter 59. Parks

The Texas Parks and Wildlife Department proposes repeal of §59.4 and new §59.4, concerning Reservation of State Park Facilities. This action represents simplification this section of the Texas Administrative Code as part of the Commission's regulations sunset process.

New §59.4 (concerning Reservation of State Park Facilities) delegates authority to the Executive Director to prescribe procedures and conditions for reservations in state parks as is authorized by statute.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal and new rule as proposed are in effect, there will be no additional fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeal and new rule as proposed are in effect the public benefit anticipated as a result of the repeal and new rule as proposed will be simplification of the park registration and reservations process.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, §2001.022, as this agency has determined that the repealed and new rule as proposed will not impact local economies.

Comments on the proposed repeal and new rule may be submitted to Jim Riggs, State Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4904 or 1-800-792-1112, ext. 4904.

Park Entrance and Park User Fees

31 TAC §59.4

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

The repeal is proposed under Parks and Wildlife Code, §13.015, §13.019 and §21.111.

The proposed repeal affects Parks and Wildlife Code Parks and Wildlife Code, §13.015, §13.019 and §21.111.

§59.4. Reservation of State Park Facilities.

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9613943

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



The new rule is proposed under Parks and Wildlife Code, §13.015, §13.019 and §21.111.

The proposed new rule affects Parks and Wildlife Code Parks and Wildlife Code, §13.015, §13.019 and §21.111.

§59.4. Reservation of State Park Facilities.

Reservations for park facilities may be accepted for park units designated by the executive director. The executive director is authorized to prescribe such procedures and conditions for reservations as authorized by statute.

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9613944

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Local Park Planning Assistance

31 TAC §§59.11-59.19

The Texas Parks and Wildlife Department proposes repeal of §§59.11-59.19 and new §59.10-59.12, concerning Local Park Planning Assistance Service. This action represents simplification and recodification of sections of the Texas Administrative Code as part of the Commission's regulations sunset process.

Proposed new §59.10 establishes eligibility of cities or counties seeking park planning assistance. New §59.11 establishes

those services which the Department will provide to applicants and proposed new §59.12 provides directions to applicants seeking assistance.

Mr. Jim Riggs, Parks Division, has determined that for each of the first five years the repeal and new of rules as proposed are in effect, there will be no additional fiscal implications for state or local governments.

Mr. Jim Riggs also has determined that for each of the first five years the repeal and new rules as proposed are in effect the public benefit anticipated as a result of the repeal and new rules as proposed will be simplification of the local park planning assistance and removal of unnecessary sections of the Texas Administrative Code.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repealed and new rules as proposed will not impact local economies.

Comments on the proposed repeal and new rules may be submitted to Jim Riggs, State Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4904 or 1-800-792-1112, ext. 4904.

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Local Government Code, §331.010.

The proposed repeals affect Local Government Code, §331.010.

§59.11. Framework.

§59.12. Eligibility.

§59.13. Request Qualification.

§59.14. Method of Submitting Application.

§59.15. Approval or Disapproval.

§59.16. Scheduling Applications.

§59.17. Limitations.

§59.18. Staff Implementation.

§59.19. Termination.

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

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William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

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For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642

◆ ◆ ◆
31 TAC §§59.10-59.12

The new rules are proposed under Local Government Code, §331.010.

The proposed new rules affect Local Government Code, §331.010.

§59.10. Eligibility.

Cities and counties in Texas are eligible for park planning assistance. Within this limitation, the following restrictions apply, based on the latest federal census or state population estimate at the time the request is submitted:

- (1) Cities must not have a population exceeding 17,500 inhabitants.
- (2) Counties must not have a population exceeding 28,000 inhabitants.

§59.11. Limitations.

(a) The park planning assistance service is limited to supplying basic site planning information to approved applicants for their use in implementing local park and recreation acquisition or development projects.

(b) Basic site planning information is defined as the dissemination of minimal oral, written or graphic data needed by an applicant to reasonably define the scope of recreational activities desired or needed for a particular site and the basic kinds and quantities of facilities needed to provide such recreational activities.

§59.12. Application for Assistance.

(a) The governing body of the city or county must adopt a resolution directing the highest administrative official to request park planning assistance. This resolution vests that official with full authority to act for purposes of the request, if approved.

(b) A letter from the authorized administrative official to the executive director, accompanied by a copy of the resolution authorizing the request, constitutes the method of applying for park planning assistance.

(c) Within 30 days of receipt, the executive director or his designee shall notify the applicant of the status of the request.

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

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Acquisition and Development of Historic Sites and Structures

31 TAC §§59.41-59.47

The Texas Parks and Wildlife Department proposes repeal of §§59.41-59.47 and new §§59.41-59.47, concerning Acquisition, Development and Operation of Historic Sites, Buildings and Structures. This action represents recodification of sections of the Texas Administrative Code as part of the Commission's regulations sunset process.

Proposed new §59.41 provides general policy for acquisition, development and operation of historic sites, buildings and structures. Proposed new §59.42 outlines chronological organization to be used in historic site acquisition and development and proposed new §59.43 provides acquisition guidelines. Proposed new §59.44 provided development guidelines. Proposed new §59.45 authorizes the executive director to seek sources of funding outside departmental sources for acquisition and development of historic sites while proposed new §59.46 provides guidelines for maintenance of historic sites. Provisions of new §59.47 provide guidelines for selection and training of personnel.

Mr. Jim Riggs, State Parks Division, has determined that for each of the first five years the repeal and new rules as proposed are in effect, there will be no fiscal implications for state or local governments.

Mr. Riggs also has determined that for each of the first five years the repeal and new rules as proposed are in effect the public benefit anticipated as a result of the repeal and new rules as proposed will efficient administration programs to acquire, develop and operate historic sites, buildings and structures.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repeals and rules as proposed will not impact local economies.

Comments on the proposed repeal and new rules may be submitted to Jim Riggs, State Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4904 or 1-800-792-1112, ext. 4904.

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Parks and Wildlife Code, §13.005.

The proposed repeals affect Parks and Wildlife Code, §13.005.

§59.41. General Statement.

§59.42. Chronology and Thematic Organization.

§59.43. Acquisition Guidelines.

§59.44. Development Guidelines.

§59.45. *Methods of Additional Funding Other than Departmental.*

§59.46. *Maintenance Guidelines.*

§59.47. *Personnel Selection and Training Guidelines.*

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

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Acquisition and Development of Historic Sites, Buildings and Structures

31 TAC §§59.41-59.47

The new rules are proposed under Parks and Wildlife Code, §13.005 .

The proposed new rules affect Parks and Wildlife Code, §13.005.

§59.41. *General Statement.*

(a) The executive director of the Texas Parks and Wildlife Department shall interpret and implement this section so as to recognize and protect the heritage of the State of Texas through the acquisition, development and operation of historic sites and structures of particular statewide significance in accord with the guidelines set forth herein.

(b) The commission recognizes that historic sites and structures are being irretrievably lost through neglect, ill- advised restoration, and nearsighted economic considerations; and that with the disappearance of these sites, valuable reminders of the rich and varied heritage of Texas and the nation are lost.

(c) Although the commission recognizes that certain historic sites have been and will continue to be authorized by specific statutes, this section is directed toward the implementation of §13.005, Texas Parks and Wildlife Code, which designated the Parks and Wildlife Department as the state agency responsible for acquisition and administration of state historic sites, buildings and structures.

(d) In an effort to interrelate the multiple aspects of the patrimony of the state through its historic sites, the commission will endeavor to acquire, develop and operate sites according to major chronological divisions and thematic subtopics. An imaginative, in-depth action program, tailored to individual historical and interpretive requirements, will be formulated for each site prior to the actual development of the site, with periodic updates appropriate to each operational site.

(e) Commission policy set forth in this section will be followed by the department in recommendations for acquisition, development, and operation of state historic sites and structures.

§59.42. *Chronology and Thematic Organization.*

(a) The executive director is directed to organize historic sites presently in department ownership into an overall thematic

structure and to recommend for acquisition historic sites which will complement a balanced interpretation of the heritage of Texas.

(b) The chronological organization to be used for historic sites acquisition and development is as follows.

(1) Prehistoric Era. The Prehistoric Era consists of the following.

(A) Paleo-Indian Texas (prior to 7000 B.C.).

(B) Archaic Texas (ca. 7000 B.C. 1000 A.D.).

(C) Neo-American Texas (1000 A.D. to 1600).

(2) Historic Era. The Historic Era consists of the following.

(A) Early Exploration and Colonization (1528-1800).

(B) Early Anglo-American and European Colonization (1800-1840).

(C) Mexican Texas and the Revolution (1821- 1836).

(D) Republic of Texas (1836-1846).

(E) Early Statehood (1846-1861).

(F) Confederate Texas (1861-1865).

(G) Reconstruction Texas (1865-1874).

(H) Victorian Texas (1875-1901).

(I) Progressive Era and World War I (1901-1918).

(J) Boom and Bust (1919-1929).

(K) Depression and World War II (1930-1945).

(L) Urbanization and Technology (1946-).

(c) Thematic organization shall include the following disciplines which can be structured into the chronological arrangement as appropriate at a particular site:

(1) agriculture;

(2) architecture;

(3) arts;

(4) commerce;

(5) education;

(6) ethnic culture;

(7) industry;

(8) military affairs;

(9) political affairs;

(10) religion;

(11) science/technology;

(12) transportation.

§59.43. *Acquisition Guidelines.*

(a) In order to be considered for acquisition, historic sites, buildings and structures must evidence a significant association with the broad history of the state as defined in §13.005, Texas Parks and Wildlife Code. Such historic sites and structures include the following.

(1) A structure, building or site at which events occurred that have made an outstanding contribution to, and are prominently identified with, or which best represent some important aspect of the cultural, political, economic, military, or social history of the nation or state.

(2) A structure, building or site significantly associated with the life of an outstanding historic person or with an important event that well represents some great idea or ideal.

(3) A structure, or building embodying the distinguishing characteristics of an architectural type, which structure is inherently valuable for the study of a period, style, or method of construction.

(4) A structure or site that contributes significantly to the understanding of aboriginal man in the nation or state.

(b) Recognizing its responsibility to the people of Texas under the authority of, Texas Parks and Wildlife Code, §13.005, the commission directs the executive director to employ the following criteria for determining historical significance.

(1) Historic sites, buildings and structures associated with noteworthy events, in original locations, and displaying original workmanship.

(2) Historic sites, buildings and structures associated with lives of important Texas citizens which illuminate the lifestyles and career achievements of the persons associated with them.

(3) Historic sites, buildings and structures embodying distinguishing architectural characteristics which contribute significantly to the understanding of the architectural history of the state; original craftsmanship, material, and location shall be paramount in ascertaining the historical and architectural influence and importance of such structures and sites.

(4) Historic sites, buildings and structures contributing significantly to the understanding of aboriginal man in Texas by producing information of major scientific importance which reveals new cultures or sheds light on cultures which occupied large areas of Texas for long periods of time; those which have produced, or which may be reasonably expected to produce, data affecting theories, concepts, and ideas to a major degree.

(5) The authenticity of a proposed historic site, building or structure is of paramount importance in determining its value in interpreting Texas heritage. Authenticity is measured in part by original location, material, and craftsmanship, and the "undisturbed" condition of the site or structure. Buildings or structures that have been moved from their original locations and reconstructed historic buildings will not as a general rule be considered for acquisition; however, a building or structure that has been removed from its original location, but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event, or a reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived, may be considered.

(6) Birthplaces, graves, burials, and cemeteries ordinarily are not eligible for consideration. However, a birthplace or grave of a historical figure of outstanding importance may be considered if there is no appropriate site or building directly associated with his or her productive life. A cemetery which derives its primary significance

from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events, may also be considered.

(7) Property primarily commemorative in intent will be considered only if design, age, tradition, or symbolic value has invested it with its own historical significance.

(8) A property achieving significance within the past 50 years will be considered for acquisition only if it is of exceptional importance and there is an increasing loss of property of the same type.

(9) While ease of interpretation of the significance of a historic site or structure is not necessary, sufficient, accessible, and reliable information about the site or structure must exist to document its thematic placement in the Texas patrimony.

(10) Each historic site, building or structure shall contain sufficient land area to preserve and protect all the significant historic or prehistoric features associated with the site and additional lands for the necessary management and public facilities as appropriate.

(11) Historic sites, buildings or structures which duplicate the primary significance of a site presently in ownership will be considered for acquisition only if warranted by geographic distribution or if it is a site which significantly adds to the interpretation of the thematic organization. Duplicate sites which commemorate historic events, individuals of historic significance, distinguishing architectural characteristics, or aboriginal cultures will be avoided.

§59.44. Development Guidelines.

(a) Affirming its dedication to the accurate depiction of Texas heritage and to the historical integrity of each historic site, building, and structure, the commission directs the executive director to implement the following guidelines in the preparation of development programs for each historic site, building and structure.

(1) The authentic representation of a historic site or structure is of paramount importance to its value in interpreting Texas heritage. Authenticity is measured in part by original location, material, and craftsmanship. Authenticity is further achieved through preservation, restoration, and reconstruction in accord with documented historical, archeological, and architectural information.

(2) The historical integrity of a historic site or structure must be preserved and encroachments in the form of auxiliary management and public facilities must be avoided. Original material and original design intent and execution must not be obscured or destroyed to facilitate interpretation or promote visitor convenience.

(3) Historic sites and structures acquired by the department are of statewide historical significance and interpretation shall reflect the overall statewide interpretive goals set forth in §59.42 of this title (relating Chronology and Thematic Organization).

(b) The executive director shall initiate a development program for historic sites after department acquisition as soon as feasible in view of available funds and staff requirements. The commission policy on planning procedures shall be followed during the progress of development of historic sites and structures. The development program shall include the following as required by each individual site:

(1) an analysis of the condition of the site as it exists at time of acquisition.

(2) an in-depth study of the site, including historical, architectural, and archeological research, and a program outlining the interpretive value and presentation at one or more historic sites. The interpretative value for a site shall include the following.

(A) Primary interpretation. The thematic representation and importance of the site as portrayed in situ through planned development.

(B) Secondary interpretation. The thematic representation and importance of the site which can be supported at the site by means of documentation or artifact presentation from one or more other sites or sources.

(3) an evaluation of the site to outline and recommend other than historic features of a site, such as recreational, scenic, or natural.

(c) The commission finds that a state historic sites program representing the broad heritage of the State of Texas depends upon the conservation of structures and sites possessing outstanding historical or cultural significance. To ensure the highest degree of professional proficiency in restoration and preservation, the commission directs the executive director to establish an equitable system for the awarding of projects to private firms desiring departmental restoration contracts, considering the following.

(1) Architectural/engineering firms. The commission directs the executive director to ensure that all sources of information are utilized regarding the qualifications and competence of architectural/engineering firms desiring restoration work with the department. These sources include General Services Commission files on all firms expressing an interest in state building projects, departmental files on private firms expressing an interest in restoration projects, Texas Historical Commission files, and professional societies with architectural/engineering disciplines. The formulation and subsequent approval of the historical development plan shall precede the selection of a suitable firm inasmuch as this facilitates the consideration of firms which have exhibited a proficiency commensurate with the nature of the specific project, and should meet Secretary of the Interior Standards for Rehabilitation. Consultation with the various firms under consideration if marginal qualifications exist shall be a standard procedure to further determine the firms' capabilities for the approved project.

(2) Construction contractors. The commission directs the executive director to ensure that an evaluation of the qualifications and competency of any restoration contractor precedes an invitation to bid on department contracts. Special conditions for the bidding shall be included in the project specifications to further qualify the restoration ability of contractors for specific projects.

§59.45. Methods of Additional Funding other than Departmental.

(a) The executive director is directed to investigate the availability of any funding sources other than departmental sources for use in the acquisition or development of historic sites. Application should be made for any available funding which conforms to similar department grant applications in other areas, such as outdoor recreation.

(b) The executive director is directed to present available grant awards to the commission for their consideration prior to department acceptance of funds under such grants.

§59.46. Maintenance Guidelines.

(a) Recognizing that the maintenance of historic structures differs from the maintenance of other buildings in that the primary goal is the preservation of originality in design, materials, and craftsmanship, the commission finds that it is mandatory that persons involved with maintenance of such sites respect the relationship between the past and present, and possess an appreciation of the preservation of the old fabric of the building, thus it is imperative that an understanding be gained of the particular problems involved with the maintenance of historic buildings in order to successfully accomplish this preservation goal. The commission finds that it is the responsibility of any staff member involved with the maintenance of historic buildings to become thoroughly familiar with the building itself, to study carefully the intimate values and nature of the site to gain a knowledge of how it was built, to appreciate the craftsmanship involved and to recognize potential difficulties, thereby gaining added insight and understanding of the structure to achieve the foremost maintenance goal of keeping the structure and grounds in the best possible condition at all times. Personnel should be familiar with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(b) The commission instructs the executive director to establish and maintain a technical resource library containing the most current technical preservation material. Library information pertinent to individual historic sites shall be made available, in the form of a technical maintenance manual, to all park personnel responsible for maintaining historic sites, buildings and structures as time and budget limitations permit. The manual is to serve as a written guideline for the continued preservation of historic buildings and structures at state historic sites and parks by providing researched methods of maintenance and care. In cases not covered in the manual, maintenance on historic property must be approved by an architect specializing in historic restoration prior to application. Any person assigned to the maintenance of historic sites is directed to report conditions requiring investigation because of deterioration or adverse response to maintenance standards set forth in the manual. Corrective measures will be employed only after an inspection and determination by a architect specializing in historic restoration of the proper action to be taken.

§59.47. Personnel Selection and Training Guidelines.

(a) It is the intent of the commission that historic sites administrators shall be thoroughly trained to realize the educational potential of historic sites and the unique place of each site in the story of Texas. Although administrators at historic sites perform the various duties of all park administrators, there is a marked emphasis on certain duties at historic sites and parks such as the interpretive program of the site. To ensure the preservation of historic sites, the historic site administrator shall be responsible for the daily maintenance and repair in accord with the technical maintenance manual when developed for the subject site.

(b) Recognizing the important duties and potential contributions of historic sites personnel, the commission directs the executive director to implement the following guidelines in selecting and regular training of parks personnel to be employed at historic sites:

(1) The executive director is directed to require appropriate historical knowledge or background on the historic sites staff when considering applicants for positions at historic sites. Depending on the particular site, the park superintendent or historic administrator should have specialized knowledge of Texas history, architecture, and/or archeology, as appropriate. Such knowledge may be measured by the completion of major fields of study such as Texas history,

anthropology, archeology, and architecture, or experience, informal training, or publication in these fields.

(2) The executive director is directed to establish a training program for historic sites personnel within the limits of funds available to thoroughly acquaint personnel with the general responsibilities of preservation and interpretation of a historic site. Such responsibilities include budget requests, visitation records, supervision of park personnel, collection of fees, maintaining park security, daily maintenance and repair, updates and revisions of interpretation programs, working relationship with the host community, marketing of the site through established and specialized tourism programs, and visitor information and assistance.

(3) The enforcement of the Texas Antiquities Code is vital to the security and integrity of historic sites, buildings and structures, thus the training program should instruct historic sites personnel regarding the content of the code and their duty to enforce the code and protect state-owned sites and structures within the authority of the order so issued by the executive director. When federal funds or approval affect the site, knowledge of Section 106 of the National Historic Preservation Act is essential.

(4) To increase the historic site personnel knowledge of the heritage of the state, the training program shall provide comprehensive surveys of Texas history, prehistory, and architecture with emphasis based on the particular sites. The survey should include a selected bibliography, enabling the personnel to complement their knowledge of the three disciplines.

(5) The training program shall include a review of methods, tools, material and technology used in modern historical, archeological, and architectural research. Designed to familiarize historic administrators with the techniques and problems of research, the review shall form the base for the use of specialized research tools at each site.

(6) Since each historic site is unique, the training program shall include an account of specific responsibilities for each site and structure. The account shall detail maintenance and interpretive duties peculiar to individual sites and structures.

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

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William D. Harvey, Ph.D.

Regulatory Coordinator

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Operation and Leasing of Park Concessions

31 TAC §§59.101-59.112

The Texas Parks and Wildlife Department proposes repeal of §§59.101-59.112 and new §§59.101-59.109, concerning Operation and Leasing of Park Concessions. This action represents simplification and recodification of sections of the Texas Admin-

istrative Code as part of the Commission's regulations sunset process.

Proposed new §59.101 provides definitions necessary for interpretation of following sections. New §59.102 outlines general requirements for park concessions and proposed new §59.103 provides criteria for selection of a concessioner. Proposed new §59.104 describes types of concession contracts and proposed new §59.105 designates contract terms. Proposed new §59.106 provides direction to establish franchise fee rates and charges. Proposed new §59.107 establishes accounting requirements for concessioners and proposed new §59.108 designates criteria for concessioner bonds and insurance. Proposed new §59.109 addresses Department supplying of utilities to concessioners.

Mr. Jim Riggs has determined that for each of the first five years the repeal and new rules as proposed are in effect, there will be no fiscal implications for state or local governments.

Mr. Riggs also has determined that for each of the first five years the repeals and new rules as proposed are in effect the public benefit anticipated as a result of the repeal and new rules as proposed will be simplification of the regulations concerning operation and leasing of park concessions and removal of unnecessary sections of the Texas Administrative Code.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repeals and new rules as proposed will not impact local economies.

Comments on the proposed repeal and new rules may be submitted to Jim Riggs, State Parks Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4904 or 1-800-792-1112, ext. 4904.

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Parks and Wildlife Code, §11.035 and §13.015.

The proposed repeals affect Parks and Wildlife Code, §11.035 and §13.015.

§59.101. *Authorization.*

§59.102. *Definitions.*

§59.103. *General Requirements for Park Concessions.*

§59.104. *Selection of a Concessioner.*

§59.105. *Types of Concession Contracts.*

§59.106. *Contract Terms.*

§59.107. *Franchise Fee Rate.*

§59.108. *Interim Concession Contracts.*

§59.109. *Rates and Charges.*

§59.110. *Accounting.*

§59.111. *Bond and Insurance.*

§59.112. *Furnishing Utilities.*

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

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31 TAC §§59.101-59.109

The new rules are proposed under Parks and Wildlife Code, §11.035 and §13.015.

The proposed new rules affect Parks and Wildlife Code, §11.035 and §13.015.

§59.101. *Definitions.*

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

Concessioner –Any person, partnership, or corporation granted concession rights or privileges.

Concessions –Those services and accommodations offered to the public in state parks for which charges, fees, admissions, or similar assessments are collected, excluding park entrance fees.

Franchise fee –The annual fee or percentage of gross receipts a concessioner pays to the state for park concession rights or privileges.

Leased concessions –Rights or privileges granted by the department to any individual, partnership, or corporation to provide visitor services and accommodations for profit within the boundaries of a state park.

Prospectus –A public statement issued by the department giving information on the availability of a park concession as to location, visitor services and accommodations to be provided, capital and operating investment needed, business experience or other knowledge required, and the procedure to follow in submitting a concession proposal.

State-operated concessions –Visitor services and accommodations operated by park personnel.

§59.102. *General Requirements for Park Concessions.*

(a) Park concessions shall be limited to visitor services and accommodations that are necessary and appropriate for public use and enjoyment of the state park area in which they are to be located, and that are consistent to the highest practical degree with the preservation and conservation of the area. When adequate services and accommodations exist outside a park within a reasonable distance, every attempt will be made to avoid the duplication of same products and services.

(b) Except as noted in this paragraph, all building and land improvements for overnight or day-use accommodations in state parks for which user fees are charged shall be developed at state expense. The department shall be responsible for the operation and maintenance of overnight and day-use facilities developed with state funds and shall also be responsible for the collection of user fees unless this responsibility has been specifically delegated to a concessioner. In the event cabins, lodges, or other buildings and structures are deemed essential for the public's full enjoyment of an area, and state funds are not available in priority for their development, the commission may authorize facilities to be constructed, operated, and maintained with private capital.

(c) Park visitor services and accommodations in the following categories may be operated by a concessioner under contractual arrangements:

- (1) food and merchandise sales;
- (2) equipment rentals for recreational use;
- (3) merchandise vending machines;
- (4) marine supplies and services;
- (5) horse livery;
- (6) transportation;
- (7) automotive supplies and services;
- (8) fishing piers and fishing marinas;
- (9) facilities for accommodating overnight visitors; and
- (10) visitor services to interpret parks and natural and cultural resources.

(d) In parks where certain facilities for visitor services and accommodations have been provided at state expense, a concessioner may be permitted to use said buildings, structures, and installations provided he assumes full responsibility for their maintenance and repair due to normal wear and tear.

(e) The executive director, subject to the provisions of commission policy, shall take such action as may be appropriate to encourage or enable the use of private capital to provide visitor services and accommodations necessary for the full enjoyment of park areas administered by the department.

§59.103. *Selection of a Concessioner.*

(a) When it is determined by the executive director that a leased concession is necessary, desirable, and financially feasible for furnishing visitor services and accommodations in a park area, or when it is necessary to secure a new concessioner or grant a contract renewal for a leased concession, a prospectus announcing the availability of such concession shall be issued to all interested persons, detailing essential information about the concession, and the procedure to follow in submitting a proposal. The executive director or his designee shall fully publicize the availability of a concession in the immediate area of the park and on a state or national level when circumstances warrant a broader coverage.

(b) A concessioner will be selected with great care to insure that he has ability to operate the concession in an entirely satisfactory manner. In addition to ample financing and ability to conduct the concession in an economical manner, the concessioner should conduct his operation in accordance with the ideals and objectives of the

department by adhering to business practices that emphasize public service in addition to a profit motive, and are consistent to the highest practical degree with the preservation and conservation of the area. The department may disregard any or all proposals submitted, or make any counter proposal it may consider reasonable or desirable in accordance with commission policy.

(c) The granting, renewal, termination, amendment, transfer, assignment, and enforcement of all concession contract requirements and provisions of such contracts is delegated to the executive director.

(d) The executive director may terminate a contract upon finding that a material breach of the contract has occurred.

§59.104. Types of Concession Contracts.

(a) A standard form contract shall be used to grant major concession rights and privileges when the concessioner is required to make sizable investments in merchandise inventories, furnishings or equipment, and maintenance or repair of state-owned buildings and structures.

(b) A revocable short-term contract shall be used to grant minor concession privileges when the scope and size of the concession warrants it. Examples include merchandise vending machines, miscellaneous coin-operated machines, recreational rental equipment, and other miscellaneous services or accommodations the public has a right to expect and the executive director deems appropriate. A prospectus announcing the availability of this type of concession will not be issued.

(c) A revocable temporary contract may be used when deemed necessary that immediate action be taken to continue services or provide interim services.

§59.105. Contract Terms.

(a) The standard form contract shall be executed for a term of years commensurate with the size of the total investment required of the concessioner.

(b) Revocable short-term contracts shall be issued for a term of one year or less.

(c) Revocable temporary contracts shall be issued for a term of six months or less.

(d) No renewal rights shall be made a part of any concession contract.

§59.106. Franchise Fee Rates and Charges.

(a) Franchise fee rates shall be determined by the executive director or his designee in an equitable and fair manner, giving consideration to the various types of operations, gross receipts, net profit, and capital invested. Single or multiple percentages applied to all or various kinds of gross receipts will be considered in new or amended contracts.

(b) The right to reconsider and renegotiate franchise fees of concession contracts on an annual basis shall be considered standard practice when conditions warrant an adjustment.

(c) The rates and charges prescribed by the concessioner shall be subject to the approval of the executive director or his designee. The reasonableness of the concessioner's rates and charges to the public shall be judged primarily by comparing with current charges for facilities and services of comparable character under similar conditions. Consideration shall be given to:

- (1) length of season;
- (2) provisions for peakloads;
- (3) average percentage of occupancy;
- (4) accessibility;
- (5) availability and costs of labor and materials;
- (6) type of patronage; and
- (7) other factors deemed significant as related to the type of concession.

§59.107. Accounting.

(a) The concessioner shall submit reports and keep such records as the executive director may prescribe to enable the department to determine that all terms and conditions of the concession contract have been and are being faithfully performed.

(b) The state auditor, or duly authorized representative of the department, shall, for the purpose of audit and examination, have access to records and other books, documents, and papers of the concessioner pertinent to the contract.

§59.108. Bond and Insurance.

(a) The executive director may require the concessioner to furnish a bond conditioned upon the faithful performance of his contract.

(b) The concessioner shall carry such insurance against losses by fire, public liability, employee liability, and other hazards as is customary among prudent operators of similar businesses under comparable circumstances, and in amounts satisfactory to the department. The minimum limit for public liability shall be \$300,000. The executive director has the authority to increase this limitation when conditions warrant such action.

§59.109. Furnishing Utilities.

(a) The department may furnish utilities to the concessioner.

(b) When it is not feasible for the department to meter utilities supplied to the concessioner, a reasonable rate fixed by the department for the concessioner's monthly consumption may be assessed and shall be due upon receipt of notification.

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

Issued in Austin, Texas, on September 24, 1996.

TRD-9613942

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Chapter 61. Design and Construction

Survey Contracts

31 TAC §61.1

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

The Texas Parks and Wildlife Department proposes repeal of §61.1, concerning Survey Contracts. This action represents repeal of redundant sections of the Texas Administrative Code as part of the Parks and Wildlife Commission regulations sunset process.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal as proposed is in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeal of rules as proposed is in effect the public benefit anticipated as a result of the repeal as proposed will be removal of redundant sections of the Texas Administrative Code.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the repealed rules as proposed will not impact local economies.

Comments on the proposed repeal of rules may be submitted to Lynda Williams, Infrastructure Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4945 or 1-800-792-1112, ext. 4945.

The repeal is proposed under Parks and Wildlife Code, §13.001.

The proposed repeal affects Parks and Wildlife Code Parks and Wildlife Code, §13.001.

§61.1. Selection Procedures.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613919

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Wage Rate Determination for Public Works Construction

31 TAC §61.11, §61.12

(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 Parks and Wildlife Department or in the Texas Register

office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The Texas Parks and Wildlife Department proposes repeal of §§61.11-61.12, concerning Wage Rate Determination for Public Works Construction. This action represents repeal of redundant sections of the Texas Administrative Code as part of the Parks and Wildlife Commission regulations sunset process.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal of rules as proposed is in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeal of rules as proposed is in effect the public benefit anticipated as a result of the repeal as proposed will be removal of redundant sections of the Texas Administrative Code.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code §2001.022, as this agency has determined that the repealed rules as proposed will not impact local economies.

Comments on the proposed repeal of rules may be submitted to Lynda Williams, Infrastructure Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4945 or 1-800-792-1112, ext. 4945.

The repeals are proposed under Parks and Wildlife Code, §13.001.

The proposed repeals affect Parks and Wildlife Code Parks and Wildlife Code, §13.001.

§61.11. Procedures.

§61.12. Federal Projects.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613920

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Competitive Bid Contracts for Public Works

31 TAC §§61.21-61.24

The Texas Parks and Wildlife Department proposes repeal of §§61.21-61.24 and new §§61.21-61.24, concerning Competitive Bid Contracts for Public Works. This action represents simplification and recodification of sections of the Texas Administrative Code as part of the Commission's regulations sunset process.

Proposed new §61.21 provides general rules regarding competitive bids for services of contractors. New §61.22, concerning soliciting bids, outlines requirements for the Department's solicitation of bids from the public and proposed new §69.23, concerning submission and receipt of bids, provides guidance and procedures for submitting responses to bids solicited by the department. Proposed new §69.24, concerning awards, provides criteria which the department shall use in determining the best and lowest bidder.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal and new rules as proposed are in effect, there may be fiscal implications for state or local governments. Revision of current rules regarding competitive bid contracts for public works may result in significant savings to the Department, however, these savings are not quantifiable at this time.

Dr. Harvey also has determined that for each of the first five years the repeals and new rules as proposed are in effect the public benefit anticipated as a result of the repeal as proposed will be simplification and clarification of the regulations concerning competitive bid contracts.

There will be minimal effects on small businesses, however, the department does not anticipate any increase in costs to small businesses related to the proposed new rules. There is an anticipated economic cost to persons required to comply with the repeal and new rules as proposed, however, the department does not anticipate any additional costs to individuals required to comply with the rules when costs of compliance are compared to existing rules.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the repeals and new rules as proposed will not impact local economies.

Comments on the proposed repeal and new rules may be submitted to Lynda Williams, Infrastructure Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4945 or 1-800-792-1112, ext. 4945.

(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 Parks and Wildlife Department or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)

The repeals are proposed under Parks and Wildlife Code, §13.001.

The proposed repeals affect Parks and Wildlife Code, §13.001.

§61.21. General.

§61.22. Soliciting Bids.

§61.23. Receipts of Bids.

§61.24. Award.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613922

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



The new rules are proposed under Parks and Wildlife Code, §13.001.

The proposed new rules affect Parks and Wildlife Code, §13.001.

§61.21. General.

(a) The services of a contractor will be obtained by competitive bids except as provided in these rules.

(b) The executive director or his designee may waive the competitive requirement under the following conditions:

(1) when construction or repair work is needed without delay to protect the health or safety of any person or to preserve or protect state property from damage; or

(2) when it is determined that the interest of the state will be best served if the work is accomplished by one or more selected sources, in accordance with established, approved criteria.

(c) A statement clearly outlining the criteria and justification for selecting one or more sources to perform the work must be placed in the project file.

§61.22. Soliciting Bids.

(a) Projects estimated to cost more than \$100,000 will normally be solicited by advertising for bids in one edition of at least one newspaper of general circulation in the state, not later than the seventh day before the last day set for the receipt of bids. The department will make a good faith effort to place the ad in the county or adjoining county where the work will be performed.

(b) The contractor for projects estimated to cost \$100,000 or less may be chosen on a selective basis. This procedure requires that every effort be made to solicit bids from at least three prospective contractors within the area of the work.

(c) The department shall make a good faith effort to solicit bids from historically underutilized businesses.

§61.23. Submission and Receipts of Bids.

(a) Bidders are responsible for submitting sealed bids to reach the designated address by the date and time set for the receipt of bids. Bids received after the date and time specified shall not be considered.

(b) Wire/facsimile bids will not be accepted.

(c) Corrections, deletions, or additions to bids may be made by wire/facsimile provided such bids are:

(1) received, in whole, by the department prior to the time set for opening of bids;

(2) confirmed by written document provided by the bidder, by means other than wire/facsimile; and

(3) received by the department within 48 hours following receipt of wire/facsimile submission of a correction, deletion or addition.

§61.24. Award.

(a) Award shall be made of a contract to the bidder submitting the lowest and best bid conforming to the specifications required.

(b) In determining the lowest and best bidder, in addition to price, the following shall be considered:

(1) quality and availability of the materials, equipment, or contractual services and their adaptability to the work required;

(2) bidder's ability, capacity, and skill to perform the contract or provide the services required;

(3) bidder's ability to perform the contract or provide the service within the time required in the contract;

(4) bidder's responsibility, reputation in the business field under consideration, and experience;

(5) the documented quality of performance of previous contracts or services for similar work as specified;

(6) bidder's previous and existing compliance with laws relating to the contract or services and with specification requirements relating to the time of submission of specified information, including but not limited to submittals;

(7) the sufficiency of the bidder's financial resources and ability to perform the contract or provide the service;

(8) the bidder's ability to supply all information required in connection with the bidder qualification review process conducted by the department; and

(9) other factors as may be appropriate.

(c) The safety record of the bidder, the entity represented by the bidder, and any person acting with the represented entity, may be considered in determining lowest and best bidder only if;

(1) the department has adopted a written definition and criteria for accurately determining the safety record of the bidder; and

(2) the department gave notice in the bid specifications to prospective bidders that a bidder's safety record may be considered in determining the lowest and best bidder.

(d) A determination of a bidder's safety record may not be arbitrary and capricious.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613923

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Investigation of Land Boundaries

31 TAC §61.91

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

The Texas Parks and Wildlife Department proposes repeal of §61.91, concerning Investigation of Land Boundaries. This action represents repeal of redundant sections of the Texas Administrative Code as part of the Parks and Wildlife Commission regulations sunset process.

Dr. Bill Harvey, Regulatory Coordinator, has determined that for each of the first five years the repeal as proposed is in effect, there will be no fiscal implications for state or local governments.

Dr. Harvey also has determined that for each of the first five years the repeal as proposed is in effect the public benefit anticipated as a result of the repeal as proposed will be removal of redundant sections of the Texas Administrative Code.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the repealed rules as proposed will not impact local economies.

Comments on the proposed repeal may be submitted to Lynda Williams, Infrastructure Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-4945 or 1-800-792-1112, ext. 4945.

The repeal is proposed under Parks and Wildlife Code, §13.001.

The proposed repeal affects Parks and Wildlife Code Parks and Wildlife Code, §13.001.

§61.91. Policy.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613921

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Chapter 69. Resource Protection

Fish and Wildlife Values

31 TAC §69.19

The Texas Parks and Wildlife Department proposes new §69.19, concerning Fish and Wildlife Values. The proposed new section consolidates, under one undesignated head, regulations concerning civil restitution for fish and wildlife taken

in violation of the law. Proposed new §69.19 also clearly states the department's intention to actively seek full restitution or restoration of fish, wildlife and habitat loss which may occur as a result of human activities.

Raenell Silcox, Staff Attorney, has determined that for each of the first five years the new rule as proposed is in effect, there will be no fiscal implications for state or local governments.

Ms. Silcox also has determined that for each of the first five years the new rule as proposed is in effect the public benefit anticipated as a result of enforcing the rule as proposed will be increased recovery of costs related to loss of fish and wildlife activities resulting from illegal take of these species.

There may be economic impacts to small businesses and individuals who engage in illegal activities which result in the deaths of fish and wildlife.

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the rule as proposed will not impact local economies.

Comments on the proposed repeal and new rule may be submitted to Raenell Silcox, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-8135 or 1-800-792-1112, ext. 8135.

The new rule is proposed under Parks and Wildlife Code, §12.302 and Water Code, §26.124, which provide Parks and Wildlife Commission authority to promulgate rules to establish guidelines for determining the value of injured or destroyed fish, shellfish, reptiles, amphibians, birds and animals.

The proposed new rule affects Parks and Wildlife Code, §12.302 and Water Code, §26.124.

§69.19. Restitution and Restoration.

Pursuant to the authority contained in Parks and Wildlife Code, §§12.301-12.307 and Water Code, §26.124(b), the department shall actively seek full restitution for and/or restoration of fish, wildlife and habitat loss occurring as a result of human activities. Appropriate restitution and restoration measures include but are not limited to direct replacement of fish, wildlife and/or habitat destroyed or payments equal to the monetary value of fish, wildlife and their habitat.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613924

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642



Memorandum of Understanding

31 TAC §69.73

The Texas Parks and Wildlife Department proposes repeal of §69.73, concerning Memorandum of Understanding and new §69.73, concerning Natural Resource Damages. This action represents recodification of a section of the Texas Administrative Code as part of the Commission's regulations sunset process.

Proposed new §69.73 adopts by reference existing provisions of 31 TAC §§20.1-20.44, concerning Natural Resource Damage Assessment, which were adopted by the General Land Office to be effective October 19, 1994.

Raenell Silcox, Staff Attorney, has determined that for each of the first five years the repeal and new rule as proposed are in effect, there will be no additional fiscal implications for state or local governments.

Ms. Silcox also has determined that for each of the first five years the repeal and new rule as proposed are in effect the public benefit anticipated as a result of the repeal and new rule as proposed will be uniformity in application of rules, related to natural resource damage assessment for coastal oil spills, promulgated by the General Land Office in conjunction with Texas Natural Resources Conservation Commission and the Texas Parks and Wildlife Department.

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

The department has not filed a local impact statement with the Texas Employment Commission as required by the Administrative Procedure Act, Government Code, §2001.022, as this agency has determined that the repealed and new rules as proposed will not impact local economies.

Comments on the proposed repeal and new rule may be submitted to Raenell Silcox, Staff Attorney, Resource Protection Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (512) 389-8135 or 1-800-792-1112, ext. 8135.

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

The repeal is proposed under Natural Resources Code, Chapter 40, §40.107.

The proposed repeal affects Natural Resources Code, §40.107.

§69.73. Natural Resource Damage Assessment for Coastal Oil Spills.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613925

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996
For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642

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Natural Resource Damages

31 TAC §69.73

The new rule is proposed under Natural Resources Code, Chapter 40, §40.107.

The proposed new rule affects Natural Resources Code, §40.107.

§69.73. Natural Resource Damage Assessment for Coastal Oil Spills.

Pursuant to the requirements of the Natural Resources Code, §40.107, the Texas Parks and Wildlife Department adopts by reference the provisions of 31 TAC §§20.1-20.44, concerning Natural Resource Damage Assessment, as adopted by the Texas General Land Office, effective October 19, 1994.

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

Issued in Austin, Texas, on September 23, 1996.

TRD-9613926

William D. Harvey, Ph.D.

Regulatory Coordinator

Texas Parks and Wildlife Department

Earliest possible date of adoption: November 4, 1996

For further information, please call: (512) 1-800-792-1112, extension 4642 or (512) 389-4642

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 96. Certification of Long Term Care Facilities

40 TAC §96.6

The Texas Department of Human Services (DHS) proposes an amendment to §96.6, concerning informal administrative review process for intermediate care facilities for the mentally retarded, in its Certification of Long Term Care Facilities chapter. The purpose of the amendment is to clarify the Informal Administrative Review (IAR) process. The surveyors will inform providers of their right to an IAR in writing; requests for an IAR will be made in writing and can be faxed; time lines were changed uniformly to seven calendar days; and all references to the Texas Department of Health were changed to DHS.

Terry Trimble, interim 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. Trimble 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 to give providers clearer understanding of the informal administrative review process. 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 Maxcine Tomlinson at (512) 438-3169 in DHS's Long Term Care Policy Section. Written comments on the proposal may be submitted to Supervisor, Rules Unit, Media and Policy Services-371, 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, Chapter 22, which authorizes the department to administer public assistance programs, and under the Health and Safety Code, Chapter 242, which authorizes the department to license ICF-MR facilities, and §222.043, which establishes a review process for ICF-MR surveys.

The amendment implements the Human Resources Code, §§22.001-22.030, and Chapter 242 and §222.043 of the Health and Safety Code.

§96.6. Informal Administrative Review Process for Intermediate Care Facilities for Persons with Mental Retardation and Related Conditions [the Mentally Retarded].

[(a) Purpose. The purpose of this section is to ensure that providers for licensed and/or certified intermediate care facilities for the mentally retarded (ICF-MR) have the opportunity to discuss the findings of their surveys or other visits made by surveyors from the Texas Department of Human Services (department) and request that deficiencies and/or certification recommendations be reviewed for validity before being finalized. The opportunity for an informal review may also be requested when a facility files a complaint relating to the conduct of the survey. A licensed and/or certified intermediate care facility for the mentally retarded includes any health care facility which the department is authorized by law or contract to regulate and survey for compliance under the Title XIX Medical Assistance Program as provided under Health and Safety Code, §222.043.]

[(b) Application.]

(a) [(1)] General. The procedure in this section shall be utilized by providers when there is a disagreement with surveyors' findings and/or recommendations, when additional written information becomes available that was not shared with the survey team, or when a complaint is filed relating to the conduct of the survey. These procedures shall only be used if the deficiencies cited in the survey report do not pose an imminent threat or danger to the health and/or safety of a resident. **Twenty-three day terminations are not entitled to utilize the Informal Administrative Review process.**

(b) [(2)] Review process.

(1) [(A)] Exit conference. [An informal administrative review starts with a request from the administrator of the facility at the survey exit conference. The request should be made to the team leader. If there are issues which are not resolved during the exit

conference the administrator may proceed to the appropriate program administrator of the public health region.]

(A) At the time of the survey the provider will furnish any information requested by the surveyor. Information needed to conduct the survey must be made available during the survey; however, additional information may be accepted at the time of the exit conference. The facility staff must not wait until the exit conference to supply information requested earlier during the survey.

(B) At the time of the exit conference, the facility will receive written notice from a member of the survey team of its right to an informal administrative review.

(2) [(B)] Regional review. [program administrator conference. A conference with the program administrator will be scheduled and conducted if requested within five working days of the exit conference. Any additional information may be given to the regional program administrator within the five working day deadline. If the survey team originated in another region, the program administrator from that region should be contacted.]

(A) If there are issues which are not resolved during the exit conference, the administrator may make a written or faxed request for an informal administrative review with the appropriate regional director. The request and any additional information must be submitted and received in the regional director's office within seven calendar days after the exit conference.

(B) The Texas Department of Human Services (DHS) will not accept additional information or schedule a conference at the regional or state office level for the informal administrative review after the seventh calendar day after the exit conference.

(C) As part of the regional review, the survey team in conjunction with the regional director will:

(i) review additional information and make an objective decision as to whether deficiencies and/or punitive action recommendations should be changed or withdrawn;

(ii) upon request, meet with providers to discuss survey findings; and

(iii) render a decision and notify provider of survey team/regional director's decision within seven calendar days of the review.

(3) [(C)] State [agency central] office review. If the conference with the [public health] regional **director** [administrator] does not resolve the issue, a **written or faxed** request may be made to the program director, **ICFMR/RC department** [MI/MR Services Section], Long Term Care - Regulatory, Texas Department of Human Services, for an informal administrative review. **The written or faxed request must be submitted and received in the program director's office seven calendar days from the date of the regional notification.** [If the conference with the program director, MI/MR Services Section, does not resolve the issue, a request may then be made to the Associateship, Special Health Services, Office of Quality Assurance, Texas Department of Health, for an additional review and reconsideration.]

(A) As part of the state office review, the director or designee of the ICFMR/RC department will:

(i) review only information reviewed at the regional level and make a decision as to whether deficiencies and/or punitive action recommendations shall be sustained, altered, or revised from the original finding of the survey team;

(ii) upon request, hold a conference with the provider to discuss the issues involved; and

(iii) render a decision and notify the provider of the state office decision within seven calendar days of the review.

(B) If the review at the state office does not resolve the issue(s), the facility or the director or designee of the ICFMR/RC department may request a final review from the deputy commissioner's office for long term care seven calendar days from the state office notification. The written or faxed request must be received by the deputy commissioner's office for long term care within seven calendar days from the date of the state office notification.

(4) Deputy commissioner's review. The deputy commissioner's office for long term care will:

(A) review all information and make an impartial decision as to whether deficiencies and/or punitive action recommendations shall be sustained, altered, or revised from the original finding of the survey team;

(B) at DHS's option, hold a conference with the provider to discuss the issues involved;

(C) determine a resolution and present the resolution to the deputy commissioner for long term care for concurrence; and

(D) notify the provider of a decision before the fortieth day after the exit conference. Time frames for 90-day terminations must be adhered to by the facility and the department.

[(c) Provider's responsibility.]

[(1) At the time of the survey the provider should furnish all information upon the surveyor's request. Information needed to conduct the survey should be available during the survey; however, additional information will be accepted at the time of the exit conference. The facility staff should not wait until the exit conference to supply information requested earlier during the survey.]

[(2) If the provider wants an informal administrative review, the provider must request one within five working days after the facility's exit conference.]

[(3) After the fifth working day, the department will not accept additional information or schedule a conference at the regional or central office level for informal administrative review.]

[(d) Public health region program administrator responsibility. If the facility submits additional information or requests a conference with the program administrator within five working days of the exit conference, the survey team in conjunction with the regional program administrator will:]

[(1) review additional information and make an objective decision as to whether deficiencies and/or punitive action recommendations should be changed or withdrawn;]

[(2) upon request, meet with providers to discuss survey findings;]

[(3) notify provider of survey team/program administrator's decision within the five working days; and]

[(4) forward all information received to the department's central office, chief, Long Term Care - Regulatory.]

[(e) Central office responsibility. Upon request by the facility or the public health region, the program director of the MI/MR Services Section, will:]

[(1) review all information, may consult with the central office program administrator, and/or hold a conference with the provider to make a decision as to whether deficiencies and/or punitive action recommendations shall be sustained, altered, or revised from the original findings of the survey team;]

[(2) determine a resolution and notify the provider of the decision within seven working days of the review; and]

[(3) upon request by the facility or the program director, MI/MR Services Section, the department's Associateship for Special Health Services, Office of Quality Assurance, will:]

[(A) review all information and/or hold a conference with the provider to make an impartial decision as to whether deficiencies and/or punitive action recommendations shall be sustained, altered, or revised from the original findings of the survey team;]

[(B) determine a resolution and present the resolution to the associate commissioner for Special Health Services for concurrence; and]

[(C) notify the provider of a decision before the fortieth day after exit conference. Time frames for 90-day terminations must be adhered to by the facility and the department.]

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 September 23, 1996.

TRD-9613912

Glenn Scott

General Counsel, Legal Services

Texas Department of Human Services

Proposed date of adoption: November 15, 1996

For further information, please call: (512) 438-37654640



WITHDRAWN RULES

An agency may withdraw a proposed action or the remaining effectiveness of an emergency action by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing as specified by the agency withdrawing the action. If a proposal is not adopted or withdrawn within six months of the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

TITLE 22. EXAMINING BOARDS

Part XXI. Texas State Board of Examiners of Psychologists

Chapter 461. General Rulings

22 TAC §461.7

The Texas State Board of Examiners of Psychologists has withdrawn for permanent adoption the proposed amendment to §461.7, which appeared in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7315).

Issued in Austin, Texas, on September 24, 1996.

TRD-9613965

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: September 24, 1996

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



22 TAC §461.11

The Texas State Board of Examiners of Psychologists has withdrawn for permanent adoption the proposed amendment to §461.11, which appeared in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7311).

Issued in Austin, Texas, on September 24, 1996.

TRD-9613966

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: September 24, 1996

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



Chapter 463. Applications

22 TAC §463.5

The Texas State Board of Examiners of Psychologists has withdrawn for permanent adoption the proposed amendment to §463.5, which appeared in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7315).

Issued in Austin, Texas, on September 24, 1996.

TRD-9613967

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: September 24, 1996

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



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 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 9. Liquefied Petroleum Gas Division

Subchapter A. General Applicability and Requirements

16 TAC §9.34

The Railroad Commission of Texas adopts new §9.34, concerning the LP-gas (welding) advisory committee, with changes to the version published in the July 26, 1996, *Texas Register* (21 TexReg 6932). The new section establishes a new advisory committee to examine the uses of LP-gas in welding and other similar applications. It also establishes the committee's duration; sets forth the purpose and duties of the committee; prescribes the composition of the committee, the appointment process, and the membership terms of the committee; and sets forth the mechanisms by which the committee will meet, perform its work, and be evaluated. The only adopted change is in subsection (e), in which the date to submit written nominations has been changed from September 1, 1996, to October 15, 1996.

The commission received no comments on the proposed new section.

The new section is proposed under Texas Natural Resources Code, §113.051, which authorizes the commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public, and Texas Revised Statutes, Article 6252-33, §§5 and 8.

The following is the statute, article, or code affected by the proposed new section: §9.34 – Texas Natural Resources Code, §113.051 and Texas Revised Statutes, Article 6252-33, §§5 and 8.

§9.34. LP-Gas (Welding) Advisory Committee.

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

- (1) Commission—The Railroad Commission of Texas.
- (2) Committee—The LP-Gas (Welding) Advisory Committee of the Railroad Commission of Texas.

(3) Consumer representative—A member of the committee who is not engaged in the business of producing, distributing or retailing LP-gas and who is not engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research or other services, but who is a user of LP-gas in a welding application.

(4) Division—The Gas Services Division of the Railroad Commission of Texas.

(5) Fiscal year—September 1 of a year through August 31 of the following year.

(6) Industry representative—A member of the committee who is engaged in the business of producing, distributing or retailing LP-gas or who is engaged in the business of designing, manufacturing, distributing or retailing LP-gas equipment or performing LP-gas-related research or other services and who sells LP-gas for welding applications.

(7) Local government representative—A member of the committee who is a fire chief, fire marshal, or other similar position for a city or county.

(8) LP-gas—Liquefied petroleum gas (LPG), as that term is defined in Texas Natural Resources Code, Chapter 113.

(9) Member—An industry representative, a consumer representative, or a representative of local government who serves on the LP-Gas (Welding) Advisory Committee of the Railroad Commission of Texas.

(10) Presiding officer—The chairman of the LP-Gas (Welding) Advisory Committee of the Railroad Commission of Texas.

(11) Section—The LP-Gas Section of the Gas Services Division.

(b) Establishment; Duration. The LP-Gas (Welding) Advisory Committee of the Railroad Commission of Texas is hereby established effective October 1, 1996. The committee is abolished on August 31, 1998, unless the commission amends this subsection to establish a different date.

(c) Purpose and Duties. The purpose of the committee is to give the commission the benefit of the members' collective business, environmental, and technical expertise and experience to help the commission regulate the safe use of LP-gas in welding applications. The committee's sole duty is to advise the commission. The committee has no executive or administrative powers or duties

with respect to the operation of the section. All such powers and duties rest solely with the commission.

(d) **Composition of Committee; Membership Terms.** The committee shall be composed of six members, five of whom shall be voting members. The five voting members shall include two LP-gas consumers, two members of the LP-gas (welding) industry, and one representative from local government, all of whom serve at the pleasure of the commission, for a period of two years. The assistant director of the LP-Gas Section shall serve as an ex officio, non-voting member of the committee.

(e) **Nominations for Committee Membership.** Any person may nominate a candidate or candidates for membership on the committee. Nominations shall be made in writing and submitted by October 15, 1996, for the initial committee, and by January 1 of each odd-numbered year thereafter. Nominations may be submitted to the commission, a commissioner, or the assistant director of the LP-Gas Section for transmission to the commission.

(f) **Appointment of Members.** All members of the committee are appointed by and serve at the pleasure of the commission. The commission shall appoint members of the first committee by October 15, 1996, and by August 31 of each odd-numbered year thereafter, such that the composition of the committee meets the requirements of subsection (d) of this section. If a member resigns or otherwise vacates his or her position prior to the end of his or her term, the commission shall appoint a replacement who shall serve the remainder of the unexpired term.

(g) **Reimbursement of Members' Expenses.** The commission shall not reimburse members for travel or other expenses related to service on the committee.

(h) **Presiding Officer; Other Officers.** The committee shall elect from its members a presiding officer who shall report the committee's advice and attendance in writing to the commission. The committee may elect other officers at its pleasure.

(i) **Subcommittees.** The committee may organize itself into subcommittees. One member of each subcommittee shall serve as the chair of that subcommittee. The subcommittee chairs shall make written reports regarding their subcommittee's work to the presiding officer.

(j) **Meetings.** The committee shall meet at the call of the presiding officer or the commission. Committee and subcommittee meetings are open to the public.

(k) **Committee Records.** The LP-Gas Section staff shall record and maintain the originals of the minutes of each committee and subcommittee meeting. The section shall maintain a record of actions taken by the committee and shall distribute copies of approved minutes and other committee documents to the commission and the committee members.

(l) **Evaluation of Committee Costs and Benefits.** By October 1 of each year, the assistant director of the Gas Services Division shall evaluate for the previous fiscal year and report to the commission:

- (1) the committee's work;
- (2) the committee's usefulness; and
- (3) the costs related to the committee's existence, including the cost of commission staff time spent in support of the committee's activities.

(m) **Report to Legislative Budget Board.** The commission shall biennially report to the Legislative Budget Board the information developed under subsection (l) of this section in evaluating the committee's costs and benefits.

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 September 24, 1996.

TRD-9614019

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Effective date: October 15, 1996

Proposal publication date: July 26, 1996

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

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Part XX. Texas Board of Private Investigators & Private Security Agencies

Chapter 433. Handgun; Security Officer Commission

22 TAC §433.4

The Texas Board of Private Investigators & Private Security Agencies adopts the amendment of §433.4, concerning Application for a Security Officer Commission, with changes to the proposed text as published in the June 18, 1996, issue of the *Texas Register* (21 TexReg 5518).

The Board has determined that this amendment is necessary in order to comply with House Bill 713 of the 74th Texas Legislature. A minor change was made to clarify that the required fingerprint cards must be purchased from the Board rather than furnished by the Board.

This amendment eliminates the requirement that photographs of each applicant be submitted to the Board and requires that photographs be kept in the employee's personnel file instead.

No comments were submitted to the Board.

The amendment is adopted under the authority of Texas Civil Statutes, Article 4413(29bb), §11.(a)(3) which provides the Texas Board of Private Investigators & Private Security Agencies with the authority "to promulgate all rules and regulations necessary in carrying out the provisions of this Act."

§433.4. Application for a Security Officer Commission.

Applicant shall submit a completed application to the board for a security officer commission on a form provided by the board. To be complete, the application shall include:

- (1) the required fee which is nonrefundable for any cause;
- (2) at least two sets of fingerprints on a card purchased from the board. No security officer commission shall be issued prior to classification of fingerprints and receipt of concurrence from the Texas Department of Public Safety;

(3) The employer shall retain two color photographs, one inch by one inch and affix one to the employee's pocket card when received from the board and shall retain the other photograph in the employee's personnel file for inspection by the board; and

(4) a copy of the certificate of completion awarded to the employee from a board approved security officer training school.

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 September 24, 1996.

TRD-9613961

Clema D. Sanders
Executive Director

Texas Board of Private Investigators & Private Security Agencies

Effective date: October 15, 1996

Proposal publication date: June 18, 1996

For further information, please call: (512) 463-5545



Part XXI. Texas State Board of Examiners of Psychologists

Chapter 22. General Rulings

22 TAC §461.3

The Texas State Board of Examiners of Psychologists adopts the repeal of §461.3, concerning Violation of the Code of Ethics, without changes to the proposed text as published in the August 9, 1996, issue of the *Texas Register* (21 TexReg 7521).

The rule is being repealed because the Board is consolidating the rules dealing with violations of board rules and law.

The repealed rule will make the rules easier for licensees/certificands and the general public to follow and understand.

No comments were received regarding adoption of the repeal.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613972

Sherry L. Lee
Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 9, 1996

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



22 TAC §461.15

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.15, concerning Failure to Comply with Board Directives, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7313).

The rule is being amended to consolidate rules regarding compliance with and violations of Board directives, rules and statutes by licensees/certificands.

The amendment will ensure that the rules are easier to understand and follow and will better inform the public of the Board's requirements.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613973

Sherry L. Lee
Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



22 TAC §461.18

The Texas State Board of Examiners of Psychologists adopts an amendment to §461.18, concerning Complaint Procedure Notification, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7313).

The rule is being amended to include the toll free 800 number for complaints in the notification statements to the public required by all licensees/certificands of the board in all rooms where psychological services are conducted.

The amendment will ensure that the public is provided with the most current information on contacting the Board regarding complaints and questions concerning the practice of psychology.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613974
Sherry L. Lee
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: October 15, 1996
Proposal publication date: August 6, 1996
For further information, please call: (512) 305-7700

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22 TAC §§461.23-461.27

The Texas State Board of Examiners of Psychologists adopts new §§461.23-461.27, concerning General Rulings, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7314).

The rules are being adopted to reorganize the rules of the Board.

The new rules will make the rules easier for licensees/certificands and the general public to follow and understand.

No comments were received regarding adoption of the new rules.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613975
Sherry L. Lee
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: October 15, 1996
Proposal publication date: August 6, 1996
For further information, please call: (512) 305-7700

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Chapter 463. Applications

22 TAC §463.6

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.6, concerning Experience, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7316).

The rule is being amended to clarify the qualifications of the supervisors during the formal experience phase of training and to include all academic settings as possible areas of internship employment/experience.

The amendment will provide clarification on the qualifications of the supervisors administering the required internship of applicants for licensure as a psychologist, which will make the rule easier to understand and follow, and to better inform the public of the Board's requirements.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613976
Sherry L. Lee
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: October 15, 1996
Proposal publication date: August 6, 1996
For further information, please call: (512) 305-7700

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22 TAC §463.23

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.23, concerning Oral Exam Requirement, without changes to the proposed text published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7317).

The rule is being amended to clarify that a person may not take the oral exam unless they are a certified psychologist and to correct the name of the American Board of Professional Psychology.

The amendment will ensure that only those qualified to do so may take the exam thereby ensuring that consumers will receive quality psychological services.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613977
Sherry L. Lee
Executive Director
Texas State Board of Examiners of Psychologists
Effective date: October 15, 1996
Proposal publication date: August 6, 1996
For further information, please call: (512) 305-7700

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22 TAC §463.32

The Texas State Board of Examiners of Psychologists adopts an amendment to §463.32, concerning Licensed Specialist in School Psychology, without changes to the proposed text

published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7317).

The rule is being amended to include legal issues within the course requirements, as well as realigning other course requirements to include two areas rather than one or the other.

The amendment will ensure that the children in the public schools of Texas receive psychological services from the most qualified individuals.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613978

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



Chapter 465. Rules of Practice

22 TAC §465.7

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.7, concerning Providers of Psychological Services, without changes to the proposed text published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7318).

The rule is being amended to consolidate rules regarding the provision of psychological services in independent practice.

The amendment will make the rules easier to understand and follow and to better inform the public of the Board's requirements for the provision of psychological services in independent practice.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613979

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



22 TAC §§465.19, 465.20, 465.25, 465.32, 465.34

The Texas State Board of Examiners of Psychologists adopts the repeal of §§465.19, 465.20, 465.25, 465.32, and 465.34 concerning Rules of Practice, without changes to the proposed texts published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7318).

The rules are being repealed to reorganize the rules of the Board.

The repealed rules will make the rules easier for licensees/certificands and the general public to follow and understand.

No comments were received regarding adoption of the repeals.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613980

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



22 TAC §465.37

The Texas State Board of Examiners of Psychologists adopts the repeal of §465.37, concerning Rules of Practice, without changes to the proposed texts published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7319).

The rule is being repealed because the Board is consolidating the rules dealing with the provision of psychological services.

The repealed rule will make the rules easier for licensees/certificands and the general public to follow and understand and to better inform the public of the Board's requirements for the provision of psychological services.

No comments were received regarding adoption of the repeal.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613981

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



22 TAC §465.38

The Texas State Board of Examiners of Psychologists adopts an amendment to §465.38, concerning Psychological Services in the Schools, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7319).

The rule is being amended to include those individuals who have met the training criteria and taken the required national exam but are waiting to take and pass the Board's Jurisprudence exam and to clarify that the requirements of supervision.

The amendment will ensure that the children in the public schools of Texas receive psychological services from the most qualified individuals.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613982

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



Chapter 467. Announcements and Listings

22 TAC §467.2

The Texas State board of Examiners of Psychologists adopts an amendment to §467.2, concerning Use of Specialty Titles, without changes to the proposed text as published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7320).

The rule is being amended to clarify the diplomate recognized by the Board's statute and to include proficiency certification

from the American Psychological Association's College of Professional Psychology.

The amendment will ensure that the consumers of Texas receive the best possible services from the most qualified individuals.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613983

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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



Chapter 473. Fees

22 TAC §473.5

The Texas State Board of Examiners of Psychologists adopts an amendment to §473.5, concerning Miscellaneous Fees, without changes to the proposed text published in the August 6, 1996, issue of the *Texas Register* (21 TexReg 7321).

The rule is being amended to reflect that the fee for inactive status covers the two-year period allowed for inactive status.

The amendment will better inform the public of the time period allowed for individuals to place their licenses/certificates on inactive status.

No comments were received regarding adoption of the amendment.

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

This agency hereby certifies that the 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 September 23, 1996.

TRD-9613984

Sherry L. Lee

Executive Director

Texas State Board of Examiners of Psychologists

Effective date: October 15, 1996

Proposal publication date: August 6, 1996

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

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TITLE 25. HEALTH SERVICES

Part I. Texas Department of Health

Chapter 29. Purchased Health Services

Subchapter A. Medicaid Procedures for Providers

25 TAC §29.3

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits an adopted amendment to §29.3, concerning the time limits for filing claims. Section 29.3 is adopted with changes to the proposed text published in the June 25, 1996, issue of the *Texas Register* (21 TexReg 5829).

The amendment provides the department with a clear and precise application of the department's rule concerning the filing of Medicaid claims.

The amendment provides for an extension for filing Medicaid claims if the deadline falls on a weekend or holiday. The amendment also provides the department with the authority to make exceptions to the 95-day claims filing deadline when specific situations exist. The amendment describes these situations and establishes procedures providers must follow to obtain approval for the exceptions.

The following is a summary of comments received during the 30-day comment period.

COMMENTS: Several individuals expressed support of the amendment as it was proposed.

RESPONSE: The department appreciates the support.

COMMENT: A commenter requested that existing situations be "grandfathered" by retroactive application of the amendment to process claims that specifically fit the requirements of the newly adopted amendment.

RESPONSE: The department disagrees with the commenter. The exceptions will not be applied to any claim submitted for dates of service before the effective date of this amendment. Retroactive review of claims would create a substantial burden, financially and administratively, on the Medicaid program.

Columbia Medical Center, El Paso, TX, commented on and agreed with the proposal but requested modification of the application of the rule as addressed in the summary of comments.

The department made minor editorial changes to the amendment for consistency and clarification. The department deleted the word "personal" from subparagraph (a)(1)(A) to avoid confusion between personal and business related catastrophic events that could affect submittal of claims.

This amendment is adopted under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health

services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

§29.3. *Time Limits for Submitted Claims.*

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

(d) Extension. If a filing deadline falls on a weekend or holiday, the filing deadline shall be extended to the next business day following the weekend or holiday.

(e) Exceptions to the 95-day deadline. The department shall consider exceptions only when at least one of the situations included in this subsection exists. The final decision of whether a claim falls within one of the exceptions will be made by the department's Medical Appeals office.

(1) Exceptions to the filing deadline are considered when one of the following situations exists:

(A) catastrophic event that substantially interferes with normal business operations of the provider, or damage or destruction of the provider's business office or records by a natural disaster, including but not limited to fire, flood, or earthquake; or damage or destruction of the provider's business office or records by circumstances that are clearly beyond the control of the provider, including but not limited to criminal activity. The damage or destruction of business records or criminal activity exception does not apply to any negligent or intentional act of an employee or agent of the provider because these persons are presumed to be within the control of the provider. The presumption can only be rebutted when the intentional acts of the employee or agent leads to termination of employment and filing of criminal charges against the employee or agent;

(B) delay or error in the eligibility determination of a recipient, or delay due to erroneous written information from the department, another state agency, or health insuring agent;

(C) delay due to electronic claim or system implementation problems; or

(D) submission of claims within the 365-day federal filing deadline when services are authorized retroactively.

(2) Under the conditions and circumstances included in paragraph (1) of this subsection, providers must submit the following documentation, if appropriate, and any additional requested information to substantiate approval of an exception.

(A) All exception requests. The provider must submit an affidavit or statement from the provider stating the details of the cause for the delay, the exception being requested, and verification that the delay was not caused by neglect, indifference, or lack of diligence of the provider or the provider's employee or agent. This affidavit or statement must be made by the person with personal knowledge of the facts.

(B) Exception requests within paragraph (1)(A) of this subsection. The provider must submit independent evidence of insurable loss; medical, accident, or death records; or police or fire report substantiating the exception of damage, destruction, or criminal activity.

(C) Exception requests within paragraph (1)(B) of this subsection. The provider must submit the written document from the department or its designee that contains the erroneous information or explanation of the delayed information.

(D) Exception requests within paragraph (1)(C) of this subsection. The provider must submit the written repair statement, invoice, computer or modem generated error report (indicating attempts to transmit the data failed for reasons outside the control of the provider), or the explanation for the system implementation problems. The documentation must include a detailed explanation made by the person making the repairs or installing the system, specifically indicating the relationship and impact of the computer problem or system implementation to claims submission, and a detailed statement explaining why alternative billing procedures were not initiated after the delay in repairs or system implementation was known.

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.

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TRD-9614043

Susan K. Steeg

General Counsel

Texas Department of Health

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



Subchapter G. Hospital Services

On behalf of the State Medicaid Director, the Texas Department of Health (department) submits adopted amendment to §29.609, repeal of §29.610, and new §29.610, concerning disproportionate share hospitals. Sections 29.609-29.610 are being adopted with changes to the proposed text published in the June 28, 1996, issue of the Texas Register (21 TexReg 5917). The repeal of §29.610 is adopted without change and will not be republished.

The amendments continue, according to federal directives, reimbursing hospitals that provide a disproportionate share of indigent care. The amendments also provide for a more accurate department administrative rule base.

The amendments comply further with requirements established in the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and with the approved state plan amendment, which covers OBRA '93. The amendments also revise the reimbursement methodology for state mental and chest hospitals. The department specified when and how the state determines the available funds and added definitions for the available funds. These definitions clarify that there are three available funds in the disproportionate share hospital program.

Although the department did not receive public comments during the 30-day comment period, the department initiated changes to clarify the language for consistency and to correct an incorrect reference in §29.610(e)(2).

25 TAC §29.609

These amendments are adopted under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's

medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

§29.609. *Additional Reimbursement to Disproportionate Share Hospitals.*

(a) (No change.)

(b) Definitions. For purposes of this section, the following words and terms, shall have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

(2) Bad debt charges - Uncollectible inpatient and outpatient charges that result from the extension of credit. Bad debt charges are used in the calculation of charges attributed to uninsured patients as defined in paragraph (5) of this subsection, and are used only in the limited circumstances described in subsection (f)(2)(D)(iv) of this section.

(3) (No change.)

(4) Charity charges - Total amount of hospital charges for inpatient and outpatient services attributed to charity care in a cost reporting period. These charges do not include bad debt charges, contractual allowances or discounts (other than for indigent patients not eligible for medical assistance under the approved Medicaid state plan); that is, reductions or discounts in charges given to other third party payers such as, but not limited to, health maintenance organizations, Medicare, or Blue Cross. Charity charges are used in the calculation of charges attributed to uninsured patients as defined in paragraph (5) of this subsection, only in the limited circumstances described in subsection (f)(2)(D)(iv) of this section. The amount of total charity charges must be consistent with the amount reported on the Texas Department of Health's (department) annual hospital survey.

(5) Cost of services to uninsured patients - Inpatient and outpatient charges to patients who have no health insurance or other source of third party payment for services provided during the year, multiplied by the hospital's ratio of costs to charges (inpatient and outpatient), less the amount of payments made by or on behalf of those patients. Uninsured patients are patients who have no health insurance or other source of third party payments for services provided during the year. Uninsured patients include those patients who do not possess health insurance that would apply to the service for which the individual sought treatment.

(6)-(10) (No change.)

(11) Hospital specific limit - The sum of the following two measurements:

(A) (No change.)

(B) cost of services to uninsured patients.

(12)-(14) (No change.)

(15) Medicaid inpatient utilization rate - Fraction expressed as a percentage, the numerator of which is the hospital's number of inpatient days attributable to patients who (for these days) were eligible for medical assistance under a state plan, and the denominator of which is the total number of the hospital's inpatient days

in that period. The term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

(16)-(18) (No change.)

(19) Payments received - Payments received from uninsured patients from or on behalf of uninsured patients as defined in paragraph (5) of this subsection.

(20)-(21) (No change.)

(22) Total inpatient charity charges - Total amount (excluding bad debt charges) of the hospital's charges for inpatient hospital services attributed to charity care (care provided to individuals who have no source of payment, third-party or personal resources) in a cost reporting period. The total inpatient charges attributable to charity care does not include contractual allowances and discounts (other than for indigent patients not eligible for medical assistance under an approved Medicaid State Plan); that is, reduction or discounts, in charges given to other third-party payers such as but not limited to HMOs, Medicare, or Blue Cross. The amount of total inpatient charity charges must be consistent with the amount reported on the department's annual hospital survey.

(23) Total Medicaid inpatient days - Total number of billed Title XIX inpatient days based on the latest available state fiscal year data for patients eligible for Title XIX benefits. Total Medicaid inpatient days includes days that were denied payment for reasons other than eligibility. Included are inpatient days of care provided to patients eligible for Medicaid at the time the service was provided, regardless of whether the claim was paid. These denied claims include, but are not limited to, claims for patients whose spell of illness limits are exhausted, or claims that were filed late. The terms excludes days attributable to Medicaid patients between the ages of 21 and 65 who live in an institution for mental diseases. The term includes days attributable to individuals eligible for Medicaid in other states. Total Medicaid inpatient days includes days with dates of admissions between September 1 and August 31 (state fiscal year) and dates of payments within the fiscal year and for nine months after the end of the fiscal year (May 31).

(24)-(29) (No change.)

(30) Available fund (state mental and chest hospitals) - Sum of 100 percent of their adjusted hospital specific limits.

(31) Available fund (hospitals other than mental and chest hospitals) - Total federal fiscal year cap (state disproportionate share hospital allotment) minus the available fund for state teaching hospitals minus the available fund for state mental and chest hospitals.

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

(f) Reimbursing Medicaid disproportionate share hospitals. The department shall reimburse Medicaid disproportionate share hospitals on a monthly basis. Monthly payments will equal one-twelfth of annual payments unless it is necessary to adjust the amount because payments will not be made for a full 12-month period, to comply with the annual state disproportionate share hospital allotment, or to comply with other state or federal disproportionate share hospital program requirements. Before the start of the next state fiscal year, the department determines the size of the available funds to reimburse disproportionate share hospitals for the next state

fiscal year, which begins each September 1. The funds available to reimburse the state chest hospitals and state mental hospitals equal the total of their adjusted hospital specific limits. The available fund for the remaining hospitals equals the lesser of the funds remaining in the state's annual disproportionate share hospital allotment or the sum of qualifying hospitals' adjusted hospital specific limits. Payments shall be made in the following manner, unless the department determines the hospital's proposed reimbursement has exceeded its specific limit.

(1) A state chest hospital (facility of the Texas Department of Health) or a state mental hospital (facility of the Texas Department of Mental Health and Mental Retardation) that meets the requirements for disproportionate share status and provides inpatient psychiatric care or inpatient hospital services receives annually 100 percent of its adjusted hospital specific limit.

(2) For the remaining hospitals, payments will be based on both weighted inpatient Medicaid days and weighted low income days. The department weighs each hospital's total inpatient Medicaid days and low income days by the appropriate weighing factor. The department defines a low income day as a day derived by multiplying a hospital's total inpatient census days from its fiscal year ending in the previous calendar year by its low income utilization rate. Hospital districts and city/county hospitals with greater than 250 licensed beds in the state's largest MSAs shall receive weights based proportionally on the MSA population according to the 1990 United States census. MSAs with populations greater than or equal to 150,000, according to the 1990 census, are considered as the "largest MSAs." Children's hospitals also shall receive weights because of the special nature of the services they provide. All other hospitals receive weighing factors of 1.0. The inpatient Medicaid days of each hospital shall be based on the latest available state fiscal year data for patients entitled to Title XIX benefits. The available fund shall be divided into two parts. Two-thirds of the available fund will reimburse each qualifying hospital on a monthly basis by its percent of the total inpatient Medicaid days. One-third of the available fund will reimburse each qualifying hospital by its percent of the total low income days. Reimbursement for the remaining hospitals is determined monthly as follows.

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

(D) The department or its designee determines the hospital specific limit for each disproportionate share hospital. This limit is the sum of a hospital's Medicaid shortfall, as defined in subsection (b)(16) of this section, and its cost of services to uninsured patients, as defined in subsection (b)(5) of this section, multiplied by the appropriate inflation update factor, as provided for in subsection (g)(2)(E) of this section.

(i) The Medicaid shortfall includes total Medicaid billed charges and any Medicaid payment made for the corresponding inpatient and outpatient services delivered to Texas Medicaid clients, as determined from the hospital's fiscal year claims data, regardless of whether the claim was paid. These denied claims include, but are not limited to, patients whose spell of illness claims were exhausted, or payments were denied due to late filing. See subsection (b)(16) of this section for definition of "Medicaid shortfall."

(ii) The total Medicaid billed charges for each hospital are converted to cost, utilizing a calculated cost-to-charge ratio (inpatient and outpatient). The department or its designee determines that ratio by using the hospital's Form HCFA 2552-92, Hospital and Hospital Health Care Complex Cost Report, that was

submitted for the fiscal year ending in the previous calendar year. The department or its designee uses the latest available Medicare cost report in the absence of the Medicare cost report submitted in the fiscal year ending in the previous calendar year. To determine the cost-to-charge ratio (inpatient and outpatient) for each hospital, the department or its designee uses the total cost from the HCFA 2552-92, Worksheet B, Part I, Column 25, and total charges from the HCFA 2552-92, Worksheet C Part I, Column 6. The ratio is the total cost divided by the total gross patient charges.

(iii) The department or its designee determines the cost of services to patients who have no health insurance or source of third party payments for services provided during the fiscal year for each hospital. Hospitals are surveyed each year to determine charges that can be attributed to patients without insurance or other third party resources. The charges from reporting hospitals are multiplied by each hospital's cost-to-charge ratio (inpatient and outpatient) to determine the cost.

(iv) Hospitals that do not respond to the survey, or that are unable to determine accurately the charges attributed to patients without insurance, shall have their bad debt charges as defined in subsection (b)(2) of this section, and their charity charges as defined in subsection (b)(4) of this section, reduced by a percentage derived from a representative sample of hospitals to be determined annually by the department or its designee. The department derives the percentages using the following formula; for each specific category of hospitals listed in clause (v) of this subparagraph, the department sums the total amount of charges for patients without health insurance or other third party payments. For each specific category of hospitals listed in clause (v) of this subparagraph, the department sums the charity and bad debt charges. For each specific category of hospitals listed in clause (v) of this subparagraph, the department then divides the charges for patients without health insurance or other third party payments by the sum of charity and bad debt charges. The department then uses the resulting ratio for each specific category of hospitals listed in clause (v) of this subparagraph in the following manner. Individual hospitals that do not respond to the survey, or that are unable to accurately determine the charges attributed to patients without insurance have their hospital's individual sum of bad debt and charity charges multiplied by the appropriate ratio for the specific hospital category. After the department has calculated a value for the charges for patients without health insurance or other source of third party payment for each individual hospital, the department multiplies each hospital's calculated value by that hospital's cost-to-charge ratio (inpatient and outpatient) to obtain the proxy cost of services delivered to uninsured patients at each hospital.

(v) The representative sample of hospitals is one of the following specific categories of hospitals: urban public, other urban, rural, state-operated psychiatric and nonstate psychiatric. In the event that less than 20 percent of the hospitals in a specific category provide data to the department, the department or its designee uses the overall ratio calculated for all responding hospitals. The department or its designee creates additional categories, by submitting a state plan amendment, as it deems appropriate for the economic and efficient operation of the Medicaid disproportionate share hospital program.

(vi) After the department or its designee determines each disproportionate share hospital's cost of services to patients who have no health insurance or source of third party payments for

services provided during the year, the department subtracts from each hospital's cost of services the amount of payments made by or on behalf of those patients who have no health insurance or source of third party payments for services provided during the year.

(E) The department or its designee shall trend each hospital's "hospital specific limit" calculated from its historical base period cost report to the state's fiscal year disproportionate share program. For hospitals without a full 12-month fiscal year cost report, the department or its designee shall convert their costs to annualized hospital specific limits. The department or its designee shall use the inflation rates described in §29.606(n)(2) of this title (relating to Reimbursement Methodology for Inpatient Hospital Services) to calculate the inflation update factor used in the adjusted hospital specific limit. The department or its designee shall calculate the number of months from the mid-point of the hospital's cost reporting period to the mid-point of the state fiscal year disproportionate share program. The department or its designee shall then multiply the portion of the hospital's cost report year occurring in the state fiscal year by the inflation update factor used for each state fiscal year in the calculation of hospital reimbursement rates for each state fiscal year. The product of these calculations shall be multiplied by each hospital's "hospital specific limit" to obtain each hospital's "adjusted hospital specific limit."

(F) The department or its designee compares the projected payment for each disproportionate share hospital, as determined by subsections (d) and (e) of this section, with its adjusted hospital specific limit, as determined by subparagraphs (D) and (E) of this paragraph. If the hospital's projected payment is greater than its adjusted hospital specific limit, the department or its designee reduces the hospital's payment to its adjusted hospital specific limit.

(G) If there are disproportionate share hospital funds left in the available fund for the remaining hospitals, because some hospitals have had their disproportionate share hospital payments reduced to their adjusted hospital specific limits, the department distributes the excess funds according to the provisions in this section. For hospitals whose projected disproportionate share hospital payments are less than their adjusted hospital specific limits, the department or its designee does the following:

(i) calculate the difference between its adjusted hospital specific limit and its projected disproportionate share hospital payment;

(ii) add all of the differences from clause (i) of this subparagraph;

(iii) calculate a ratio for each hospital by dividing the difference from clause (i) of this subparagraph by the sum for clause (ii) of this subparagraph; and

(iv) multiply the ratio from clause (iii) of this subparagraph by the remaining available fund. Remaining Available Hospital's Adjusted Limit (minus) Hospital's Projected Fund X Disproportionate Share Payment Total

(H) Only those hospitals that are below their adjusted hospital specific limits are eligible to participate in this distribution. The disproportionate share hospital funds remaining in the available fund are distributed to the hospitals that have not already reached their adjusted hospital specific limits. Each hospital's total disproportionate share payment (including the redistribution of excess funds) cannot exceed its adjusted hospital specific limit.

(g)-(i) (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 legal authority.

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TRD-9614044

Susan K. Steeg

General Counsel

Texas Department of Health

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



25 TAC §29.610

This repeal is adopted under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

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.

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Susan K. Steeg

General Counsel

Texas Department of Health

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This amendment is adopted under the Human Resources Code, §32.021 and Texas Civil Statutes, Article 4413 (502), §16, which provides the Health and Human Services Commission with the authority to adopt rules to administer the state's medical assistance program and are submitted by the Texas Department of Health under its agreement with the Health and Human Services Commission to operate the purchased health services program and as authorized under Chapter 15, §1.07, Acts of the 72nd Legislature, First Called Session (1991).

§29.610. Disproportionate Share Hospital Reimbursement Methodology.

(a) A hospital owned and operated by a state university or other agency of the state is eligible for disproportionate share reimbursement. A state-owned teaching hospital is a hospital owned and operated by a state university or other agency of the state.

(b) Each hospital must have a Medicaid inpatient utilization rate defined at a minimum of one percent.

(c) To qualify for disproportionate share payments, each hospital must have at least two physicians (M.D. or D.O.), with staff privileges at the hospital, who have agreed to provide nonemergency obstetrical services to Medicaid clients. The two-physician requirement does not apply to hospitals whose inpatients are predominantly under 18 years old or that did not offer nonemergency obstetrical services to the general population as of December 22, 1987.

(d) For purposes of this section, the following words and terms, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Total Medicaid inpatient days - Total Medicaid inpatient days means the total number of billed Title XIX inpatient days based on the latest available state fiscal year data for patients eligible for Title XIX benefits. Total Medicaid inpatient days includes days that were denied payment for reasons other than eligibility. Included are inpatient days of care provided to patients eligible for Medicaid at the time the service was provided, regardless of whether the claim was paid. These denied claims include, but are not limited to, claims for patients whose spell of illness limits are exhausted, or claims that were filed late. The term excludes days attributable to Medicaid patients between the ages of 21 and 65 who live in an institution for mental diseases. The term includes days attributable to individuals eligible for Medicaid in other states.

(2) Total inpatient census days - Total inpatient census days means the total number of a hospital's inpatient census days during its fiscal year ending in the previous calendar year.

(3) Cost of services - Cost of services to uninsured patients is the inpatient and outpatient charges to patients who have no health insurance or other source of third party payment for services provided during the year, multiplied by the hospital's ratio of costs to charges (inpatient and outpatient), less the amount of payments made by or on behalf of those patients. Uninsured patients are patients who have no health insurance or other source of third party payments for services provided during the year. Uninsured patients include those patients who do not possess health insurance that would apply to the service for which the individual sought treatment. Cost of services does not include any bad debt charges.

(4) Hospital specific limit - Hospital specific limit is the sum of the following two measurements: Medicaid shortfall and cost of services to uninsured patients.

(5) Medicaid shortfall - Medicaid shortfall is the cost of services (inpatient and outpatient) furnished to Medicaid patients, less the amount paid under the nondisproportionate share hospital payment method under this state plan.

(6) Cost-to-charge ratio (inpatient and outpatient) - Cost-to-charge ratio is the hospital's overall cost-to-charge ratio, as determined from its Medicare cost report submitted for the fiscal year ending in the previous calendar year. The latest available Medicare cost report is used in the absence of the cost report for the hospital's fiscal year ending in the previous calendar year.

(7) Adjusted hospital specific limit - Adjusted hospital specific limit is a hospital specific limit trended forward to account for the inflation update factor since the base year.

(8) Inflation update factor - Inflation update factor is a general increase in prices as determined by the department.

(9) Medicaid inpatient utilization rate - Medicaid inpatient utilization rate is the fraction expressed as a percentage, the numerator of which is the hospital's number of inpatient days attributable to patients who (for these days) were eligible for medical assistance under a state plan, and the denominator of which is the total number of the hospital's inpatient days in that period. The term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

(10) Payments received - Payments received from uninsured patients are those payments received from or on behalf of uninsured patients as defined in paragraph (3) of this subsection.

(11) Charity charges - Charity charges are the total amount of hospital charges for inpatient and outpatient services attributed to charity care in a cost reporting period, as reported on the state teaching hospitals' annual financial reports, for use only in the calculation of the disproportionate share hospital payment under subsection (e)(1) of this section.

(12) Allowable cost - Allowable cost is defined by the department using the rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers when providing services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(13) Available fund - The available fund for state teaching hospitals is the total amount of funds that may be reimbursed to the state teaching hospitals as determined below.

(e) The department reimburses state-owned teaching hospitals on a monthly basis from the available fund for state teaching hospitals. Monthly payments equal one-twelfth of annual payments unless it is necessary to adjust the amount because payments are not made for a full 12-month period, to comply with the annual state disproportionate share hospital allotment, or to comply with other state or federal disproportionate share hospital program requirements. Prior to the start of the next federal fiscal year, the department determines the size of the fund to reimburse state-owned teaching hospitals for the next federal fiscal year. The available fund to reimburse the state teaching hospitals equals the total of their disproportionate share hospital payments, as follows:

(1) A state teaching hospital will receive a monthly disproportionate share payment based on the following formula: Monthly Charity Charges of the State-Owned Teaching Hospital x Available Total Monthly Charity Charges of All State-Owned Teaching Hospitals Fund

(2) If the adjusted hospital specific limit for a state teaching hospital is less than the formula in paragraph (1) of this subsection, a state teaching hospital will receive 100 percent of its adjusted hospital specific limit, instead of the amount determined under this subsection.

(f) The department or its designee determines the hospital specific limit for each disproportionate share hospital. This limit is the sum of a hospital's Medicaid shortfall, as defined in subsection (d)(5) of this section, and its cost of services to uninsured patients as defined in subsection (d)(3) of this section, multiplied by the appropriate inflation update factor, as provided for in subsection (g) of this section.

(1) The Medicaid shortfall includes total Medicaid billed charges and any Medicaid payments made for the corresponding inpatient and outpatient services delivered to Texas Medicaid clients, as determined from the hospital's fiscal year claims data, regardless of whether the claim was paid. These denied claims include, but are not limited to, patients whose spell of illness claims were exhausted, or payments were denied due to late filing. Refer to subsection (d)(5) of this section.

(A) The total billed Medicaid charges for each hospital are converted to cost, utilizing a calculated cost-to-charge ratio (inpatient and outpatient). The department or its designee determines that ratio by using the hospital's HCFA 2552-92, Hospital and Hospital Health Care Complex Cost Report, that was submitted for the fiscal year ending in the previous calendar year. The department or its designee uses the latest available Medicare cost report in the absence of the Medicare cost report submitted in the fiscal year ending in the previous calendar year. To determine the cost-to-charge ratio (inpatient and outpatient) for each hospital, the department or its designee uses the total cost from the HCFA 2552-92, Worksheet B, Part 1, Column 25, and total charges from the HCFA 2552-92, Worksheet C, Part 1, Column 6. The ratio is the total cost divided by the total gross patient charges.

(B) The department or its designee determines the cost of services to patients who have no health insurance or source of third party payments for services provided during the year for each hospital. Hospitals are surveyed each year to determine charges that can be attributed to patients without insurance or other third party resources. The charges are multiplied by each hospital's cost-to-charge ratio (inpatient and outpatient) to determine the cost.

(2) After the department or its designee determines each disproportionate share hospital's cost of services to patients who have no health insurance or source of third party payments for services provided during the year, the department subtracts from each hospital's cost of services the amount of payments made by or on behalf of those patients who have no health insurance or source of third party payments for services provided during the year.

(g) The department or its designee trends each hospital's "hospital specific limit" calculated from its historical base period cost report from subsection (f) of this section to the state's fiscal year disproportionate share program. For hospitals without full 12-month fiscal year cost reports, the department or its designee annualizes the cost to calculate the hospital specific limit. The department or its designee uses the inflation update factor, as defined in subsection (d)(8) of this section, in calculating the adjusted hospital specific limit. The department or its designee calculates the number of months from the mid-point of the hospital's cost reporting period to the mid-point of the state fiscal year disproportionate share program. The department or its designee then multiplies the portion of the hospital's cost report year occurring in the state fiscal year by the inflation update factor used for each state fiscal year in the calculation of hospital reimbursement rates for each state fiscal year. The product of these calculations is multiplied by each hospital's hospital specific limit to obtain each hospital's adjusted hospital specific limit.

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.

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Susan K. Steeg
General Counsel
Texas Department of Health
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**TITLE 31. NATURAL RESOURCES AND
CONSERVATION**

Part II. Texas Parks and Wildlife Department

Chapter 51. Executive

The Texas Parks and Wildlife Commission, in a regularly scheduled public hearing held August 29, 1996, adopted the repeal of §§51.91, 51.93-51.97, concerning Easement Requests and Unauthorized Easement Activities, without change to the proposed text as published in the June 7, 1996, issue of the *Texas Register* (21 TexReg 5144). The Commission also adopted the repeal and new §51.92. New §51.92 is adopted with changes to the proposed text as published in the July 26, 1996 issue of the *Texas Register* (21 TexReg 6990).

The commission adopted amendment of §51.92(a)(3)(A) which will require a statement from entities requesting an easement on department lands which certifies that every reasonable attempt has been made to minimize adverse impacts on department property or its users.

The repeals and new rule remove redundant sections of the Texas Administrative Code and are necessary to provide a procedure for evaluating easement requests and for forwarding staff recommendations to the commission for approval.

The repeal and new rule will provide a mechanism for department, commission and public review of easement requests on department lands. Requirements for easement requests are clearly specified and the commission will review these requests.

The department received no public comment concerning the proposed repeal and new rule.

Easement Requests and Unauthorized Easement Activity

31 TAC §§51.91, 51.93-51.97

The repeal and new sections are adopted under Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the Commission with the authority to establish regulations governing the conservation, preservation, and use of state property.

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 September 23, 1996.

TRD-9613914
William D. Harvey, Ph.D.
Regulatory Coordinator

Texas Parks and Wildlife Department
Effective date: October 14, 1996
Proposal publication date: June 7, 1996
For further information, please call: 1-800-792-1112, extension 4642 or (512) 389-4642

◆ ◆ ◆
31 TAC §51.92

The repeal is adopted under Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the Commission with the authority to establish regulations governing the conservation, preservation, and use of state property.

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.

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TRD-9613915
William D. Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife Department
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For further information, please call: 1-800-792-1112, extension 4642 or (512) 389-4642

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The new section is adopted under Parks and Wildlife Code, Chapter 13, Subchapter B, which provides the Commission with the authority to establish regulations governing the conservation, preservation, and use of state property.

§51.92. Easement Requests.

(a) An entity requesting an easement on property owned or managed by the department shall submit a written request that:

- (1) identifies the site of the proposed easement by a metes and bounds description;
- (2) describes the activity to take place on the site of the proposed easement; and
- (3) contains a statement that:

(A) every reasonable attempt has been made to minimize adverse impacts to the property or its users;

(B) no feasible and prudent alternative exists to the easement on state property; and

(C) discusses alternatives to the location of the easement.

(b) The department shall review requests fairly and expeditiously in accordance with the best available management guidelines.

(c) Upon reaching a determination, the department shall present to the commission its findings and recommendations.

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 September 23, 1996.

TRD-9613916
William D. Harvey, Ph.D.
Regulatory Coordinator
Texas Parks and Wildlife Department
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For further information, please call: 1-800-792-1112, extension 4642
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**TITLE 40. SOCIAL SERVICES AND AS-
SISTANCE**

**Part I. Texas Department of Human Ser-
vices**

**Chapter 4. Medicaid Programs-Children and
Pregnant Women**

Eligibility Requirements

40 TAC §4.1004

The Texas Department of Human Services (DHS) adopts an amendment to §4.1004 without changes to the proposed text as published in the *Texas Register* (21 TexReg 7228) and will not be republished.

The justification for the amendment is to implement welfare reform policies as required by House Bill 1863.

The amendment will function by ensuring that DHS will be in compliance with state legislation related to welfare reform.

No comments were received regarding adoption of the amend-ments.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22, 31, and 32, which provides the department with the authority to administer public, financial, 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 §§22.001-22.030, 31.0325, and 32.001-32.042.

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

Issued in Austin, Texas, on September 10, 1996.

TRD-9614248

Glenn Scott

General Counsel, Legal Service

Texas Department of Human Services

Effective date: October 1, 1996

Proposal publication date: July 30, 1996

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

TABLES & GRAPHICS

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

Graphic material is indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on. Multiple graphics in a rule are designated as "Figure 1" followed by the TAC citation, "Figure 2" followed by the TAC citation.

Texas Driver's License # _____

or Texas Department of Public Safety ID # _____

or Social Security # _____

**TEXAS DEPARTMENT OF HEALTH
OUT-OF-HOSPITAL
DO NOT RESUSCITATE
ORDER**

This document becomes effective immediately on the date of execution. It remains in effect until the death of the patient or the document is revoked.

① Patient's full legal name - printed or typed _____ Date of Birth: _____ Male / Female (Circle One)

I DO NOT WISH TO BE RESUSCITATED AND REFUSE ALL OF THE FOLLOWING:
Cardiopulmonary Resuscitation Endotracheal Intubation or Other Advanced Airway Management
Defibrillation Artificial Ventilation
Cardiac Resuscitation Medications Transcutaneous Cardiac Pacing

② COMPLETE ONE OF THE FOLLOWING THREE BOXES: A, B, OR C.

A. PATIENT'S STATEMENT: I, the undersigned, am capable of making an informed decision regarding the withholding or withdrawing of the above treatments and direct that the resuscitation measures listed above not be initiated or continued. I understand that I may revoke this order at any time.
Signature _____ Date _____ Printed or Typed Name _____

B. ONLY USE THIS BOX IF THE ORDER IS BEING COMPLETED BY A PERSON ACTING AS AN AGENT ON BEHALF OF THE PATIENT:
I am the: legal guardian; proxy (Ch. 672, Health & Safety Code); Durable Power of Attorney for Health Care;
 managing conservator; attending physician of the above person, AND:
 I attest to the issuance of an out-of-hospital DNR order by the person by nonwritten means of communication in my presence and the below listed two witnesses; OR,
 I am acting on behalf of a previously executed or previously issued directive to physicians; OR,
 The patient is incompetent.
I direct that the listed life-sustaining procedures not be initiated or continued on behalf of the person.
Signature _____ Date _____ Printed or Typed Name _____

C. ONLY USE THIS BOX IF PATIENT IS INCOMPETENT AND DOCUMENT IS EXECUTED BY TWO QUALIFIED RELATIVES.
The above patient does not have a legal guardian, proxy, agent having a durable power of attorney for health care, or a managing conservator, and is comatose, incompetent, or otherwise mentally or physically incapable of communication; AND,
We are qualified to make a treatment decision to withhold cardiopulmonary resuscitation and certain other designated life-sustaining procedures under Section 672.009 of the Health and Safety Code; AND,
Based on the known desires of the person or a determination of the patient's best interest, we direct that the listed life-sustaining procedures not be initiated or continued on behalf of the patient.
Signature _____ Date _____ Printed or Typed Name _____ Relation _____
Signature _____ Date _____ Printed or Typed Name _____ Relation _____

③ WITNESSES: We are qualified witnesses as defined in the Texas Health and Safety Code Section 672.003(c) and have witnessed all the above signatures.

Witness Signature _____ Date _____ Witness Printed or Typed Name _____
Witness Signature _____ Date _____ Witness Printed or Typed Name _____

④ PHYSICIAN'S STATEMENT: I, the undersigned, am the attending physician of the patient named above. I have diagnosed and certified in patient records that he/she is in a terminal condition, and I direct out-of-hospital health care professionals to comply with this order as presented.
Physician's signature _____ License number _____
Printed or Typed name _____ Date _____

ALL PERSONS WHO SIGNED MUST SIGN HERE: This document has been properly completed.

Signature of Patient or Agent or Relative (A, B, or C) _____ Signature of Relative (C) _____
Signature of Witness _____ Signature of Witness _____
Signature of Physician _____ Date _____

SHOULD TRANSPORT OCCUR, THIS DOCUMENT MUST ACCOMPANY THE PATIENT.

Figure 1: 25 TAC §157.25 (h) (2) page 1 of 2

OUT-OF-HOSPITAL DNR INSTRUCTIONS

PURPOSE:

This form was designed to comply with the requirements as set forth in §674 of the Health and Safety Code (H&SC) relating to the issuance of Out-of-Hospital Do-Not-Resuscitate orders for the purpose of instructing Emergency Medical Personnel and other health care professionals to forgo resuscitation attempts. Measures not to be initiated or continued include Cardiopulmonary Resuscitation (CPR), Cardiac Resuscitation Medications, Transcutaneous Cardiac Pacing, Defibrillation, Advanced Airway Management, Artificial Ventilation, and Endotracheal Intubation. This order does NOT affect the provision of other emergency care including comfort care.

DEFINITIONS:

Attending Physician: *The physician who has primary responsibility for a person's treatment and care and is licensed by the Texas State Board of Medical Examiners or who is properly credentialed and holds a commission in the uniformed services of the United States and who is serving on active duty in this state.* (H&SC 674.001 (1) & (16))

Proxy: *Person designated in a Directive to Physician to make a treatment decision for the declarant.* (H&SC 674.001 (17))

Qualified Relatives: *Qualified relatives means those persons authorized to execute or issue an out-of-hospital DNR order on behalf of a person who is comatose, incompetent, or otherwise mentally or physically incapable of communication under Section 674.008 (H&SC 674.001 (18)). Section 674.008 refers to 672.009b: "Two persons, if available, of the following categories, in the following priority...: (1) The patient's spouse; (2) a majority of the patient's reasonably available adult children; (3) the patient's parents; or (4) the patient's nearest living relative."*

Health Care Professional: *means physicians, nurses, and emergency medical services personnel and, unless the context requires otherwise, includes hospital emergency personnel.* (H&SC 674.001 (11))

Witnesses: *"A witness is a person who is NOT:*

- (1) related to the declarant by blood or marriage;*
- (2) entitled to any part of the declarant's estate after the declarant's death under a will or codicil executed by the declarant or by operation of law;*
- (3) the attending physician;*
- (4) an employee of the attending physician;*
- (5) an employee of a health care facility in which the declarant is a patient if the employee is providing direct patient care to the declarant or is directly involved in the financial affairs of the facility;*
- (6) a patient in a health care facility in which the declarant is a patient; OR*
- (7) a person who, at the time the directive is executed, has a claim against any part of the declarant's estate after the declarant's death." (§ 672.003 (c))*

APPLICABILITY:

This form applies to EMS and other health care professionals operating in any out-of-hospital setting.

IMPLEMENTATION:

Any patient diagnosed with a terminal condition may initiate an Out-of-Hospital Do-Not-Resuscitate Order. The patient's attending physician will document the presence of the terminal condition in the patient's permanent medical record.

If the patient is capable of providing informed consent for the order, he/she will sign and date the DNR Order on the front of this sheet. In the event that the patient is incapable of providing informed consent, his/her Legal Guardian / Proxy / DPAHC or Qualified Relatives may initiate the order by signing and dating the form and supplying sufficient proof to indicate they are authorized to perform such measures. The order may also be initiated by the attending physician based upon nonwritten communication or previously executed directive to physicians. If the patient is a minor, the minor's parents, legal guardian or managing conservator may execute the Out-of-Hospital Do-Not-Resuscitate order.

In all cases, the form must be signed and dated by two witnesses.

The original Texas Out-of-Hospital DNR form containing the colored DNR logo should remain with the patient. Duplicates may be made by the patient, health care provider organization or attending physician as necessary for placement in the patient's medical record or for ordering of identification devices. Copies of this document lacking the colored DNR logo will not be honored by responding health care professionals.

The presence of a Texas DNR identification device on a person is sufficient evidence that the individual has a valid Out-of-Hospital Do-Not-Resuscitate Order. Therefore, either the form with the colored Texas logo or the device is sufficient evidence of the existence of the order.

In the absence of the original Texas form containing the colored DNR logo OR an approved identification device with the colored Texas DNR logo, all responding health care professionals will initiate FULL resuscitative efforts unless there is obvious indication of death per local policy.

REVOCATION:

The Out-of-Hospital Do-Not-Resuscitate Order may be revoked at ANY time by the patient, Legal Guardian / Proxy/ DPAHC or Qualified Relatives. The revocation will involve communication of wishes to responding health care professionals, destruction of the form, and removal of all or any Do-Not-Resuscitate identification devices the patient may possess.

PREGNANT PERSONS: A person may not withhold the above designated procedures from a person known to be pregnant.

Please report any problems with this form to the Texas Department of Health at 512/834-6740.

FIGURE NO. 1: 28 TAC ^{5.3700(c)} (1)

Page 1 of 2

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
78202	San Antonio	Bexar
78203	San Antonio	Bexar
78204	San Antonio	Bexar
78205	San Antonio	Bexar
78206	San Antonio	Bexar
78207	San Antonio	Bexar
78208	San Antonio	Bexar
78210	San Antonio	Bexar
78215	San Antonio	Bexar
78353	Encino	Brooks
78355	Falfurrias	Brooks
78520	Brownsville	Cameron
78521	Brownsville	Cameron
78559	La Feria	Cameron
78566	Bayview	Cameron
78566	Los Fresnos	Cameron
78567	Los Indios	Cameron
78568	Lozano	Cameron
78575	Olmit	Cameron
78575	Rancho Viejo	Cameron
78583	Rio Hondo	Cameron
78586	San Benito	Cameron
78592	Santa Maria	Cameron
78593	Santa Rosa	Cameron
78341	Benavides	Duval
78349	Concepcion	Duval
78357	Freer	Duval
78376	Realitos	Duval

78384	San Diego	Duval
77003	Houston	Harris
77004	Houston	Harris
77006	Houston	Harris
77011	Houston	Harris
77012	Houston	Harris
77020	Houston	Harris
77021	Houston	Harris
77022	Houston	Harris
77023	Houston	Harris
77026	Houston	Harris
77028	Houston	Harris
77029	Houston	Harris
77033	Houston	Harris
77051	Houston	Harris
77087	Houston	Harris
77093	Houston	Harris
77547	Galena Park	Harris
78537	Donna	Hidalgo
78549	Hargill	Hidalgo
78589	San Juan	Hidalgo
78595	Sullivan City	Hidalgo
78361	Hebbronville	Jim Hogg
78385	Sarita	Kenedy
78536	Delmita	Starr
78545	Falcon Heights	Starr
78547	Garciasville	Starr
78548	Grulla	Starr
78582	Rio Grande City	Starr
78584	Roma	Starr
78585	Salineno	Starr
78591	Santa Elena	Starr
76102	Fort Worth	Tarrant
76104	Fort Worth	Tarrant
76105	Fort Worth	Tarrant
78040	Laredo	Webb
78594	Sebastian	Willacy
78067	San Ygnacio	Zapata

FIGURE NO. 2: 28 TAC ^{5.3700(c)(2)}

Page 1 of 2

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
79255	Quitaque	Briscoe
79077	Samnorwood	Collingsworth
79095	Wellington	Collingsworth
79230	Dodson	Collingsworth
79223	Cee Vee	Cottle
79224	Chalk	Cottle
79248	Peducah	Cottle
79229	Dickens	Dickens
79370	Spur	Dickens
79237	Hedley	Donley
79240	Lelia Lake	Donley
79901	El Paso	El Paso
79543	Roby	Fisher
77550	Galveston	Galveston
77650	Caplen	Galveston
79002	Alanreed	Gray
79057	Mclean	Gray
79233	Estelline	Hall
79239	Lakeview	Hall
79261	Turkey	Hall
79225	Chillicothe	Hardeman
79539	O Brien	Haskell
79544	Rochester	Haskell
77640	Port Acres	Jefferson
77640	Port Arthur	Jefferson

77701	Beaumont	Jefferson
77703	Beaumont	Jefferson
77710	Beaumont	Jefferson
79518	Girard	Kent
79232	Dumont	King
79236	Guthrie	King
76363	Goree	Knox
79405	Lubbock	Lubbock
79234	Flomot	Motley
79244	Matador	Motley
79256	Roaring Springs	Motley
75928	Bon Wier	Newton
75932	Burkeville	Newton
75933	Call	Newton
75977	Wiergate	Newton
78401	Corpus Christi	Nueces
78402	Corpus Christi	Nueces
78404	Corpus Christi	Nueces
78405	Corpus Christi	Nueces
78406	Corpus Christi	Nueces
78407	Corpus Christi	Nueces
78408	Corpus Christi	Nueces
78409	Corpus Christi	Nueces
78417	Corpus Christi	Nueces
78469	Corpus Christi	Nueces
78470	Corpus Christi	Nueces
78471	Corpus Christi	Nueces
78474	Corpus Christi	Nueces
78475	Corpus Christi	Nueces
78476	Corpus Christi	Nueces
78477	Corpus Christi	Nueces
78478	Corpus Christi	Nueces
79542	Swenson	Stonewall
78702	Austin	Travis
79061	Mobeetie	Wheeler
76301	Wichita Falls	Wichita
76304	Wichita Falls	Wichita

FIGURE NO. 3: 28 TAC ^{5.3700(c)}(3)

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
75451	Leesburg	Camp
76834	Coleman	Coleman
76873	Rockwood	Coleman
76882	Talpa	Coleman
76884	Valera	Coleman
78827	Asherton	Dimmit
78830	Big Wells	Dimmit
76435	Carbon	Eastland
76437	Cisco	Eastland
76454	Gorman	Eastland
76470	Ranger	Eastland
76471	Rising Star	Eastland
75449	Ladonia	Fannin
78017	Dilley	Frio
75477	Roxton	Lamar
76635	Coolidge	Limestone
76842	Fredonia	Mason
76856	Mason	Mason
76858	Melvin	McCulloch
76867	Pear Valley	McCulloch
76701	Waco	McLennan
76704	Bellmead	McLennan
76704	Waco	McLennan
76848	Hext	Menard
76859	Menard	Menard
76880	Star	Mills
76463	Mingus	Palo Pinto
75426	Clarksville	Red River
75550	Annona	Red River
76629	Bremond	Robertson
77837	Calvert	Robertson
76871	Richland Springs	San Saba
76464	Moran	Shackelford
76429	Caddo	Stephens
78839	Crystal City	Zavala

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
78241	San Antonio	Bexar
78242	San Antonio	Bexar
78243	San Antonio	Bexar
78535	Combes	Cameron
78550	Harlingen	Cameron
78552	Harlingen	Cameron
78578	Port Isabel	Cameron
78597	Port Isabel	Cameron
78597	S. Padre Island	Cameron
75201	Dallas	Dallas
75202	Dallas	Dallas
75203	Dallas	Dallas
75204	Dallas	Dallas
75206	Dallas	Dallas
75207	Dallas	Dallas
75208	Dallas	Dallas
75209	Dallas	Dallas
75210	Dallas	Dallas
75211	Dallas	Dallas
75212	Dallas	Dallas
75214	Dallas	Dallas
75215	Dallas	Dallas
75216	Dallas	Dallas
75217	Dallas	Dallas
75218	Dallas	Dallas
75219	Dallas	Dallas
75220	Dallas	Dallas
75223	Dallas	Dallas
75224	Dallas	Dallas
75225	Dallas	Dallas
75226	Dallas	Dallas
75227	Dallas	Dallas
75228	Dallas	Dallas
75229	Dallas	Dallas
75230	Dallas	Dallas
75231	Dallas	Dallas
75232	Dallas	Dallas
75233	Dallas	Dallas

75235	Dallas	Dallas
75236	Dallas	Dallas
75237	Dallas	Dallas
75238	Dallas	Dallas
75239	Dallas	Dallas
75240	Dallas	Dallas
75241	Dallas	Dallas
75242	Dallas	Dallas
75243	Dallas	Dallas
75244	Dallas	Dallas
75245	Dallas	Dallas
75246	Dallas	Dallas
75247	Dallas	Dallas
75248	Dallas	Dallas
75249	Dallas	Dallas
75251	Dallas	Dallas
75253	Dallas	Dallas
75260	Dallas	Dallas
75262	Dallas	Dallas
75263	Dallas	Dallas
75270	Dallas	Dallas
75295	Dallas	Dallas
75398	Dallas	Dallas
78538	Edcouch	Hidalgo
78538	Monte Alto	Hidalgo
78543	Elsa	Hidalgo
78557	Hidalgo	Hidalgo
78558	La Blanca	Hidalgo
78560	La Joya	Hidalgo
78562	La Villa	Hidalgo
78565	Los Ebanos	Hidalgo
78570	Mercedes	Hidalgo
78572	Alton	Hidalgo
78572	Mission	Hidalgo
78576	Penitas	Hidalgo
78577	Pharr	Hidalgo
78360	Guerra	Jim Hogg
78375	Premont	Jim Wells
78338	Armstrong	Kenedy
78588	San Isidro	Starr
76006	Arlington	Tarrant

76010	Arlington	Tarrant
76011	Arlington	Tarrant
76012	Arlington	Tarrant
76013	Arlington	Tarrant
76014	Arlington	Tarrant
76015	Arlington	Tarrant
76016	Arlington	Tarrant
76017	Arlington	Tarrant
76018	Arlington	Tarrant
76020	Azle	Tarrant
76021	Bedford	Tarrant
76022	Bedford	Tarrant
76034	Colleyville	Tarrant
76036	Crowley	Tarrant
76039	Eules	Tarrant
76040	Eules	Tarrant
76051	Grapevine	Tarrant
76052	Haslet	Tarrant
76053	Hurst	Tarrant
76054	Hurst	Tarrant
76060	Kennedale	Tarrant
76063	Mansfield	Tarrant
76092	Grapevine	Tarrant
76103	Fort Worth	Tarrant
76106	Fort Worth	Tarrant
76107	Fort Worth	Tarrant
76108	Fort Worth	Tarrant
76109	Fort Worth	Tarrant
76110	Fort Worth	Tarrant
76111	Fort Worth	Tarrant
76112	Fort Worth	Tarrant
76114	Fort Worth	Tarrant
76115	Fort Worth	Tarrant
76116	Fort Worth	Tarrant
76117	Fort Worth	Tarrant
76118	Fort Worth	Tarrant

76119	Fort Worth	Tarrant
76120	Fort Worth	Tarrant
76123	Fort Worth	Tarrant
76126	Fort Worth	Tarrant
76127	Fort Worth	Tarrant
76131	Fort Worth	Tarrant
76132	Fort Worth	Tarrant
76133	Fort Worth	Tarrant
76134	Fort Worth	Tarrant
76135	Fort Worth	Tarrant
76137	Fort Worth	Tarrant
76140	Fort Worth	Tarrant
76148	Fort Worth	Tarrant
76155	Fort Worth	Tarrant
76177	Fort Worth	Tarrant
76178	Fort Worth	Tarrant
76179	Fort Worth	Tarrant
76180	Fort Worth	Tarrant
76248	Keller	Tarrant
78561	Lasara	Willacy
78569	Lyford	Willacy
78580	Raymondville	Willacy
78076	Zapata	Zapata
78564	Lopeno	Zapata

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
78358	Fulton	Aransas
78382	Rockport	Aransas
79019	Claude	Armstrong
79257	Silverton	Briscoe
79201	Childress	Childress
79201	Kirkland	Childress
79201	Northfield	Childress
79222	Carey	Childress
79238	Kirkland	Childress
79251	Quail	Collingsworth
79220	Afton	Dickens
79243	Mcadoo	Dickens
79905	El Paso	El Paso
79910	El Paso	El Paso
79534	Mc Caulley	Fisher
79546	Rotan	Fisher
79227	Crowell	Foard
77510	Alta Loma	Galveston
77510	Santa Fe	Galveston
77517	Arcadia	Galveston
77517	Santa Fe	Galveston
77518	Bacliff	Galveston
77539	Dickinson	Galveston
77539	San Leon	Galveston
77551	Galveston	Galveston
77554	Galveston	Galveston
77563	Hitchcock	Galveston
77565	Clear Lake Shores	Galveston
77565	Kemah	Galveston
77568	La Marque	Galveston
77573	League City	Galveston
77590	Texas City	Galveston
77591	Texas City	Galveston
79245	Memphis	Hall
79252	Quanah	Hardeman
79547	Rule	Haskell
79503	Avoca	Jones
79503	Stamford	Jones

79520	Hamlin	Jones
79533	Lueders	Jones
79553	Stamford	Jones
79528	Jayton	Kent
76371	Munday	Knox
76383	Vera	Knox
79260	Truscott	Knox
79505	Benjamin	Knox
79031	Earth	Lamb
79064	Olton	Lamb
79082	Springlake	Lamb
79312	Amherst	Lamb
79371	Sudan	Lamb
79401	Lubbock	Lubbock
79402	Lubbock	Lubbock
79409	Lubbock	Lubbock
79411	Lubbock	Lubbock
79415	Lubbock	Lubbock
75966	Newton	Newton
77614	Deweyville	Newton
78330	Agua Dulce	Nueces
78339	Banquett	Nueces
78343	Bishop	Nueces
78351	Driscoll	Nueces
78373	Port Aransas	Nueces
78380	Robstown	Nueces
78410	Corpus Christi	Nueces
78411	Corpus Christi	Nueces
78412	Corpus Christi	Nueces
78413	Corpus Christi	Nueces
78414	Corpus Christi	Nueces
78415	Corpus Christi	Nueces
78416	Corpus Christi	Nueces
78418	Corpus Christi	Nueces
78419	Corpus Christi	Nueces
78473	Corpus Christi	Nueces
79502	Aspermont	Stonewall
78701	Austin	Travis
78703	Austin	Travis
79079	Shamrock	Wheeler
79079	Twitty	Wheeler

76303	Wichita Falls	Wichita
76360	Electra	Wichita
76364	Harrold	Wilbarger
76373	Oklunion	Wilbarger
76384	Vernon	Wilbarger
79247	Odel	Wilbarger

FIGURE NO. 6: 28 TAC <*>5.3700(d)(3)

<u>ZIP Code</u>	<u>City</u>	<u>County</u>
76827	Brookesmith	Brown
76443	Cross Plains	Callahan
79504	Baird	Callahan
75686	Pittsburg	Camp
76828	Burkett	Coleman
76845	Gouldbusk	Coleman
76878	Santa Anna	Coleman
76888	Leaday	Coleman
76888	Voss	Coleman
76889	Whon	Coleman
78834	Carrizo Springs	Dimmit
76445	Desdemona	Eastland
76448	Eastland	Eastland
78061	Pearsall	Frio
76565	Pottsville	Hamilton
75428	Commerce	Hunt
75496	Wolfe City	Hunt
75421	Brookston	Lamar
75434	Cunningham	Lamar
75435	Deport	Lamar
75470	Petty	Lamar
76853	Lometa	Lampasas
76885	Valley Spring	Llano
76820	Art	Mason
76836	Doole	McCulloch
76864	Mullin	Mills
76870	Priddy	Mills
76475	Strawn	Palo Pinto
75412	Bagwell	Red River
75417	Bogata	Red River
75554	Avery	Red River
76821	Ballinger	Runnels
76865	Norton	Runnels
79567	Winters	Runnels
76877	San Saba	San Saba
79530	Lawn	Taylor
79541	Ovalo	Taylor
75487	Talco	Titus
78829	Batesville	Zavala
78872	La Pryor	Zavala

Figure 31 TAC §57.157(b)(5)

<u>Species</u>	<u>Ring ID in inches</u>
Washboard, <i>Megaloniais nervosa</i>	4.00
Threeridges and roundlakes, <i>Amblema</i> spp.	2.75
Mapleleafs and pimplebacks, <i>Quadrula</i> spp.	2.75
Tampico pearlymussel, <i>Cyrtonaias tampicoensis</i>	2.75
Bleufer, <i>Potamilus purpuratus</i>	2.75
All Other Species of Freshwater Mussels	2.50

Figure 31 TAC §57.378.

<u>Common Name</u>	<u>Scientific Name</u>
Gars	Lepisosteus spp.
Bowfin	Amia calva
Shads	Dorosoma spp.
Common carp	Cyprinus carpio
Goldfish	Carassius auratus
Grass carp	Ctenopharyngodon idella
Bighead carp	Aristichthys nobilis
Suckers (buffalo)	Ictiobus spp.
River carpsucker	Carpionodes carpio
Bullhead catfishes	Ameiurus spp.
Freshwater drum	Aplodinotus grunniens
Tilapia	Tilapia spp.
Rio Grande cichlid	Cichlasoma cyanoguttatum
Silversides	Menidia beryllina
Mullet	Mugil spp.
Minnnows	Campostoma spp., Cyprinella spp., Hybognathus spp., Machrhybopsis spp., Notemigonus spp., Notropis spp., Opsopoeodus sp., Phenacobius sp., Pimephales spp., Platygobio sp., Rhinichthys sp., and Semotilus sp.

Note: Hybrids among species listed above may also be sold.

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).

Automobile Theft Prevention Authority

October 8, 1996, 9:00 a.m.

800 Brazos Street, Suite 620

Austin

Board

AGENDA:

I. Call to Order and Introductions; Approval of Minutes of Previous Meeting.

II. Report on Statewide HEAT Program, Patty Gonzales, Department of Public Safety.

III. Report on U.S. Department of Justice Grant to ATPA.

IV. Director/Staff Report:

a. Director Report, Overview of Activities since Last Board Meeting, to Include Major Events, Grantee Data on Expenditures and Audits, Travel, and Public Awareness. Staff Members Citerne, De La Rosa and Sampson will be Available for Questions on Specific Report Items.

b. Recognition of Award to Tarrant County ATPA Task Force. Request for Director Participation in the International Association of Chiefs of Police Conference October 26-29.

c. Deanna Citerne's Report on Operations Status, and Introduction of New Financial Officer, Charles Caldwell.

V. Report on Conference Presentations.

VI. Unsolicited Grant Proposal Serving Harris County for WATCH YOUR CAR Registration.

VII. Public Comment.

VIII. Presentation of Recommendations by Jim Bisson of the Texas Department of Transportation Administration on Administration, Operational and Personnel Procedures for ATPA.

IX. Clarification of Duties, Responsibilities, Assignments and Reporting Relationships of ATPA Staff, Including Executive Director.

X. Adjourn.

Contact: Linda Young, Executive Director, ATPA, 800 Brazos Street, Suite 620, Austin, Texas 78701, (512) 494-1976.

Filed: September 26, 1996, 3:20 p.m.

TRD-9614205



The State Bar of Texas

Friday, October 4, 1996, 9:00 a.m.

Worthington Hotel, Atlantic Room, 200 Main Street

Fort Worth

Board of Directors

AGENDA:

Call to Order

Roll Call

Introductions and Swearing in of New Members

Consent Agenda

Legislative Policy Committee Items from the following: President; President-elect; Executive Director; Supreme Court Liaison; Commission for Lawyer Discipline; General Counsel; Board Committees and Members/ Reports from the following: Immediate Past President; President, Texas Young Lawyers Association; Court of Criminal Appeals; Items from State Bar Committees, Sections, Divisions/Reports from the following: Federal Judicial Liaison; Judicial Section Liaison; Out-of-State Lawyer Liaison; Remarks from the General Public; Adjourn

Contact: Pat Hiller, P.O. Box 12487, Austin, Texas 78711, 1-800-204-2222.

Filed: September 26, 1996, 3:57 p.m.

TRD-9614148



Texas Catastrophe Property Insurance Association

October 1, 1996, 9:00 a.m., via conference call at the TCPIA Office

2028 E. Ben White, Suite 200

Austin

Board of Directors/ EMERGENCY MEETING

AGENDA:

I. Call to Order-Reminder of Anti-Trust Statement

II. Benchmark Rate Hearing

III. Executive Session

IV. Adjourn

REASON FOR EMERGENCY: Seek legal advise required prior to scheduled hearing dates.

Contact: Charles F. Mc Cullough, 2028 East Ben White, Suite 200, Austin, Texas 78741, (512) 444-9612.

Filed: September 27, 1996, 2:58 p.m.

TRD-9614200



Comptroller of Public Accounts

Tuesday, October 10, 1996, 8:30 a.m.

111 East 17th Street, LBJ State Office Building, Room 114

Austin

TexPool Advisory Board

AGENDA:

I. Call to Order

II. Approval of Minutes

III. Comptroller's Remarks

IV. Staff Briefing on TexPool Investments

V. Staff Briefing on TexPool Operations

VI. Discussion of and vote regarding possible revision of the Tex-Pool's Participation Agreement to Reflect Abolition of Treasurer's Office, Changes in Public Funds Investment Act and Other Matters

VII. Adjournment

Contact: Ray Bonilla, General Counsel, Comptroller of Public Accounts, 111 East 17 Street, Room 113, Austin, Texas 78774, (512) 475-0412.

Filed: September 30, 1996, 9:21 a.m.

TRD-9614224



Credit Union Department

Monday, October 7, 1996, 10:30 a.m.

Credit Union Department Building, 914 East Anderson Lane

Austin

Credit Union Commission

AGENDA:

To Receive: Accreditation certificate from the National Association of State Credit Union Supervisors (NASCUS).

Contact: James W. Ratzman, Director of Finance/Operations, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: September 25, 1996, 11:35 a.m.

TRD-9614052



Monday, October 7, 1996, 1:00 p.m.

Credit Union Department Building, 914 East Anderson Lane

Austin

Credit Union Commission

AGENDA:

To Invite: Public input for future consideration.

To Receive: Minutes of July 12, 1996, commission meeting; communications; and committee reports from the Texas Share Guaranty Credit Union (TSGCU) Oversight Committee, Legislative Advisory Committee, and Commissioner Evaluation Committee; update on events occurring within NASCUS.

To Consider: Taking formal action to Adopt New Rule 91.204; Taking formal action to Adopt New Rule 91.203; Taking formal action to Adopt Revised Rule 91.507; Taking formal action to Adopt Revised Rule 93.14; ; Possible Vote to Revise Policy regarding nondisclosure of CAMEL Codes; Possible Vote to Revise Policy regarding the prohibition on borrowing from a state-chartered credit union by the professional staff; Taking formal action to establish the Commission's tentative meeting dates for 1997; Discussion with legal counsel regarding the lawsuit by the Independent Bankers Associations of Texas, et al; and Possible Vote on matters discussed in executive session, if necessary.

To Conduct: An executive session to review credit unions and problem cases; to consult with legal counsel regarding contemplated legal action, and existing litigation and administrative actions; and to discuss personnel matters.

Contact: James W. Ratzman, Director of Finance/Operations, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: September 25, 1996, 11:35 a.m.

TRD-9614051



Texas School for the Deaf

Wednesday, October 4, 1996, 12:00 noon

601 Airport Boulevard

Austin

Governing Board Budget and Audit Committee

AGENDA:

1. Consideration of Test of Fixed Assets Audit Report

2. Consideration of Public Funds Investment Act Audit

3. Consideration of Internal Audit Report for 1996
Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 462-5303
Filed: September 26, 1996, 2:08 p.m.
TRD-9614138

Wednesday, October 4, 1996, 12:00 noon
601 Airport Boulevard
Austin
Governing Board Policy Committee

AGENDA:

Policy Amendments

BJCD Executive Director: Evaluation
BJCG Executive Director; Resignation of Retirement
DFBC Term Contracts; Reduction in Force
DH Employee Standards of Conduct
DH-E Employee Standards of Conduct : Exhibit
DNA Accountability: Performance Appraisal
DNB Accountability: Return to Probationary Status

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 462-5303
Filed: September 26, 1996, 2:11 p.m.
TRD-9614139

Wednesday, October 4, 1996, 1:00 p.m.
601 Airport Boulevard
Austin
Governing Board

AGENDA:

1. Call to Order
2. Approval of Minutes from July 26, 1996 Meeting
3. Audience speakers to Address the Board; Introduction of Visitors
4. Business for Information Purposes: a. Executive Director's Report, b. Architect's Report, c. CEASD Self Study Report
5. Board Reports and Action Items
 - a. Standing Committee Reports: (1) Policy Committee; (2) Budget and Audit Committee; (3) Investment Committee
 - b. Special Committee Reports: None
 - c. Consent Agenda: (1) Consideration of Professional Contracts, (2) Policy Amendments: BJCD- Executive Director: Evaluation; BJCG- Executive Director; Resignation of Retirement; DFBC- Term Contracts: Reduction in Force; DH- Employee Standards of Conduct; DH-E Employee Standards of Conduct: Exhibit; DNA- Accountability: Performance Appraisal; DNB-Accountability : Return to Probationary Status
 - d. Other Action Items (1) Consideration of Administrative Pay Scale Revision (2) Consideration of Executive Director Contract (3) Consideration of Austin CableVision Contract (4) Consideration of

Naming of Building- Pease Building (5) Selection of New Building Name Committee (6) Consideration of Test of Fixed Assets Audit Report (7) Consideration of Public Funds Investment Act Audit (8) Consideration of Internal Audit Report for 1996

6. Closed Meeting(s)
7. Reports or Discussion by Individual Board Members
8. Adjournment

Contact: Marvin B. Sallop, P.O. Box 3538, Austin, Texas 78764, (512) 462-5303
Filed: September 26, 1996, 2:08 p.m.
TRD-9614137



Texas Historical Commission

Friday, October 4, 1996, 10:30 a.m.
Capitol Extension Building, Level E.1, Room 016
Austin

Advisory Board of the Texas Preservation Trust Fund

AGENDA:

1. Election of chairperson for the Advisory Board of the Texas Preservation Trust Fund for 1996-1997
2. Texas Preservation Trust Fund Grant Program for Fiscal Year 1997
3. Other Business

Contact: Lisa Harvell or Stan Graves, Texas Historical Commission, P.O. Box 12776, Austin, Texas 78711, (512) 463-6094.
Filed: September 25, 1996, 1:12 p.m.
TRD-9614096

Thursday, October 3, 1996, 1:00 p.m.

William P. Clements Building, Committee Room 5, 5th Floor, 300 West 15th Street
Austin

Division of Architecture

AGENDA:

Grant applicants of the Texas Preservation Trust Fund Grant Program are invited to speak on behalf of their grant projects before the members of the Texas Historical Commission's staff and the Advisory Board of the Texas Preservation Trust Fund.

Contact: Lisa Harvell or Stan Graves, Texas Historical Commission, P.O. Box 12776, Austin, Texas 78711, (512) 463-6094.
Filed: September 25, 1996, 1:12 p.m.
TRD-9614095



Texas Department of Insurance

Tuesday, October 15, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

Prehearing Conference in the Matter of the APPEAL OF CHILDREN'S MEDICAL CENTER OF DALLAS from a Decision of the Texas Medical Liability Insurance Association/JUA.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code, 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: September 27, 1996, 3:19 p.m.

TRD-9614201



Monday, October 21, 1996, 10:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

Prehearing Conference in the Matter of PRIVATE PASSENGER AND COMMERCIAL AUTOMOBILE INSURANCE BENCHMARK RATES.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code, 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: September 27, 1996, 3:20 p.m.

TRD-9614202



Wednesday, October 23, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

To consider whether disciplinary action should be taken against CONNIE R. HERNANDEZ, Houston, Texas, who holds a Local Recording Agent's License issued by the Texas Department of Insurance.

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code, 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: September 27, 1996, 3:20 p.m.

TRD-9614203



Wednesday, October 23, 1996, 9:00 a.m.

State Office of Administrative Hearings, 300 West 15th Street, Suite 502

Austin

AGENDA:

In the Matter of TOMMY E. MEASLES

Contact: Bernice Ross, 333 Guadalupe Street, Mail Code, 113-2A, Austin, Texas 78701, (512) 463-6328.

Filed: September 27, 1996, 3:20 p.m.

TRD-9614204



Boards for Lease of State-owned lands

Friday, October 4, 1996, 10:30 a.m.

General Land Office, S.F.A. Building, 1700 North Congress Avenue, Room 833

Austin

Board for Lease of Texas Parks and Wildlife Department

AGENDA:

Approval of previous board meeting minutes; consideration of bids received for the October 1, 1996 oil, gas and other minerals lease sale; pooling application: Tyler State Park, Smith County; easement renewal application, Galveston Island State Park, Galveston County.

Contact: Linda K. Fisher, Secretary, Board for Lease, Stephen F. Austin Building, 1700 North Congress, Austin, Texas 78701, Room 836, (512) 463-5016.

Filed: September 26, 1996, 11:20 a.m.

TRD-9614133



Friday, October 4, 1996, 10:45 a.m.

General Land Office, S.F.A. Building, 1700 North Congress Avenue, Room 833

Austin

Board for Lease of Texas Department of Criminal Justice

AGENDA:

Approval of previous board meeting minutes; consideration of bids received for the October 1, 1996 oil, gas and other minerals lease sale;

Executive Session — pending or contemplated litigation.

Contact: Linda K. Fisher, Secretary, Board for Lease, Stephen F. Austin Building, 1700 North Congress, Austin, Texas 78701, Room 836, (512) 463-5016.

Filed: September 26, 1996, 11:20 a.m.

TRD-9614132



Legislative Budget Board

Wednesday, October 4, 1996, 9:00 a.m.

1400 Congress, Capitol Extension, Room E1.026

Austin

Public Education Team

AGENDA:

Contact: Debra Haas, Public Education Team, Legislative Budget board, 105 West 15th Street, 3rd Floor, Austin, Texas (512) 463-1138.

Filed: September 26, 1996, 5:07 p.m.

TRD-9614156



Texas Department of Licensing & Regulation

Tuesday, October 8, 1996, 9:00 a.m.
920 Colorado, E.O. Thompson Building, 4th Floor, Room 420
Austin
Enforcement Division, Air Conditioning

AGENDA:

According to the complete agenda, the Department will hold an Administrative Hearing to consider the possible assessment of administrative penalties against the Respondent, Jerry Wilson, for engaging in air conditioning and refrigeration contracting without a license in violation of the TEX.REV.CIV. STAT. ANN. art. 8861 (the Act) § 3B, and for failing to provide proper installation, service and mechanical integrity in violation of the Act § 5(a), pursuant to the Act and art. 9100; TEX. GOV'T. CODE ch. 2001 (A.P.A.); and 16 TEX. ADMIN. CODE ch.75.

Contact: Paula Hamje, Hearing Examiner, 920 Colorado, E.O. Thompson Building, Austin, Texas 78701, (512) 463-3192.
Filed: September 26, 1996, 8:12 a.m.

TRD-9614121



Texas State Board of Medical Examiners

Thursday, October 3, 1996, 9:00 a.m.
333 Guadalupe, Tower 2, Suite 225,
Austin
Ad Hoc Committee on Telemedicine

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion, recommendation, and possible action relating to out-of-state physicians dictating approved patient care in Texas and whether this is the practice of medicine.
4. Adjourn

Contact: Pat Wood, P.O. Box 2018, Austin, Texas 78768-2018, (512) 305-7016.
Filed: September 25, 1996, 2:46 p.m.

TRD-9614104



Thursday, October 3, 1996, 9:30 a.m.
333 Guadalupe, Tower 2, Suite 225,
Austin
Public Information Committee

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion of newsletter marketing survey.
4. Discussion, recommendation, and possible action on impaired physician program.

5. Discussion, recommendation, and possible action on Health Professions Council Poster.

6. Discussion, recommendation, and possible action on Public Service Announcement campaign.

7. Discussion, recommendation, and possible action on consumer brochure.

4. Adjourn

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

Filed: September 25, 1996, 2:46 p.m.

TRD-9614105



Thursday, October 3, 1996, 10:00 a.m.

333 Guadalupe, Tower 3, Suite 610,
Austin

Disciplinary Process Review Committee

AGENDA:

1. Call to Order
2. Executive Session under the authority of the Open Meetings Act, Section 551.071 of the Government Code, to consult with counsel regarding pending or contemplated litigation.
3. Update, discussion, recommendations and possible action on procedures for review of investigative files and cases recommended for dismissal by Informal Settlement Conferences.
4. August Enforcement Report
5. September Enforcement Report
6. Executive session to review selected filed and cases recommended for dismissal by Informal Settlement Conferences

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

Filed: September 25, 1996, 2:46 p.m.

TRD-9614106



Thursday, October 3, 1996, 10:00 a.m.

333 Guadalupe, Tower 2, Suite 225,
Austin

Joint Meeting: Endorsement and Examination Committees

AGENDA:

10:00 a.m. Call to Order

1. Roll Call
2. Executive Session under the authority of the Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes to consult with counsel regarding pending or contemplated litigation.
3. Review of licensure applicant referred to the Joint Committee by the Executive Director for a determination of eligibility for licensure: Chau Nguyen, M.D.

4. Proposed Licensure Rule changes regarding recertification offered by the American Board of Medical Specialties and the Advisory Board for Osteopathic Specialists.

5. Medical Practice Act Section 3.04(d) and Section 3.04(g)(1).

6. Letters of Eligibility to practice in the country of graduation relating to Section 3.04(g)(3) of the Medical Practice Act.

Executive Sessions under authority of The Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes.

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

Filed: September 25, 1996, 2:46 p.m.

TRD-9614107



Thursday, October 3, 1996, 1:00 p.m.

333 Guadalupe, Tower 3, Suite 610,

Austin

Examination Committee

AGENDA:

Call to Order

Roll Call

1. Executive Session under the authority of the Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes to consult with counsel regarding pending or contemplated litigation.

3. Review of licensure applicants: Xuecheng Wang, M.D.; Jaime Vinluan Miravite, M.D.; Gbadebo Julius Adebayo, M.d.; David Thomas Booher, M.D.; applicant #8 (Consideration under Section 3.081 of the Medical Practice Act); Applicant #9 (Consideration under Section 3.081 of the Medical Practice Act); Applicant #10 (Consideration under Section 3.081 of the Medical Practice Act).

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614108



Thursday, October 3, 1996, 1:00 p.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Endorsement Committee

AGENDA:

1:00 Call to Order

1. Roll Call

1. Executive Session under the authority of the Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes to consult with counsel regarding pending or contemplated litigation.

3. Review of licensure applicants referred to the Endorsement committee by the Executive Director for determinations of eligibility for licensure: Steben Paul Schoendienst, M.D.; Stephen Paul Dubin, M.D.; Marla Lynne Shaver, M.S.; Ganesh N. Pulla, M.D.; Anna F. Maldonado, M.D.

4. Consideration of new information: Gregory Michael Garvin, M.D.

5. Discussion/Action Items: Request of Kenneth Wake Merchant, M.D. regarding reconsideration of application.

Executive Session under the authority of the Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, Sections 2.07(b) and 2.09(o), Texas Revised Civil Statutes.

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614109



Friday, October 4, 1996, 8:30 a.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Finance Committee

AGENDA:

1. Call to Order

2. Roll Call

3. Discussion of the Board's August 1996, Financial Statements

4. Presentation of the Board's Annual Financial Report (AFR) from the fiscal year ending August 31, 1996

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

Filed: September 26, 1996, 4:38 p.m.

TRD-9614151



Friday, October 4, 1996, 9:00 a.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Ad Hoc Committee on Ethical Issues

AGENDA:

1. Call to Order

2. Roll Call

3. Consideration and possible action on applications for certification of non-profit health organizations.

4. Consideration and possible action on Biennial applications for recertification of non-profit health organizations

5. Consideration and possible action on compliance information for continued certification of non-profit health organizations.

6. Discussion, recommendation, and possible action on rules related to capitated contracts and unfair practices involving non-profit health organizations.

7. Adjourn

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614110



Friday, October 4, 1996, 10:00 a.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Ad Hoc Committee on Ethical Issues

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion, recommendation, and possible action related to a request from the Texas Osteopathic Medical Association for guidance regarding appropriate ethics courses to comply with the new continuing medical education requirement for annual renewal of a licens.
4. Discussion, recommendation, and possible action related to the practice of fee splitting and referring patients for compensation.
5. Discussion, recommendation, and possible action related to in-court testimony.
6. Discussion concerning what ethical issues the Committee may want to consider in the future.

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

Filed: September 26, 1996, 4:38 p.m.

TRD-9614152



Friday, October 4, 1996, 1:00 p.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Standing Orders Committee

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion, recommendations, and possible action on rules related to radiologic technologists.
4. Discussion, recommendations, and possible action on reviews rules related to delegated drug therapy management.
5. Discussion, recommendations, and possible action on revisions to rules of the Texas Department of Health regarding Do-Not-Resuscitate Orders.
6. Discussion, recommendation, and possible action on applicants for a Texas acupuncture license.
7. Adjourn.

Executive session under the Authority of the Open Meetings Act, Section 551.071 of the Government Code and Article 4495b, sections 2.07(b), 2.09(o).

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614111



Friday, October 4, 1996, 2:00 p.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Legislative Committee

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion, recommendation, and possible action regarding the Board's recommended statutory changes during the next legislative session.
4. Adjourn

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614112



Friday, October 4, 1996, 2:30 p.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

Ad Hoc Committee on Bariatric Medicine

AGENDA:

1. Call to Order
2. Roll Call
3. Discussion, recommendation, and possible action related to the practice of Bariatric medicine
4. Adjourn

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

Filed: September 25, 1996, 2:47 p.m.

TRD-9614113



Friday, October 4, 1996, 3:30 p.m.

333 Guadalupe, Tower 2, Suite 225,

Austin

AGENDA:

The agenda includes proposals for decision, consideration and approval of orders, termination request, request for termination of

suspension of license, public hearing and consideration for adoption of proposed rules changes, approval of minutes, executive director's report, and executive session under the authority of the Open Meetings Act, Section 551.071 of the Government Code and the Medical Practice Act, article 4495b, Texas Revised Civil Statutes, Sections 2.07(b) and 2.09(o) for proviat consultation and advise of counsel concerning litigation relative to possible disciplinary action.

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

Filed: September 26, 1996, 4:38 p.m.

TRD-9614153

◆ ◆ ◆
Texas Natural Resource Conservation Commission

Thursday, October 3, 1996 at 1:30 p.m.

TNRCC Park 35 Office Complex,

Building F, Room 2210, 12100 N. IH35

Austin

Texas Groundwater Protection Committee

AGENDA:

The Texas Groundwater Protection Committee will meet to discuss: subcommittee reports from Agricultural Chemicals, Data Management, Nonpoint Source, Water Well Closure and Legislative Report; discussion of Committee Report to the 75th Legislature, comments on EPA State Management Plan Draft Rule, and set future meeting dates; status update on CSGWPP Development, Committee Publications (Texas Ground Water Programs Directory); TNRCC Rules Update and Public Comment.

Contact: Mary Ambrose, TNRCC, P.O. Box 13087, Austin, Texas 78701, (512) 239-4800.

Filed: September 26, 1996, 9:16 a.m.

TRD-9614123

◆ ◆ ◆
Thursday, October 10, 1996 at 10:00 a.m.

Civil Building — Ceremonial Courtroom (Room 310)

301 Fannin

Houston

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on a petition filed with the Texas Natural Resource Conservation Commission by ratepayers of Ramblewood Utility and Water Supply Corporation appealing a rate increase. Ramblewood Utility and Water Supply Corporation approved an increase of water rates effective May 1, 1996, for its service area located in Harris County, Texas. SOAH Docket No. 582-96-1579.

Contact: Rommel Corro, State Office of Administrative Hearings, P.O. Box 13025, Austin, Texas 78711-3015, (512) 475-3445.

Filed: September 27, 1996, 2:49 p.m.

TRD-9614196

◆ ◆ ◆
Thursday, October 10, 1996 at 1:00 p.m.

Natural Resources Center, Room 1003, Texas A&M University-6300 Ocean Drive

Corpus Christi

Management Committee of the Corpus Christi Bay National Estuary Program

AGENDA:

I. Call to Order/Introductions/Approval of Minutes

II. Program Update

III. Bay Summit Review

IV. Discussion of STAC Role for FY97-98

V. Discussion/Approval of Fact Sheets Topics

VI. Discussion/Approval of Video 'Treatments'

VII. Discussion/Approval of 'Public Health' Final Report

VIII. Presentation on Beneficial Use of Dredged Material

IX. APTF Briefings; Dredging, Urban Runoff, Bay Tourism & Recreation, Bay Debris

X. Additional Items/Adjourn

Contact: Richard Volk, Program Director, TAMU-CC, Natural Resources Center, Suite 3300, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 980-3420.

Filed: September 27, 1996, 11:54 a.m.

TRD-9614184

◆ ◆ ◆
Monday, October 14, 1996 at 9:00 a.m.

Building C, Room 131, TNRCC Park 35 Office Complex

12124 Park 35 Circle

Austin

AGENDA:

SOAH DOCKET NO. 582-96-1709 for a hearing before an Administrative Law Judge of the State Office of Administrative Hearings (SOAH) on an application submitted to the Texas Natural Resource Conservation Commission (TNRCC) for authority to adopt and impose standby fees on undeveloped property in Guadco Municipal Utility District No. 2 (the "District"). The application requests authorization to levy a uniform operation and maintenance standby fee on undeveloped property in Scenic Hills, Phase I in the amount of \$600 per year per equivalent single family connection (ESFC) for a three-year period beginning in 1996.

Contact: District Administration Section, MC-152, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: September 26, 1996, 4:27 p.m.

TRD-9614150

◆ ◆ ◆
Thursday, October 17, 1996 at 10:00 a.m.

TNRCC Park 35 Office Complex,

Building A, Room 310A&D, 12124 Park 35 Circle

Austin

AGENDA:

For a hearing before an administrative law judge of the State Office of Administrative Hearings on an application filed with the Texas Natural Resource Conservation Commission by the TRAVIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT (WCID) NO. 14 to amend its Certificate of Convenience and Necessity (CCN) No. 11322 which authorizes the provision of water utility service in Travis County, Texas. The applicant also proposes decertification of portions of water CCN No. 12010 issued to Travis county WCID No. 17. The proposed utility service area includes nine areas around its current certificated service area. The general area is located approximately ten miles southwest of downtown Austin, Texas and is generally bounded on the east by FM 1825 and the City of Austin, on the north by FM 620, on the west by Hurst Creek. The total area being requested includes approximately 4, 869 acres and 45 current customers. SOAH Docket No. 582-96-1642.

Contact: Rommel Corro, TNRCC, P.O. Box 13025, Austin, Texas 78711-3025; (512) 475-3445.

Filed: September 26, 1996, 9:16 a.m.

TRD-9614122



Wednesday, December 18, 1996 at 9:30 a.m.

TNRCC Park 35 Office Complex,

Building E, Room 201S, 12118 Park 35 Circle

Austin

AGENDA:

Docket No. 96-1427; DIS: HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 240; application for dissolution of the District, submitted by Bear Creek Plantation, Ltd. The hearing will be held under the authority of Sections 49.321-49-327 and Sections 54.734-54.738 of the Texas Water Code, 30 Texas Administrative Code Sections 293.131-293.139 and under the procedural rules of the Commission. The petition for dissolution of the District states dissolution of the District is desirable because Bear Creek Plantation, Ltd. is preparing to develop its land and has obtained an agreement with a neighboring utility district, Harris county Municipal Utility District N. 167 (MUD 167), to provide services and facilities. Bear Creek will seek to have its lands annexed into MUD 167 upon dissolution of MUD 240.

Contact: District Administration Section, MC-152, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-6161.

Filed: September 26, 1996, 4:37 p.m.

TRD-9614149



Board of Nurse Examiners

Tuesday, October 8, 1996, 9:00 a.m.

333 Guadalupe, Tower 3, Suite 460

Austin

Eligibility and Disciplinary Committee

AGENDA: The Eligibility and Disciplinary Committee of the Board will meet to consider: the August 13, 1996 Minutes.

The Eligibility and Disciplinary Committee of the board will meet to consider and take action on: the eligibility requests from: Teresa Catherine Laskowski, applicant; Pamela D'Anne Spangler, Applicant; Rachael Rebecca Back, Applicant/Endorsement; Phillip Arthur Hall, Applicant/Endorsement; Norman Wessley McGuire, Applicant/Endorsement; James David Prinz, Applicant/Endorsement; and Susan Roxanne Smith, Applicant/Endorsement.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on: The Declaratory Order requests from: Jaime Fierros, Petitioner; and Duron Lankford Haynes, Petitioner.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on the post-ratification request to withdraw application of Chad Moore Fletcher.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on the Agreed Orders on: John William Altenburg, 549589; Cynthia Eileen Bailey, 240924; Nancy Lava Barcelo, 570985; Janice L. Beckers, 255589; Leslie Lee Besse, 608971; Donna J. Brewer, 621568; Kimberly Burandt, 561974; Janice G. Capers, 516669; Pamela R.Chapman, 521661; Julie Kathann Crawford, 561792; Victor M. Garcia, 547397; Harry Jack Graybill, 6063777; Judith A. Howard Honefenger, 428734; Louis Lebica, 608269; Paul Warren Ledbetter, 577837; Allison Patricia Marshall, 606697; Sharyon K. Maverick, 522217; Maureen Kay Murphy, 245646; Edith Okeyo Otieno, 565487; Mary Yvonne Papp, 548186; Sherry Nancy Parrot, 548198; Deborah K.M. Sims, 250576; Denny Sue Streit, 237911; Marcie Deann Walters, 552015; Barbara Ann Washington, 578606; Jonathan M. Wolf, 611043; Clint Edward Woodson, 602403; and Beverly J. Wrinkle, 530033.

Contact: Cheryl Sepulveda, Box 140466, Austin 78714, (512) 305-6824.

Filed: September 27, 1996, 11:52 a.m.

TRD-9614177



Texas State Board of Plumbing Examiners

Monday, October 9, 1996, 9:30 a.m.

929 East 41st Street

Austin

Water Supply Protection Specialist Committee

AGENDA:

1. Roll Call — 9:30 a.m.
2. Recognize staff and visitors
3. Public comment.
4. Review Water Supply Protection Specialist action taken by Board September 9, 1996 and July 9, 1996.
5. Request of Texas Pipe Trades to be approved as a provider of Water Supply Protection Specialist Training.
6. Approved providers review Board approved WSPS outline and discuss action needed for complete implementation of program.

7. WSPS committee members and Board Staff open discussion on book to be used for instructor Training.

8. Adjourn.

Contact: Mary Lou Lane, 929 East 41 Street, Austin, Texas 78751, (512) 458-2145, extension 222.

Filed: September 27, 1996, 4:14 p.m.

TRD-9614210



Texas Public Finance Authority

Friday, October 4, 1996, 10:30 a.m.

Langley & Branch, P.C., 1700 Maxus Energy Tower, 717 N. Harwood

Dallas

Board Meeting

AGENDA:

1. Call to order.
2. Consider and select executive search firm to assist in the selection of candidates for the position of Executive Director of the Texas Public Finance Authority.
3. Consider procedures for the appointment of an Executive Director and related matters.
4. Executive Session to consider appointment of Executive Director in accordance with Texas Government Code, §551.074.
5. Other business.
6. Adjourn.

Persons with disabilities, who have special communication or other needs, who are planning to attend the meeting should contact Jeanine Barron or Marce Watkins at (512) 463-5544. Requests should be made as far in advance as possible. If you need any additional information, contact Jeanine Barron, (512) 463-5544, 300 West 15th Street, Suite 411, Austin, Texas 78701.

Contact: Jeanine Barron, (512) 463-5544, 300 West 15th Street, Suite 411, Austin, Texas 78701.

Filed: September 26, 1996, 9:51 a.m.

TRD-9614124



Railroad Commission

Tuesday, October 8, 1996, 9:30 a.m.

1701 N. Congress Avenue, 1st Floor Conference Room 1-111

Austin

AGENDA:

According to the complete agenda, the Railroad Commission of Texas will consider various applications and other matters within the jurisdiction of the agency including oral arguments at the time specified on the attached agenda. The Railroad Commission of Texas may consider the procedural status of any contested case if 60 days or more have elapsed from the date the hearing was closed or from the date the transcript was received.

The Commission may meet in Executive Session on any items listed above as authorized by the Open Meetings Act.

Contact: Lindil C. Fowler, Jr., Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711, (512) 463-7033.

Filed: September 27, 1996, 4:33 p.m.

TRD-9614213

Texas Residential Property Insurance Market Assistance Program

Wednesday, October 16, 1996, 1:00 p.m.

333 Guadalupe, Lobby, Special Masters Hearing Room 102

Austin

Executive Committee

AGENDA:

General Meeting:

Elections of Executive Committee officers

Determination of terms of office of Executive Committee members

Staff Review of: (i) how MAP will work, (ii) status of implementation of MAP operations, (iii) designated underserved areas, and (iv) educational programs.

General administrative matters

Contact: Lyndon Anderson, 333 Guadalupe Street, Texas Department of Insurance, (512) 322-2235.

Filed: September 27, 1996, 9:50 a.m.

TRD-9614167



Texas Savings and Loan Department

Wednesday, October 16, 1996, 9:00 a.m.

2601 N. Lamar, 3rd Floor, Finance Commission Building

Austin

AGENDA:

The purpose of this meeting (hearing) is to accumulate a record of evidence in regard to the application of First American Bank, SSB, Bryan, Brazos County, Texas, to merge with First State Bank, Caldwell, Texas, with First American Bank, SSB being the surviving entity, from which record the Commissioner will determine whether to grant or deny the application.

Contact: Theresa Scarborough, Applications Analyst, 2601 North Lamar, Suite 201, Austin, Texas 78705, (512) 475-1350.

Filed: September 27, 1997, 3:48 p.m.

TRD-9614194

State Seed and Plant Board

Wednesday, October 9, 1996, 10:00 a.m.

Barcelona Court Hotel, 5215 Loop 289 South, Barcelona Room

Lubbock

AGENDA:

Discussion and Action On: Minutes of the August 20, 1996 Meeting; Applicants for License as Certified Seed Growers; Name Change for Certified Growers License; Acknowledgment of Foreign Designations; Nomenclature Requests; Eligibility of seed sources used to produce Tifleaf II hybrid pearl millet; Appeal of Rejected Fields; Requests for Certification Eligibility; and Public Comment.

Contact: Charles Leamons, Seed Quality, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: September 26, 1996, 10:59 a.m.

TRD-9614130



Wednesday, October 9, 1996, 11:00 a.m.

Barcelona Court Hotel, 5215 Loop 289 South, Barcelona Room

Lubbock

Seed Arbitration Board

AGENDA:

The State Seed and Plant Board, acting as the Seed Arbitration Board, will discuss and take possible action on the following two seed arbitration complaints filed under the Seed Arbitration Act, Texas Agriculture Code, Chapter 64:

Kenneth Wilkins and Tom Wilkins, Individually and d/b/a Chapotal Farms and Porciones 99 Properties, Glen Wilkins and Mark Wilkins, individually and d/b/a/ Tabasco, and Wilkins Family Limited Partnership vs Helena Chemical Company and Hyperformer Seed Company.

Kenneth and Janet Moote d/b/a Moote Farms against D.V. Burrell Seed Growers Co. and Abbott & Cobb, Inc.

Contact: Charles Leamons, Seed Quality, P.O. Box 629, Giddings, Texas 78942, (409) 542-3691.

Filed: September 26, 1996, 10:59 a.m.

TRD-9614131



Telecommunications Infrastructure Fund Board

Tuesday, October 3, 1996, 1:00 p.m.

Texas Capitol Extension, E2.030

Austin

Telecommunications Infrastructure Fund Board

AGENDA:

I. Call to Order and Quorum Call —Chairman Carolyn Bacon.

II. Discussion of the TIF Master Plan.

III. Adjourn Meeting.

Contact: Karen Zimmerman, Telecommunication Infrastructure Fund board, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: September 25, 1996, 3:47 p.m.

TRD-9614114



Wednesday, October 4, 1996, 9:00 a.m.

Texas Capitol Extension, E2.030

Austin

Telecommunications Infrastructure Fund Board

AGENDA:

I. Call to Order and Quorum Call

II. Approve minutes from prior meeting

III. Executive Director's Report

a) Discussion of RFP, new timetable and schedule of workshops

b) Discussion of staffing and instruction of new staff

IV. Chairman's Report

a) Committee assignments

V. Discussion of RFP for statewide Internet service to schools, libraries, higher education and certain health facilities

VI. Discussion of criteria for evaluating grant proposals

VII. Discussion and possible action on Master Plan items

VIII. Future agenda items

IX. Adjourn meeting

Contact: Karen Zimmerman, Telecommunication Infrastructure Fund board, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: September 26, 1996, 3:53 p.m.

TRD-9614147



Texas State Technical College System

Friday, October 4, 1996, 8:30 a.m.

Graphics Building Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents Audit Committee

AGENDA:

Discussion and Review of the Following TSTC Board of Regents Audit Committee Agenda:

Status of Audit Schedule

Final Reports Issued During June 1996 for Audits Previously Discussed

Audits Completed

Annual Audit Plan for FY 1997

External Peer Review

Annual Report for FY 1996

Contact: Sandra Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-3964.

Filed: September 27, 1996, 2:23 p.m.

TRD-9614189



Friday, October 4, 1996, 9:00 a.m.

Graphics Building Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents Search Committee

AGENDA:

Discussion and Review of the following TSTC Board of Regents Search Committee Agenda:

Recommendations, if any, to the full Board of Regents regarding Search Committee Meeting.

Contact: Sandra Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-3964.

Filed: September 27, 1996, 2:27 p.m.

TRD-9614190



Friday, October 4, 1996, 9:05 a.m.

Graphics Building Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents Audit Committee Closed Meeting

AGENDA:

Closed meeting for the specific purpose provided for in Sections 551.074 and 551.075. Section 551.074: Discuss Chancellor search process and review applications for the position.

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 7605, (817) 867-3964.

Filed: September 27, 1997, 2:47 p.m.

TRD-9614191



Friday, October 4, 1996, 1:00 p.m.

Lance Sears Building, Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents

AGENDA:

Discussion and Review of the following TSTC Policy Committee Minute Orders & Reports:

Committee of the Whole — 1:00 p.m.

Policy Committee for Instruction & Student Services — 1:05 p.m.

Policy Committee for Human Resources & Development — 1:35 p.m.

Policy Committee for Facilities — 2:00 p.m.

Policy Committee for Fiscal Affairs — 3:00 p.m.

Committee of the Whole — 4:00 p.m.

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-3964.

Filed: September 27, 1996, 2:48 p.m.

TRD-9614193

Saturday, October 5, 1996, 8:00 a.m.

Lance Sears Building, Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents

AGENDA:

Classes meeting with less than ten students, AAS Degree Program in Telecommunications Technology at TSTC Waco/Marshal, Interlocal Agreement between Rosenberg, Richmond, Lamar Consolidated ISD, Wharton County Junior College, Contract with Ranger College to teach academics at TSTC Sweetwater Brownwood Extension, Audit Plan for 1997, Ratification of Executive Committee Action on Signature Authorizations, Requests for Budget Changes, Policy for Tuition Reciprocity with Bordering States or counties, Sale of Excess Property At TSTC Waco, Contract with ABM Janitorial Services at TSTC Sweetwater, Approval of Campus Master Plans, Policy for New Construction and Modification, Appointment of Architectural Firms for Fentress Center Phase II and Computer Applications Center, Ground Lease with Educator's Credit Union, Demolition and Removal of 214 Robin Loop at TSTC Waco, Acceptance of Health Science Tech. Building at TSTC Harlingen, Appoint Labunski Associates Architects for Science and Technology Building at TSTC Harlingen, Contract for Construction of Central Chill Water Plant at Harlingen, Advertise, Accept Bids, and Award Contract for Conversion of Conference Center at TSTC Harlingen, Parking Lot at Block 42 TSTC Harlingen, Naming of Health Science Tech. Building at TSTC Harlingen, Policy on Return to Work, Rescind MO19-96, Ratification of Executive Committee Action issuance of, approve closing, and authorize officers to sign documents relating to Texas Constitutional Appropriations Bonds Series 1996, Asbestos Abatement at Amarillo, General Counsel's status, reimbursement, salary, and office expenses.

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-3964.

Filed: September 27, 1996, 2:48 p.m.

TRD-9614195



Saturday, October 5, 1996, 8:15 a.m.

Lance Sears Building, Conference Room, Sweetwater TSTC Campus

Sweetwater

Board of Regents, Closed Meeting

AGENDA:

Closed meeting for the specific purpose provided for in Sections 551.071, 551.072, 551.074, and 551.075. Section 551.071: Maria Christina Lucio vs. TSTC, James A. Buie vs TSTC, Truett Bates vs. TSTC, Asbestos Litigation, Report and discussion on potential litigation regarding misappropriation of funds relative to credit card abuse by former employee. Section 551.074: Discuss findings of Search Committee, Discuss TSTC personnel issues regarding status, reimbursement & salary of General Counsel. Section 551.072: Report & discussion of Amarillo property appraisal and issues relative to market value and marketability.

Contact: Sandra J. Krumnow, Secretary to the Board, 3801 Campus Drive, Waco, Texas 76705, (817) 867-3964.

Filed: September 27, 1996, 2:51 p.m.

TRD-9614197



Texas Title Insurance Guaranty Association

Sunday, October 8, 1996, 10:00 a.m.

333 Guadalupe Street, Commissioner's Conference Room, 1264,
Texas Department of Insurance Building, 12th Floor, Hobby I

Austin

Board of Directors

AGENDA:

I. Call Meeting to Order

II. Approval of Minutes from July 9, 1996, Board of Directors Meeting

III. Financial Report — Marvin Coffman

IV. Special Deputy Receiver's Report — Burnie Burner

V. Title Examiner's Report — Ethel Benedict

VI. Conservator's Report — Neal Rockhold

VII. Counsel's Report — Burnie Burner

VIII. Appointment of Nominating Committee for Officers for 1997

IX. Set Date and Time for Next Meeting (January 14, 1997)

X. Adjourn.

Contact: Burnie Burner, 301 Congress Avenue, Suite 800, Austin,
Texas 78701, (512) 474-1587

Filed: September 27, 1996, 2:09 p.m.

TRD-9614187



University of Houston System

Tuesday, October 1, 1996, 8:00 a.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices
Houston

Special Called Academic/Student Affairs Committee

AGENDA:

To discuss the following:

Hopwood versus University of Texas

Tenure Discussion

Review of Agenda Items for the October 24, 1996 Board of Regents Meeting

Contact: Peggy Cervenka, Executive Administrator, 1600 Smith, Suite
3400, Houston, Texas 77002, 1-713-754-7440.

Filed: September 26, 1996, 2:28 p.m.

TRD-964142



Wednesday, October 2, 1996, 10:00 a.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices
Houston

Special Called Facilities Planning and Building Committee

AGENDA:

To discuss the following:

Review of Agenda Items for the October 24, 1996 Board of Regents Meeting

Contact: Peggy Cervenka, Executive Administrator, 1600 Smith, Suite
3400, Houston, Texas 77002, 1-713-754-7440.

Filed: September 27, 1996, 10:08 a.m.

TRD-964171



Wednesday, October 2, 1996, 12:00 noon

1600 Smith, Suite 3400, Conference Room One, UH System Offices
Houston

Special Called Executive Committee

AGENDA:

To discuss the following:

Award of Construction Contract to Simplex Recorder Company for
Moody Towers Fire Alarm System

Award of Construction Contract to Rawlins Construction, Inc. for
Moody Towers Fire Sprinkler System

Review of Agenda Items for the October 24, 1996 Board of Regents Meeting

Contact: Peggy Cervenka, Executive Administrator, 1600 Smith, Suite
3400, Houston, Texas 77002, 1-713-754-7440.

Filed: September 27, 1996, 10:08 a.m.

TRD-964172



Wednesday, October 2, 1996, 1:00 p.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices
Houston

Special Called Finance and Audit Committee

AGENDA:

To discuss the following:

Review of Agenda Items for October 24, 1996 Board of Regents Meeting

Contact: Peggy Cervenka, Executive Administrator, 1600 Smith, Suite
3400, Houston, Texas 77002, 1-713-754-7440.

Filed: September 27, 1996, 10:09 a.m.

TRD-964173



Texas Board of Veterinary Medical Examiners

Thursday, October 3, 1996 — 8:30 a.m.

Wm. P. Hobby Building, 333 Guadalupe, Tower 1, Room 102
Austin

Board

REVISED AGENDA:

The attached agenda is being revised to remove the action to be taken on rules to be adopted. The previously published agenda relected that Rule 571.61-Inactive License was to be repealed. The rule is to be adopted with revisions and is not to be repealed.

Persons requiring reasonable accommodation are requested to contact Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701-3998, (512) 305-7555 or TDD 1-800-735-2989 within 72 hours of the meeting to make appropriate arrangements.

Contact: Judy Smith, 333 Guadalupe, #2-330, Austin, Texas 78701, 3998, (512) 305-7555.

Filed: September 27, 1996, 2:13 p.m.

TRD-9614188



Regional Meetings

Meetings Filed: September 25, 1996

Austin-Travis County MHMR Center, Executive Committee, met in Emergency Session, at 1430 Collier Street, ED Conference Room, Austin, September 26, 1996 at 4:00 p.m. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas, 78764-3548, (512) 447-4141. TRD 9614119.

East Texas Council of Governments, CEO Board of Directors, met at 1306 Houston Street, Kilgore, October 2, 1996, 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD 9614049.

Erath County Appraisal District, Appraisal Review Board, met at 1390 Harbin Drive, Stephenville, October 1, 1996 at 9:00 a.m. Information may be obtained from Mitzi Meekins, ARB Secretary Pro Tem, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD 9614050.

Fisher County Appraisal District, Board of Directors, will meet at Fisher County Courthouse/Courtroom, Roby, October 15, 1996 at 9:00 a.m. Information may be obtained from Betty Mize, Chief Appraiser, Fisher CAD, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD 9614048.

Texas Automobile Insurance Plan Association, Governing Committee, met in Emergency Meeting, at Holiday Inn South, 3401 South IH35, Austin, September 26, 1996. Information may be obtained from Dianna Brooks, P.O. Box 18477, Austin, Texas 78760-8447, (512) 444-5999. TRD 9614118.

Meetings Filed: September 26, 1996

Brazos Valley Development Council, Regional Advisory Committee on Aging, met at 1706 East 29th Street, Bryan, October 1, 1996 at 2:30 p.m. Information may be obtained from Roberta Lindquist, Manager Area Agency on Aging, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD 9614143.

Central Counties Center for MHMR Services, Board of Trustees, will meet at 304 South 22nd Street, Temple, October 5, 1996 at 9:00 a.m. Information may be obtained from Eldon Tietje, Executive Director, 304 South 22nd Street, Temple, Texas 76501, (817) 778-4841, extension 301. TRD 9614140.

Dallas Central Appraisal District, Board of Directors, met at 2949 North Stemmons Freeway, 2nd Floor Community Room, Dallas, October 2, 1996 at 7:30 a.m. Information may be obtained from Rick

Kuehler, Director of Administration, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD 9614125.

Edwards Aquifer Authority, Ad Hoc Critical Period Management Committee, will meet at 1615 North St. Marys Street, San Antonio, October 4, 1996 at 4:00 p.m. Information may be obtained from Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD 9614145.

Lake Livingston Water Supply and Sewer Service Corporation, Board of Directors, met at the Civic Center on Courts Road, Point Blank, October 3, 1996, at 6:30 p.m. Information may be obtained from John O. Houchins, Attorney, 13738 Kingsride, Houston, Texas 77079, (713) 464-3205. TRD 9614129.

Lamb County Appraisal District, Board of Directors, will meet at 331 Littlefield Drive, Littlefield, October 10, 1996 at 6:00 p.m. Information may be obtained from Vaughn E. McKee, P.O. Box 950, Littlefield, Texas 79339-0950, (806) 385-6474. TRD 9614136.

Middle Rio Grande Development Council, Board, met at Frank Chisum Reg. Tech. Center, South on Highway 277, Eagle Pass, on October 1, 1996 at 1:00 p.m. Information may be obtained from Leodoro Martinez, Jr., Executive Director, Middle Rio Grande Development Council, P.O. Box 1199, Carrizo Springs, Texas 78734, (210) 876-3533. TRD 9614135.

Northeast Texas Rural Rail Transportation District, Board, met at 1119 Alamo Street, Commerce City Hall, Commerce, October 2, 1996 at 3:00 p.m. Information may be obtained from Sue Ann Harting, P.O. Box 306, Commerce, Texas 75428-0306. TRD 9614141.

Palo Pinto Appraisal District, Board of Directors, will meet at the Court House, Highway 180, Palo Pinto, October 9, 1996, at 3:00 p.m. Information may be obtained from Carol Holmes, P.O. Box 250, Palo Pinto, Texas 76484-0250, (817) 659-1281. TRD 9614134.

Shackelford Water Supply Corporation, Directors, met at Fort Griffin Restaurant, Albany, October 2, 1996, at 12:00 noon. Information may be obtained from Gaynell Perkins, Box 11, Albany, Texas 76430, (817) 345-6868. TRD 9614154.

Meetings Filed: September 27, 1996

Aqua Water Supply Corporation, Board of Directors, will meet at 305 Eskew, Bastrop, October 7, 1996 at 7:30 p.m. Information may be obtained from Adlinie Rathman, Office Manager, Drawer P, Bastrop, Texas, 78602, (512) 303-3943. TRD 9614207.

Bell-Milam-Falls Water Supply Corporation, Board, met at Corporation Office, FM 485 West, Cameron, October 3, 1996 at 8:30 a.m. Information may be obtained from Dwayne Jekel, Manager, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD 9614166.

Bexar Appraisal District, Board of Directors, met at 535 South Main, San Antonio, October 3, 1996 at 5:00 p.m. Information may be obtained from Beverly Houston, P.O. Box 830248, San Antonio, Texas 78283-0248, TRD 9614206.

Creedmoor Maha Water Corporation, Monthly Board Meeting, met at 1699 Laws Road, Mustang, October 2, 1996, at 7:30 p.m. Information may be obtained from Charles Laws, 1699 Laws Road, Buda, Texas 78610, (512) 243-2113. TRD-9614168.

Dallas Area Rapid Transit, President's Luncheon, Executive Conference Room A, Second Floor, Dart Headquarters, 1401 Pacific Avenue, Dallas, October 1, 1996, at Noon. Information may be obtained Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163. TRD-9614178.

Dallas Area Rapid Transit, Legal AdHoc Committee, Conference Room "C", Dart Headquarters, 1401 Pacific Avenue, Dallas, October 1, 1996, at 2:00 p.m.. Information may be obtained Paula J. Bailey, P.O. Box 660163, Dallas, Texas 75266-0163. TRD-9614178.

Dawson County Central Appraisal District, Board of Directors, met at 1806 Lubbock Highway, Lamesa, October 2, 1996 at 7:00 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD 9614209.

Edwards Aquifer Authority, Special Board, met at 1615 North St. Marys Street, San Antonio, September 30, 1996, at 7:00 p.m. Information may be obtained Sally Tamez-Salas, 1615 North St. Marys Street, San Antonio, Texas 78212, (210) 222-2204. TRD-9614169.

Golden Crescent Private Industry Council, Joint Executive/Planning Committee, met at 24001 Houston Highway, Victoria, September 30, 1996 at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD 9614208.

Kendall Appraisal District, Board of Directors Special Meeting, met at 121 South Main Street, Boerne, October 1, 1996 at 5:30 p.m. Information may be obtained from Tammy Johnson, P.O. Box 788, Boerne, Texas 78006, (210) 249-8012. TRD 9614164.

Texas Political Subdivisions Joint Self-Insurance Funds, Board of Trustees, met at the Dallas Medallion Hotel, 4099 Valley View Lane, Dallas, October 3, 1996 at 5:00 p.m. Information may be obtained from James R. Gresham, Contract Administrator, P.O. Box 803356, Dallas, Texas 75244, (972) 392-9457. TRD 9614212.

Gulf Bend Center, Board of Trustees, met at 1502 East Airline, Victoria, September 30, 1996 at 12:00 noon. Information may be obtained from Agnes Moeller, Administrative Assistant, Gulf Bend Center, Victoria, Texas 77901, (512) 575-0611. TRD 9614211.

Meetings Filed: September 30, 1996

Brazos River Authority, Water Utilization Committee, will meet at 4400 Cobbs Drive, Waco, October 7, 1996 at 9:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD 9614222.

Brazos River Authority, Water Utilization Committee, will meet at 4400 Cobbs Drive, Waco, October 7, 1996 at 10:00 a.m. Information may be obtained from Mike Bukala, P.O. Box 7555, Waco, Texas 76714-7555, (817) 776-1441. TRD 9614223.

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.

Central Texas Council of Governments

Request for Proposals

The Workforce Development Board of Central Texas, Inc. (WDB), is soliciting proposals for regional workforce development strategic planning services. Proposal specifications may be obtained from the WDB office by contacting Mark Collier at (817) 939-3771, ext. 212, or at 200 North Main, P.O. Box 729, Belton, Texas 76513.

The deadline for receipt of proposals is close of business, 5:00 p.m. CST, October 25, 1996. Proposals must be officially received by WDB procurement staff at 200 N. Main, Belton, TX 76513, by this deadline, or mailed by midnight of the deadline date to the same address (attn: RFP staff).

Services solicited under this RFP shall be procured under the competitive negotiations method of procurement. WDB intention is to negotiate a cost-reimbursement contract with a successful proposer. The WDB reserves the right to accept or reject any or all proposals, to negotiate with all qualified proposers, or to cancel in part or in its entirety the Request for Proposals if it is in the best interest of the WDB. The WDB encourages female and minority owned business to request and respond to all Request for Proposals.

Issued in Austin, Texas, on September 24, 1996.

TRD-9614005

A.C. Johnson

Executive Director

Central Texas Council of Governments

Filed: September 24, 1996



State Council on Competitive Government

Health And Human Services Integrated Enrollment Project Vendor Forum Announcement

BACKGROUND:

Legislative directives from the Texas Legislature's 74th Regular Session have given the Texas Health and Human Services Commission

(HHSC) and the Council on Competitive Government (CCG) the opportunity to explore ways to make government processes more efficient and cost effective. In particular, House Bill 1863 and Senate Bill 1675 direct HHSC to "integrate and streamline" the various health and human service eligibility determination processes. To encourage cost effectiveness, the Legislature directed CCG to analyze the costs and benefits of competitively bidding certain functions of health and human services.

VENDOR FORUMS:

In order to facilitate an open process, HHSC and CCG have sponsored numerous Vendor Forums throughout the timeline of this project. These Vendor Forums are oriented to provide the vendor community current and uniform information about the project.

SIXTH VENDOR FORUM:

The next HHSC Integrated Enrollment Project Vendor Forum is scheduled for Wednesday, October 9, 1996, from 10:00 a.m. to 12:00 noon in Conference Room E2.026 of the Capitol Extension in Austin, Texas.

Should you have questions, or need further information regarding this vendor forum, please do not hesitate to contact Cheryl Bryant, CCG Program Administrator, at 512/463-2169.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614146

Judy Ponder

General Counsel

State Council on Competitive Government

Filed: September 26, 1996



Texas Education Agency

Correction of Errors

The following errors appeared in the July 12, 1996, issue of the *Texas Register*, Open Meetings section.

On page 6503, an error as published appeared in the open meeting notice for the State Board of Education Committee of the Whole (SBOE). Beginning on line seven of the agenda, the phrase "(1) Angel G. v. Meno, et al" should read "(1) Angel G. et al. v. Meno, et al."

On page 6504, the open meeting notice for the SBOE Committee on Students erroneously printed twice. In addition, an error as published appeared in the notice. The colon in the phrase "Proposed new 19 TAC §74.24, Credit by Examination:" should be replaced with a semicolon.

On page 6504, an error as published appeared in the open meeting notice for the State Board of Education (SBOE) Committee on School Finance. The section of the notice that lists the name of the group holding the meeting should read "Joint meeting of the State Board of Education (SBOE) Committee on Students and Committee on School Finance."

Beginning on page 6504, several errors as published appeared in the open meeting notice for State Board of Education (SBOE) Committee on School Finance. The name of the group holding the meeting should read "State Board of Education (SBOE) Committee on Personnel." Beginning on line three of the agenda, the phrase "\$1491, Purpose of Program (concerning education personnel development)" should conclude with a closing parenthesis, followed by a comma. Beginning on line seven of the agenda, the following corrections should be made. In the phrase "Proposed repeal of 19 TAC Chapter 149, Subchapter C. Appraisal of Certified Personnel:", the period following the subchapter designation "C" should be replaced with a comma, and the colon following the word "Personnel" should be replaced with a semicolon.

On page 6505, two errors as published appeared in the open meeting notice for the State Board of Education. On line 12 of the agenda, the phrase "to the Lackland Independent School District" should read "appointment to the Lackland Independent School Districts." On line 15 of the agenda, the misspelling "fo" in the phrase "Proposed amendments fo Proclamation 1995" should read "to".

On page 6505, an error as published appeared in the open meeting notice for the Texas Ed-Flex Committee. In the section of the notice that lists the contact information for the meeting, the "0" in the area code "(5120)" should be replaced with a closing parenthesis.

The following errors appeared in the July 19, 1996, issue of the *Texas Register*, In Addition section.

A notice of correction of error was published in the "In Addition" section of the issue (21 TexReg 6844). The following errors as published appeared in the notice. In the first paragraph of the first column on page 6844, the word "understanding" should be plural in number, reading "understandings." In the last paragraph of the second column, the misspelling "network" in the phrase "T-Star Network" should read "Network."

The following errors appeared in the July 30, 1996, issue of the *Texas Register*, Adoption section.

Beginning on page 7243, several errors as submitted appeared in the public comment section of the preamble to adopted new §§89.1001, 89.1011, 89.1020, 89.1025, 89.1030, 89.1035, 89.1040, 89.1045, 89.1050, 89.1055, 89.1060, 89.1065, 89.1070, 89.1075, 89.1080, 89.1085, 89.1090, 89.1095, 89.1100, 89.1105, 89.1110, 89.1121, 89.1125, 89.1131, 9.1141, 89.1151, 89.1155, 89.1160, 89.1165,

89.1170, 89.1175, 89.1180, 89.1185, and 89.1190. The public comments are organized in ascending numerical order by section number; however each new section number, along with its title, appeared as the last sentence of an agency response. Each section number and title that appeared in this manner was intended to comprise a separate paragraph and, therefore, should have appeared on a separate line.

On page 7244, an error as published appeared in the third agency response listed for §89.1030. The paragraph should conclude with the word "section" followed by a period.

The same error as published appeared a total of six times on pages 7247 and 7250. It appeared twice on line 31 and once on line 36 in the second column on page 7247. The error also appeared three times in the fourth paragraph of the first column on page 7250. In each instance, the semicolon following the acronym "O & M" should be deleted.

On page 7251, an error as submitted appeared in the ninth paragraph of the first column. In line four, the word "Intervention" should be followed by a period.

On page 7255, an error as submitted appeared in adopted new §89.1050(a). The catchline "Time line" should be deleted.

On page 7257, an error as published appeared in adopted new §89.1085(b)(1). A space should be inserted between the closing parenthesis in the phrase, "(IEP)" and the word "which".

On page 7257, an error as published appeared in §89.1105(b)(1). The phrase beginning "(agency) are required by the" should not start a new paragraph.

On page 7263, an error as published appeared in the title Subchapter AA of adopted Chapter 153. The misspelling "Bebefits" should read "Benefits."

The following errors appeared in the August 6, 1996, issue of the *Texas Register*, Adopted and Proposed sections.

On page 7310, an error as submitted appeared in proposed new §153.1011(e). The capital letters in the phrase "Essential Knowledge and Skills" should be lowercased.

On page 7371, an error as submitted appeared in the title of adopted new Chapter 111. The title, "Mathematics," should read "Texas Essential Knowledge and Skills for Mathematics".

On page 7373, an error as published appeared in adopted new §111.32(d)(3)(C). The last sentence of the subparagraph should have appeared on a separate line to start a new section.

On page 7374 three errors as submitted appeared in adopted new §111.33. In subsection (b)(2)(C), the letter "f" in the phrase "function notation of $y =$ and $f(x) =$ " should be italicized. In subsection (c)(1)(A), the space between the subscripted letter "a" and the letter "x" in the phrase " \log_x " should be deleted. In subsection (c), the following sentence should be added at the end of the subparagraph (2): "Following are performance descriptions."

On page 7377, an error as submitted appeared in §111.34(f)(4). The words "and applies" in the phrase "The student describes and applies" should be deleted.

The following errors appeared in the August 9, 1996, issue of the *Texas Register*, Open Meeting section.

On page 7581, an error as published appeared in the open meeting notice for the State Textbook Spanish Social Studies Committee. The room number is listed incorrectly as "1-104." The correct room number is "1-111."



The following errors appeared in the September 10, 1996, issue of the *Texas Register*, Open Meetings section.

On page 8772, one error as published appeared in the open meeting notice for the State Board of Education Committee of the Whole. In the third sentence before the end of the paragraph that discusses pending litigation, the phrase "relating to the Voting Rights Acts" should read "relating to the Voting Rights Act."

On page 8773, one error as published appeared in the open meeting notice for the State Board of Education Committee on Personnel. The time of the meeting should be 1:00 p.m.

On page 8773, one error as published appeared in the open meeting notice for the Joint Meeting, SBOE Personnel and School Finance Committees. The committee should be Joint Meeting, SBOE Students and School Finance Committees.

The following errors appeared in the September 13, 1996, issue of the *Texas Register*, In Addition section.

On page 8865, one error as published appeared in the Request for Proposals Concerning Research and Advisement to the Texas Reading. The title of the document should read "Request for Proposals Concerning Research and Advisement to the Texas Reading Initiative."

On page 8865, one error as submitted appeared in the Request for Proposals Concerning Research and Advisement to the Texas Reading. On line 4 of the description, the phrase "the consultant will collect a core..." should begin a new paragraph.



Notice of Voluntary Assessment of Private School Students with the Texas Assessment of Academic Skills (TAAS) and the Texas End-of-Course Tests

In accordance with the Texas Education Code (TEC), §39.033, the Texas Education Agency (TEA) will make available for administration to private and home schools the TAAS tests for Grades 3-8 and the exit level and the Texas end-of-course examinations for Algebra I and Biology I at a per-student cost that does not exceed the cost of administering the same test to a Texas public school student.

Each private and home school choosing to participate in this assessment will be required to sign an agreement with the TEA in which it agrees to maintain security and confidentiality of the test instruments, test all eligible students at a particular grade level, follow all procedures specified in the applicable test administration materials, provide to the commissioner of education the information listed in the TEC, §39.051(b), and reimburse the TEA for the cost of the assessment.

Private and home schools interested in participating in the spring 1997 assessment may obtain a copy of the agreement packet by contacting the Student Assessment Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9536. All

required components of the agreement must be returned no later than October 31, 1996.

Additional information may be obtained from: Phyllis Stolp, Student Assessment Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9536.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614215

Criss Cloudt

Associate Commissioner for Policy Planning and Research

Texas Education Agency

Filed: September 30, 1996



General Land Office

Notice of Availability and Request for Public Comment on Proposed Procedures and Protocols for Assessing Natural Resource Damages

Agencies: Texas General Land Office (TGLO), Texas Parks and Wildlife Department (TPWD), Texas Natural Resource Conservation Commission (TNRCC), and the United States Department of the Interior (DOI) (hereafter, Natural Resource Trustees).

Action: Notice of availability of the procedures and protocols proposed to assess injuries to natural resources and their associated services resulting from an oil spill and of a 30 day period for public comment on these assessment procedures and protocols.

Summary: Notice is hereby given that the Natural Resource Trustees have selected a proposed methodology for assessing the injuries to natural resources and their associated services resulting from the March 18, 1996, discharge of intermediate fuel oil (IFO 380) into the waters of Bolivar Road Inlet, Galveston County, Texas from the barge "M/T Buffalo Marine 292" owned by Buffalo Marine Services, Inc. (hereafter, the Spill).

Based on their preliminary field work, the Natural Resource Trustees have determined that the following natural resources were potentially injured as a result of the Spill: (a) birds; (b) sand (mineral resource); (c) water column habitat; (d) southern jetty of Bolivar Roads Inlet (encrusting and algal community); and (e) wetlands within the Bolivar Flats Bird Sanctuary. Trustees have also determined that recreational use, a natural resource service, of impacted areas may have been potentially impaired by the Spill.

The Trustees soon will begin to determine and quantify the actual injuries to natural resources and their services resulting from the Spill. The procedures and methods the Trustees propose to use to make these determinations and quantifications are described in detail in a document entitled "Assessment Procedures and Protocols for Determining, Quantifying and Valuing Natural Resource Injury and Loss of Services: 'M/T Buffalo Marine Barge 292' Oil Spill, March 18, 1996." This document is hereby made available for public review and comment for a period of 30 days. This opportunity for public review and comment on the assessment methodology is required under the Texas Natural Resource Damage Assessment regulations codified at 31 TAC §20.44 (a)-(c).

Interested members of the public may request a copy of the "Assessment Procedures and Protocols for Determining, Quantifying and Valuing Natural Resource Injury and Loss of Services: M/T

Buffalo Marine Barge 292 Oil Spill, March 18, 1996" from Peter Samuels of the Texas General Land Office, 1700 North Congress, Room 626, Austin, Texas 78701-1495, (512) 463-5047. Comments should be (1) in writing; (2) mailed to Peter Samuels at the address specified above or sent by facsimile machine to Peter Samuels at (512) 463-5367; and (3) received no later than 5:00 p.m. on November 4, 1996. All written comments will be considered by the Natural Resource Trustees in their final selection of the assessment procedures and protocols.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614238

Garry Mauro

Commissioner General Land Office

General Land office

Filed: September 30, 1996

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General Services Commission State Energy Conservation Office

Notice of Request for Proposals (RFP)

Notice of Invitation for Proposals

In accordance with the Texas Government Code, Chapter 2305 the State Energy Conservation Office (SECO) of the General Services Commission (the "GSC") invites proposals from qualified entities and individuals for services to be performed for the 1. Alternative Energy Program; 2. LoanSTAR Program; 3. Housing Partnership Program; and 4. School Energy Management Programs. Qualified entities and individuals include but are not limited to: partnerships of non-profits organizations, community action agencies, local government, utility companies, public and private institutions, public housing authorities, social service agencies and other service related organizations. Each request for proposal indicates which entities and individuals are qualified to submit a proposal. Services to be performed include but are not limited to technical support, design assistance, on-site evaluations, program/project assistance and other services as identified in individual proposal packet information.

Award of Contracts

It is anticipated that Contractor selection will be made on or before December 1, 1996 and that the contract term will extend from January 1, 1997 through December 31, 1997. Awards shall be made to the proposer(s) whose proposal(s) are most advantageous and in the best interest of the State of Texas. SECO is not obligated to award a contract as a result of this RFP and it reserves the right to reject any and all proposals. Awards will be based on the evaluation of the proposals and the interview of proposers who have met the criteria including but not limited to:

1. Demonstrated experience;
2. Knowledge of Energy Efficiency/Energy Conservation Measures;
3. Action Plan;
4. Ability to assign Experienced/Qualified Personnel; and
5. Proposed Budget.

Pre-proposal conferences will be held on October 14, 1996. Closing Date for the RFP is November 7, 1996, by 5:00 p.m. To obtain a

copy of the proposal specifications and the time of the pre-proposal conference, please contact: Ms. Pam Groce, General Services Commission, State Energy Conservation Office, P.O. Box 13047, Austin, Texas 78711-3047; or 221 East 11th Street, Suite 200, Austin, Texas 78701, (512) 463-1931.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614214

Judy Ponder

General Counsel

General Services Commission

Filed: September 30, 1996

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Texas Department of Health

Texas Health Steps (formerly Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program Request for Proposal

Purpose. The Texas Department of Health (department) is requesting proposals (RFP) for Texas Health Steps (THSteps) (formerly Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program) client outreach and support services in the 26 northern counties of the department's Public Health Region one. These counties include: Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

Description. The department is seeking contract services to expand TH Steps client awareness of existing TH Steps health services and stimulate TH Steps clients' use of preventive services so that young people in the TH Steps population can receive medical and dental care before health problems become chronic and irreversible damage occurs. Region one is contracting for client outreach and informing services and client support/follow-up services. These contracted activities are integral to TH Steps client service delivery. The department will use the competitive procurement process to select one contractor to deliver services for the 26 counties listed previously.

Eligible applicants. Eligible offerors include government entities, private nonprofit and for-profit entities, partnerships, and sole proprietorships.

Limitations. Funding of the selected proposal will be dependent upon available federal and/or state appropriations. The department reserves the right to reject any and all offers received in response to this RFP and to cancel this RFP if it is deemed in the best interest of the department. The department is not liable for any costs incurred by the applicant in the development, submission, or review of the application. Any costs incurred in the preparation of the application shall be borne by the applicant and are not allowable in the request for proposal.

Term. The effective date for a contract awarded under this competitive procurement is on or about December 9, 1996, through August 31, 1997. Renewal of the competitively procured contract usually occurs at the beginning of each state fiscal year (September 1). At its option, the department may negotiate the renewal or extension of the contract on a non competitive basis for a total contract duration not to exceed 48 months.

Deadlines. All proposals to be considered for funding through this RFP must be received by 5:00 p.m., Central Standard Time on Monday, November 11, 1996, at the Texas Department of Health, Public Health Region one, TH Steps Program (EPSDT), Attention: Wanda Wesson, 1109 Kemper Street, Lubbock, Texas 79403-2599. Proposals received after this deadline will not be accepted. Facsimiles will not be accepted.

Evaluation and selection. A program evaluation selection committee designated by the department will rank and score the proposals. The evaluation for this RFP will be based upon the following criteria: offeror organization and staffing, offeror experience and expertise, and services delivery and administrative plan.

Contact person. To obtain a complete copy of the RFP, please contact Wanda Wesson at the address listed previously or (806) 767-0414.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614237
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: September 30, 1996



Health and Human Services Commission

Public Notice

The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-12, Amendment Number 513.

The amendment revised the State Plan to eliminate the 185% income test for those categorically needy individuals whose income eligibility is determined using the AFDC income limits. The amendment is effective April 1, 1996.

If additional information is needed, please contact Rita King, Texas Department of Human Services at (512) 438-4148.

Issued in Austin, Texas, on September 25, 1996.

TRD-9614102
Marina S. Henderson
Executive Director Commissioner
Health and Human Services Commission
Filed: September 25, 1996



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 96-10, Amendment Number 511.

The amendment clarifies that Compensation Outpatient Rehabilitation Facilities (CORFs) are Texas EPSDT-CCP provides and are reimbursed according to Medicare methodology. The amendment is effective April 1, 1996.

If additional information is needed, please contact Janet Kres, Texas Department of Human Services at (512) 438-7111, Extension 2863.

Issued in Austin, Texas, on September 25, 1996.

TRD-9614101
Marina S. Henderson
Executive Director Commissioner
Health and Human Services Commission
Filed: September 25, 1996



The Health and Human Services Commission State Medicaid Office has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 92-13, Amendment Number 514.

The amendment updates the Federal poverty income limits for inflation. The amendment is effective April 1, 1996.

If additional information is needed, please contact Rita King, Texas Department of Human Services at (512) 438-4148.

Issued in Austin, Texas, on September 25, 1996.

TRD-9614103
Marina S. Henderson
Executive Director Commissioner
Health and Human Services Commission
Filed: September 25, 1996



Texas Higher Education Coordinating Board

Announcement

Senate Concurrent Resolution 124 (SCR 124), passed by the 74th Legislature in 1995, charged the Texas Higher Education Coordinating Board to study the feasibility and advisability of defining and establishing regional areas of principal responsibility for health professions education, and establishing specific levels of accountability measures for health professions education and related health services in Texas. The latest draft of SCR 124 is available by calling (512) 483-6540. A copy will be faxed to you and any suggestions for revisions should be faxed to our office at (512) 483-6264, Attention Division of Health Affairs, before October 16, 1996.

Issued in Austin, Texas, on September 27, 1996.

TRD-9614225
James McWhorter
Assistant Commissioner for Administration
Texas Higher Education Coordinating Board
Filed: September 30, 1996



Texas Department of Housing and Community Affairs

Announcement of Contract Award to Conduct an Analysis of Impediments to Fair Housing Choice

The Texas Department of Housing and Community Affairs hereby announces the selection of the Hunter Company Inc. to conduct a Statewide Analysis of Impediments to Fair Housing Choice. This analysis is prepared in accordance with 24 CFR §91.325(a)(1) and part of the consolidated planning process as defined by the US Department of Housing and Urban Development.

For more information please contact the Housing Resource Center at P.O. Box 13941, Austin, Texas 78711-3941, (512) 475-3972.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614236

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs

Filed: September 30, 1996



Texas Department of Housing and Community Affairs Manufactured Housing Division

Notice of Administrative Hearings

Monday, October 21, 1996, 1:00 p.m.

State Office of Administrative Hearing, 300 West 15th Street, Suite 502

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Douglas J. Snyder, aka TTL Transport, Inc. aka TDL Transport to hear alleged violations of Texas Manufactured Housing Standards Act, Texas Revised Statute Annotated Article 5221f, §3(10), 7(d) and 17(b) (Vernon 1995) and 10 Texas Administrative Code, §80.125(e)(1), regarding obtaining, maintaining or possessing a valid certificate of registration. SOAH 332-96-1733. Department MHD1996001104D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614227

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs Manufactured Housing Division

Filed: September 30, 1996



Thursday, October 17, 1996, 1:00 p.m.

State Office of Administrative Hearing, 300 West 15th Street, Suite 502

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Armando Gutierrez doing business as Gutierrez House Moving to hear alleged violations of the; Texas Manufactured Housing Standards Act, Texas Revised Statute Annotated Article 5221f, §4(f) and 10 Texas Administrative Code, §80.121(c) ("the Rules") by not properly installing a manufactured home; and the Rules, §80.28(a) by not properly submitting monthly installation summary reports showing the ex-

act number of homes installed. SOAH 332-96-1734. Department MHD1996000589D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614228

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs Manufactured Housing Division

Filed: September 30, 1996



Friday, November 1, 1996, 1:00 p.m.

State Office of Administrative Hearing, 300 West 15th Street, Suite 502

Austin, Texas

AGENDA

Administrative Hearing before an administrative law judge of the State Office of Administrative Hearings in the matter of Texas Department of Housing and Community Affairs vs. Aus-Tex Parts and Service, Inc. dba Village Homes to hear alleged violations of the Texas Manufactured Housing Standards Act, Texas Revised Statute Annotated Article 5221f, §6(j) and §7(k)(1) (Vernon 1995), by placing advertisements without properly disclosing the downpayment amount, the Annual Percentage Rate, and the number of payments or the period of repayment. SOAH 332-96-1735. Department MHD1996001470D.

Contact: Jerry Schroeder, P.O. Box 12489, Austin, Texas 78711-2489, (512) 475-3589.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614229

Larry Paul Manley

Executive Director

Texas Department of Housing and Community Affairs Manufactured Housing Division

Filed: September 30, 1996



Texas Department of Human Services

Correction of Errors

The Texas Department of Human Services adopted new §§20.101-20.111. The rules appeared in the August 20, 1996, issue of the *Texas Register* (21 TexReg 7866).

The Texas Department of Human Services submitted a preamble that contained an error as submitted, also §20.109 was not printed in the issue.

On page 7866, the preamble should read:

"The Texas Department of Human Services (DHS) adopts new §§20.101-20.111, in its new Cost Determination Process chapter. Sections 20.102, 20.103, and 20.109 are adopted with changes to the proposed text published in the May 24, 1996, issue of the *Texas Register* (21 TexReg 4558). Sections 20.101, 20.104-20.108,

and 20.110–20.111 are adopted without changes and will not be republished.”

Section 20.109 should have been printed as follows:

“§20.109. Adjusting Reimbursement When New Legislation, Regulations, or Economic Factors Affect Costs.

(a) In conducting reimbursement reviews for adjustments the Texas Department of Human Services (DHS) takes into consideration changes in laws, rules, regulations, policies, guidelines, or economic factors which will have a demonstrable material impact on most contracted providers’ costs of providing services meeting federal and state standards.

(1) DHS may recommend adjustments to reimbursement when federal or state laws, rules, regulations, policies, or guidelines are adopted, promulgated, judicially interpreted, or otherwise changed in ways that affect allowable costs. The law, rule, regulation, policy, or guideline change must result in necessary changes in allowable costs that:

(A) affect most, if not all, contracted providers; and

(B) require contracted providers to take definitive action to incur additional allowable costs not included in the cost data base used to determine reimbursements and which would not otherwise be covered in reimbursements.

(2) DHS may recommend adjustments to reimbursement when it can be clearly demonstrated that changes in economic factors will result in changes in allowable costs. The changes in economic factors must result in changes in allowable costs that:

(A) affect most, if not all, providers; and

(B) are allowable cost changes that the providers have little or no control over and are allowable costs that are not included in the cost data base used to determine reimbursements and which would not otherwise be covered in reimbursements.

(b) DHS may recommend adjustments to reimbursement for the reasons stated in subsection (a)(1) of this section at the earliest feasible opportunity in order for the adjustment to become effective on the effective date of the federal or state laws, rules, regulations, policies, or guidelines. In the case of Medicaid state plan program reimbursements, the adjustments will not be effective until after the federal requirements for notice are met.

(c) DHS may recommend adjustments to reimbursement when federal or state funding is changed in ways that affect the available funding for programs.



Open Solicitation for Upton County

Pursuant to Title 2, Chapters 22 and 32, of the Human Resources Code and 40 TAC §19.2324, in the March 31, 1995, issue of the *Texas Register* (20 TexReg 2443), the Texas Department of Human Services (TDHS) is announcing an open solicitation period of 30 days, effective the date of this public notice, for Upton County, County #231, identified as follows, where Medicaid contracted nursing facility occupancy rates exceed the threshold (90% occupancy) in each of six months in the continuous, FEBRUARY THRU JULY six-month period: 92.1, 95.5, 96.1, 95.5, 94.0, 95.1. Potential contractors seeking to contract for existing beds which are currently licensed as nursing home beds or hospital beds in the counties identified

in this public notice must submit a written reply (as described in 40 TAC §19.2324) to TDHS, Gary L. Allen, Certification, Provider Enrollment and Billing Services, Long Term Care-Regulatory, Mail Code Y-976, Post Office Box 149030, Austin, Texas 78714-9030. The written reply must be received by TDHS by 5:00 p.m., October 30, 1996, the last day of the open solicitation period. Potential contractors will be placed on a waiting list for the primary selection process in the order that the beds which were being proposed for Medicaid certification were initially licensed. The primary selection process will be completed on November 11, 1996. If there are insufficient available beds after the primary selection to reduce occupancy rates to less than 90%, TDHS will place a public notice in the *Texas Register* announcing an additional open solicitation period for those individuals wishing to construct a facility.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614230

Glen Scott

General Counsel, Legal Services

Texas Department of Human Services

Filed: September 30, 1996



Texas Department of Insurance

Notices

The Commissioner of Insurance, or his designee, will consider approval of a rate filing request submitted by American Alternative Insurance Corporation proposing rates outside the flexibility band promulgated by the Commissioner of Insurance pursuant to Texas Insurance Code Annotated, Article 5.101, §3(g). They are proposing rates of -15% for ambulances and -25% for fire departments in Territories 1 and 2, and -30% for ambulances and -50% for fire departments for all other territories for the VFIS Emergency Service Program for commercial automobiles.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless an objection is filed with the Chief Actuary for P&C, at the Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614158

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 26, 1996

The Commissioner of Insurance, or his designee, will consider approval of a rate filing request submitted by American Bankers Insurance Company of Florida proposing rates outside the flexibility band promulgated by the Commissioner of Insurance pursuant to Texas Insurance Code Annotated, Article 5.101, §3(g). They are proposing rates ranging from -9.2% to -95.1% below the benchmark by coverage for private passenger automobile for their antique auto program.

Copies of the filing may be obtained by contacting Gifford Ensey, at the Texas Department of Insurance, Legal and Compliance, P.O. Box 149104, Austin, Texas 78714-9104, extension (512) 475-1761.

This filing is subject to Department approval without a hearing unless an objection is filed with the Chief Actuary for P&C, at the Texas Department of Insurance, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78701 within 30 days after publication of this notice.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614235

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 30, 1996

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Notice of Applications by Small Employer Carriers to be Risk-Assuming Carriers

Notice is given to the public of the application of the listed small employer carrier to be a risk-assuming carrier under Texas Insurance Code, Article 26.52. A small employer carrier is defined by Chapter 26 of the Texas Insurance Code as a health insurance carrier that offers, delivers or issues for delivery, or renews small employer health benefit plans subject to the chapter. A risk-assuming carrier is defined by the Texas Insurance Code, Chapter 26 as a small employer carrier that elects not to participate in the Texas Health Reinsurance System. The following small employer carrier has applied to be a risk-assuming carrier:

Physicians Care HMO, Inc.

The application is subject to public inspection at the offices of the Texas Department of Insurance, Financial Monitoring Unit, 333 Guadalupe, Hobby Tower 3, 3rd Floor, Austin, Texas.

If you wish to comment on this application to be a risk-assuming carrier, you must submit your written comments within 60 days after publication of this notice in the *Texas Register* to Caroline Scott, Chief Clerk, Mail Code 113-1C, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. An additional copy of the comments must be submitted to Mike Boerner, Managing Actuary, Actuarial Division of the Financial Program, Mail Code 304-3A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104. 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 approve the application to be a risk-assuming carrier.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614161

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 26, 1996

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Notice of Hearing

An open meeting scheduled before the Commissioner of Insurance for October 1, 1996 at 9:00 a.m. under Docket Number 2244, has been rescheduled to October 28, at 9:30 a.m. in Room 100 of the

Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas to consider the manual rate filing for commercial risks and classes of risks submitted by the Texas Catastrophe Property Association.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614160

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 26, 1996

Notice of Public Hearing

The Commissioner of Insurance will hold a public hearing under Docket Number 2255 on October 16, 1996, at 9:00 a.m. in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas. The Commissioner will consider for adoption new §7.1617, concerning school district health coverage contracts.

The proposed sections and the statutory authority for the proposed sections, were published in the September 3, 1996, issue of the *Texas Register* (21 TexReg 8378).

Issued in Austin, Texas, on September 26, 1996.

TRD-9614162

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 26, 1996

Third Party Administrator Applications

The following third party administrator (TPA) application has been filed with the Texas Department of Insurance and is under consideration.

Application for admission to Texas of Precision Administrators, Inc., a foreign third party administrator. The home office is Oklahoma City, Oklahoma.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614159

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 26, 1996

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The following third party administrator (TPA) application have been filed with the Texas Department of Insurance and is under consideration.

Application for incorporation in Texas of Coy W. Streetman, Jr., (doing business under the assumed name of Integrated Benefit Systems), a domestic third party administrator. The home office is Austin, Texas.

Any objections must be filed within 20 days after this notice was filed with the Secretary of State, addressed to the attention of Charles M. Waits, MC 107-5A, 333 Guadalupe, Austin, Texas 78714-9104.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614234

Caroline Scott

General Counsel and Chief Clerk

Texas Department of Insurance

Filed: September 30, 1996



Legislative Budget Board and Governor's Office of Budget and Planning

REVISION to the Schedule for Joint Budget Hearings (for the period October 7-11, 1996) on Appropriations Requests for the 1998-1999 biennium, as published in the October 1, 1996, issue of the *Texas Register*

The budget hearing scheduled for the Texas Workforce Commission (October 8, 2:00 p.m.) has been CANCELLED. The hearing will be rescheduled in the very near future.

Issued in Austin, Texas, on September 26, 1996.

TRD-9614127

Judith S. King

Analyst

Legislative Budget Board and Governor's Office of Budget and Planning

Filed: September 26, 1996



Texas Natural Resource Conservation Commission

Consultant Contract Award

The Texas Natural Resource Conservation Commission (TNRCC) furnishes this notice of a consulting services contract award to conduct an independent peer review to evaluate the appropriateness of modeling methods applied to urban airshed modeling input files for the Houston/Galveston (H/G) and Beaumont/Port Arthur (B/PA) ozone nonattainment areas. This award is filed under the provisions of the Government Code, Chapter 2254.

The notice for request for proposals was published in the June 4, 1996, issue of the *Texas Register* (21 TexReg 5120).

Description of Services. The contractor will conduct an independent peer review to evaluate the appropriateness of modeling methods applied to urban airshed modeling input files for the H/G and B/PA ozone nonattainment areas. The major products resulting from these consulting services will be a final peer report of the review process applied to each task, including a technical work plan, the modeling domain definition, meteorological modeling methods, air quality data modeling methods, emissions modeling methods, urban airshed modeling setup, and documentation of the process.

Effective Date and Value of Contract. The contract will be effective from July 15, 1996, until August 31, 1996. The total cost of the contract is \$84,364.

Name of the Contractor. The contract has been awarded to the Earth Tech, Incorporated, 196 Baker Avenue, Concord, Massachusetts 01742-2167.

Persons who have questions concerning this award may contact Tom Larkin, Air Quality Planning, Air Quality Division, TNRCC, P.O. Box 13087, Austin, Texas 78711-3087, (512) 239-1464.

Issued in Austin, Texas, on September 27, 1996.

Issued in Austin, Texas, on September 27, 1996.

TRD-9614175

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: September 27, 1996



Notice of Opportunity to Comment on Settlement Agreements

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Health and Safety Code, the Texas Clean Air Act (the Act), Chapter 382, §382.096. The Act, §382.096 requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 2, 1996**. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12100 Park 35 Circle, Building A, Third Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the Staff Attorney designated for each AO at the TNRCC's Central Office at P.O. Box 13087 Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 2, 1996**. Written comments may also be sent by facsimile machine to the Staff Attorney at (512) 239-3434. The TNRCC Staff Attorneys are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AO's should be submitted to the TNRCC in **writing**.

(1) COMPANY: Jewel's Auto Sales; DOCKET NUMBER: 96-1525-AIR-E; ACCOUNT NUMBER: JH-0278-G; LOCATION: 1620 Southwest Wilshire Boulevard, Burleson, Johnson County, Texas; TYPE OF FACILITY: car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1), and the Act, §382.085(b) on July 2, 1996, by offering for sale a vehicle, a 1981 Chevrolet Silverado-10 Pickup Truck, with the oxidation catalyst missing; PENALTY: \$500 (Company has paid \$350 and \$150 is deferred pending timely and satisfactory compliance with all terms of the Agreed Order.); STAFF ATTORNEY: Bill Ballard, (512) 239-3420; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(2) COMPANY: Larson-Juhl; DOCKET NUMBER: 96-1523-AIR-E; ACCOUNT NUMBER: DB-3528-C; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: picture frame manufacturing plant; RULE VIOLATED: 30 TAC §115.421(a)(9)(A)(ii) and the Act, §382.085(b) by using coatings that do not meet the volatile organic compound (VOC) limit of 6.7 pounds per gallon of solids applied as documented in Notice of Violation dated June 7, 1995; PENALTY: \$0.00; STAFF ATTORNEY: William C. Foster, (512) 239-3407; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(3) COMPANY: Smith Industries Liquidating Trust, as successor in interest to Smith Industries, Inc.; DOCKET NUMBER: 96-1524-AIR-E; ACCOUNT NUMBER: HG-0664-G LOCATION: 8300 Hempstead, Houston, Harris County, Texas; TYPE OF FACILITY: galvanizing unit; RULE VIOLATED: 30 TAC §101.4 and the Act, §382.085(a) and (b) by discharging from a source one or more air contaminants (smoke) or combinations thereof, in such concentration and of such duration as are or may tend to be injurious to or to adversely affect human health or welfare, animal life, vegetation, or property, or as to interfere with the normal use and enjoyment of animal life, vegetation, or property; PENALTY: \$18,000; STAFF ATTORNEY: Paul C. Sarahan, (512) 239-3422; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3500. Issued in Austin, Texas, on September 27, 1996.

Issued in Austin, Texas, on September 27, 1996.

TRD-9614176

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: September 27, 1996



Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Natural Resource Conservation Commission (TNRCC) Staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) pursuant to the Health and Safety Code, the Texas Clean Air Act (the Act), Chapter 382, §382.096. The Act, §382.096, requires that the TNRCC may not approve these AOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 3, 1996**. Section 382.096 also requires that the TNRCC promptly consider any written comments received and that the TNRCC may withhold approval of an AO if a comment indicates the proposed AO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Additional notice is not required if changes to an AO are made in response to written comments.

A copy of each of the proposed AOs is available for public inspection at both the TNRCC's Central Office, located at 12124 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable Regional Office listed as follows. Written comments about these AOs should be sent to the Enforcement Coordinator designated for each AO at the TNRCC's Central Office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on**

November 3, 1996. Written comments may also be sent by facsimile machine to the Enforcement Coordinator at (512) 239-1893. The TNRCC Enforcement Coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the AOs should be submitted to the TNRCC in writing.

(1)COMPANY: Auto Body Center, Incorporated; DOCKET NUMBER: 96-1254-AIR-E; ACCOUNT NUMBER: TA-2972-E; LOCATION: Fort Worth, Tarrant County, Texas; TYPE OF FACILITY: automotive paint and body shop; RULE VIOLATED: 30 TAC §116.110 and the Act, §382.0518(a) and §382.085(b), by failing to obtain a permit or satisfy the conditions of a standard exemption prior to constructing and operating a spray painting facility that may emit contaminants into the air of the state; PENALTY: \$0; ENFORCEMENT COORDINATOR: Kevin Cauble, (512) 239-1874; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109, (806) 353-9251.

(2)COMPANY: Big "G" Auto Sales; DOCKET NUMBER: 96-0620-AIR-E; ACCOUNT NUMBER: WF-0153-C; LOCATION: Wharton, Wharton County, Texas; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1)-(3) and the Act, §382.085(b), by offering for sale, and subsequently selling, a 1983 Chevrolet Silverado with missing and/or inoperable emission control devices, and failing to post the required "notice of prohibition" sign; PENALTY: \$500; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(3)COMPANY: Cargill, Incorporated; DOCKET NUMBER: 96-1173-AIR-E; ACCOUNT NUMBER: HD-0017-J; LOCATION: Spearman, Hansford County, Texas; TYPE OF FACILITY: grain handling and storage facility; RULE VIOLATED: 30 TAC §116.110 and the Act, §382.0518(a) and §382.085(b), by operating without a permit or satisfying the conditions of a standard exemption since June 29, 1992, when Permit Number 3977 expired; PENALTY: \$6,600; ENFORCEMENT COORDINATOR: Kevin Cauble, (512) 239-1874; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4996, (806) 353-9251.

(4)COMPANY: ISK Biosciences Corporation; DOCKET NUMBER: 96-0778-AIR-E; ACCOUNT NUMBER: HG-0195-U; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: speciality chemicals production; RULE VIOLATED: 30 TAC §101.6 and §116.115(a), and the Act, §382.085(b) by failing to maintain first and second stage incinerator temperatures in the Isophthalonitrile "IPN" Unit as specified in TNRCC Permit Number 4893A, Special Provision 3; PENALTY: \$6,300; ENFORCEMENT COORDINATOR: Lance Owens, (512) 239-1878; REGIONAL OFFICE: 5425 Polk Street, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(5)COMPANY: J and J Motors; DOCKET NUMBER: 96-0688-AIR-E; ACCOUNT NUMBER: DB-3411-B; LOCATION: Dallas, Dallas County, Texas; TYPE OF FACILITY: used car dealership; RULE VIOLATED: 30 TAC §114.1(c)(1)-(3) and the Act, §382.085(b), by offering for sale two vehicles with missing and/or inoperable emission control devices, and failing to post the required "notice of prohibition" sign; PENALTY: \$700; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(6)COMPANY: Modern Welding Company of Texas, Incorporated; DOCKET NUMBER: 96-1014-AIR-E; ACCOUNT NUMBER: HG-3517-W; LOCATION: Houston, Harris County, Texas; TYPE OF

FACILITY: fiberglass storage tank manufacturing plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by operating an underground storage tank manufacturing plant without first obtaining a permit or satisfying the conditions of a standard exemption; PENALTY: \$350; ENFORCEMENT COORDINATOR: Sheila Smith, (512) 239-1670; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(7)COMPANY: NAPA Rayloc, Division of Genuine Parts Company; DOCKET NUMBER: 96-1119-AIR-E; ACCOUNT NUMBER: EF-0007-S; LOCATION: Stephenville, Erath County, Texas; TYPE OF FACILITY: automotive parts rebuilding plant; RULE VIOLATED: 30 TAC §116.115, TNRCC Permit Number S-9691, and the Act, §382.085(b), by exceeding permit allowable operating hours; 30 TAC §116.115, TNRCC Permit Number S-9691, and the Act, §382.085(b), by exceeding permit allowable for trichloroethylene usage; PENALTY: \$3,225; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(8)COMPANY: Occidental Chemical Corporation; DOCKET NUMBER: 96-1199-AIR-E; ACCOUNT NUMBER: MH-0040-N; LOCATION: Bay City, Matagorda County, Texas; TYPE OF FACILITY: high density polyethylene (HDPE) manufacturing plant; RULE VIOLATED: 30 TAC §116.115 and the Act, §382.085(b), by exceeding the volatile organic compound maximum allowable emission rates in Permit Number 18836 for the extruder, Emission Point HX-411, and a silo, Emission Point HBL-431; PENALTY: \$28,350; ENFORCEMENT COORDINATOR: Miriam Hall, (512) 239-1044; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(9)COMPANY: Redi-Mix, Incorporated; DOCKET NUMBER: 96-0954-AIR-E; ACCOUNT NUMBER: CP-0135-G; LOCATION: Frisco, Collin County, Texas; TYPE OF FACILITY: concrete batch plant; RULES VIOLATED: 30 TAC §116.115 and the Act, §382.085(b), by failing to comply with the conditions of Standard Exemption 83 (January 1980 list) by failing to have the suction shroud at the batch drop, and not connecting the in-truss silo and weigh hopper to the central collection system on February 16, 1993; 30 TAC §116.115 and the Act, §382.085(b), by failing to comply with the conditions of Standard Exemption 83 (January 1980 list) by excessive emission being emitted at the batch drop point during batch loadout to the mixer trucks and from the silo baghouse during silo charging on August 24, 1994; 30 TAC §101.6 and the Act, §382.085(b), by failing to report upsets for a dust emissions resulting from broken bags in the baghouse on August 2, 1995; and 30 TAC §116.115 and the Act, §382.085(b), by failing to comply with the conditions of Standard Exemption 83 (January 1980 list) by operating with broken bags in the baghouse on August 2, and September 12, 1995; PENALTY: \$6,300; ENFORCEMENT COORDINATOR: Carl Schnitz, (512) 239-1892; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

(10)COMPANY: Rohm and Hass Texas, Incorporated; DOCKET NUMBER: 96-1200-AIR-E; ACCOUNT NUMBER: HG-0632-T; LOCATION: 6600 LaPorte Road, Deer Park, Harris County; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(a), TNRCC Permit Number 751 special provision 5, and the Act, §382.085(b), by exceeding the SO₂ emission limit of

four pounds of sulfur dioxide per ton of acid produced; 30 TAC §116.115(a), TNRCC Permit Number 1257A special condition 2, and the Act, §382.085(b), by failing to equip ten second-line bleed valves with a cap, blind flange, plug, or a second valve; 30 TAC §115.336 and the Act, §382.085(b), by failing to maintain records in the N-5 Area demonstrating that instruments had been calibrated on monitoring dates; and 30 TAC §116.115(a), TNRCC Permit Number 20901 special condition 2, and the Act, §382.085(b), by exceeding the annual permit limit for total number of tank cars cleaned in any one calendar year; PENALTY: \$8,225; ENFORCEMENT COORDINATOR: Randy Norwood, (512) 239-1879; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1423, (713) 767-3700.

(11)COMPANY: Ryder Truck Rental; DOCKET NUMBER: 96-1123-AIR-E; ACCOUNT NUMBER: EE-1046-M; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: truck rental operation; RULE VIOLATED: 30 TAC §114.13(a) and the Act, §382.085(b), by dispensing gasoline with an oxygen content of less than 2.7% by weight; PENALTY: \$700; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: El Paso City-County Health And Environmental District, 1148 Airway Boulevard, El Paso, Texas 79925.

(12)COMPANY: Spain Oil Company; DOCKET NUMBER: 96-1252-AIR-E; ACCOUNT NUMBER: BG-0886-T; LOCATION: Somerset, Bexar County, Texas; TYPE OF FACILITY: oil production plant; RULE VIOLATED: 30 TAC §116.110(a) and the Act, §382.0518(a) and §382.085(b), by constructing and operating an oil production plant which may emit air contaminants into the air of the state without first obtaining a permit or qualifying for a standard exemption; PENALTY: \$0; ENFORCEMENT COORDINATOR: Stacey Young, (512) 239-1899; REGIONAL OFFICE: 140 Heimer Road, Suite 360, San Antonio, Texas 78232-5042, (210) 490-3096.

(13)COMPANY: Tramel Auto Sales; DOCKET NUMBER: 96-1518-AIR-E; ACCOUNT NUMBER: KB-0153-B; LOCATION: Terrell, Kaufman County, Texas; TYPE OF FACILITY: used car sales lot; RULE VIOLATED: 30 TAC §114.1(c)(1) and the Act, §382.085(b), by offering for sale a vehicle with missing required emission control systems or devices; PENALTY: \$350; ENFORCEMENT COORDINATOR: Mary Jennings, (512) 239-1864; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614226

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Filed: September 30, 1996



Texas State Board of Pharmacy

Election of Officers

The Texas State Board of Pharmacy announces the election of the following Officers for Fiscal Year 1997 (September 1, 1996 through August 31, 1997)

President, Marina Sifuentes, R.Ph. Austin

Vice President, Susan Jacobson El Paso

Treasurer, Bill Pittman, R.Ph. Austin

Issued in Austin, Texas, on September 24, 1996.

TRD-9614126

Fred S. Brinkley, Jr., R.Ph., M.B.A.

Executive Director/Secretary

Texas State Board of Pharmacy

Filed: September 26, 1996



Texas Department of Transportation

Request for Proposals

Notice of Invitation: The Tyler District of the Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Number 10-645P5006: For the preparation of plans, specifications and estimates for the construction of S.H. 57, a four-lane divided urban highway on new location.

Contract Number 10-645P5007: For the preparation of plans, specifications and estimates for the widening of Spur 502 from a two-lane to a four-lane divided urban highway.

Contract Number 10-645P5008: For the preparation of a plans, specifications and estimates package and/or hydraulic studies and/or scour studies for the initial construction, widening, rehabilitation, or reconstruction of on- or off-system roads and bridges in various locations throughout the Tyler District.

Contract Number 10-645P5009: For the preparation of a plans, specifications and estimates package and/or hydraulic studies and/or scour studies for the initial construction, widening, rehabilitation, or reconstruction of on- or off-system roads and bridges in various locations throughout the Tyler District.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (903) 510-9129, or by hand/mail delivery to TxDOT, Tyler District Office, Attention: Dale Booth, 2709 West Front Street, Tyler, Texas 75702. Letters of interest will be received until 5:00 p.m. on Wednesday, October 16, 1996. The letter of interest must include the engineer's firm name, address, telephone number, fax number, name of the engineer's contact person and the TxDOT contract number(s) 10-645P5006, 10-645P5007, 10-645P5008 or 10-645P5009. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: A written letter of interest, either by mail, hand delivery, or fax is required to receive and RFP packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Proposal Submittal Deadline: Proposals for contract number(s) 10-645P5006, 10-645P5007, 10-645P5008 or 10-645P5009 will be

accepted until 5:00 p.m. on Monday, November 4, 1996, at the previously mentioned TxDOT, Tyler District Office address.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Dale T. Booth, P.E. at (903) 510-9113 or fax (903) 510-9129.

Notice of Invitation: The Transportation Planning and Programming Division of the Texas Department of Transportation (TxDOT) intends to engage an engineer, pursuant to Texas Government Code, Chapter 2254, Subchapter A, and 43 TAC §§9.30-9.40, to provide the following services. The engineer selected must perform a minimum of 30% of the actual contract work to qualify for contract award.

Contract Number 50-645P5005: To conduct a needs assessment and feasibility study to analyze any necessary infrastructure improvements, investigate the feasibility of upgrading U.S. 190 to a four-lane divided facility and the potential of relocating U.S. 190 along S.H. 30 from Huntsville to Bryan, and produce a project prioritization list of needed improvements.

Deadline: A letter of interest notifying TxDOT of the provider's intent to submit a proposal will be accepted by fax at (512) 467-3952, or by hand delivery to TxDOT, Transportation Planning and Programming Division, Attention: Peggy Thurin, 4000 Jackson Avenue, Austin, Texas or by mail delivery addressed to 125 East 11th Street, Austin, Texas 78701. Letters of interest will be received until 5:00 p.m. on Friday, October 25, 1996. The letter of interest must include the engineer's firm name, address, telephone number, fax number, name of engineer's contact person and refer to contract number 50-645P5005. Upon receipt of the letter of interest a Request for Proposal packet will be issued. (Note: Written requests, either by mail/hand delivery or fax, will be required to receive Request for Proposal packet. TxDOT will not issue Request for Proposal packet without receipt of letter of interest.)

Proposal Submittal Deadline: Proposals for contract number 50-645P5005 will be accepted until 5:00 p.m. on Monday, November 25, 1996, at the previously mentioned TxDOT, Transportation Planning and Programming Division addresses.

Agency Contact: Requests for additional information regarding this notice of invitation should be addressed to Peggy Thurin at (512) 467-3791 or fax (512) 467-3952.

Issued in Austin, Texas, on September 30, 1996.

TRD-9614221

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: September 30, 1996



TAC Titles Affected

The following is a list of the administrative rules that were published in the September 3-27, 1996 issues.

TITLE 1. ADMINISTRATION	7 TAC §3.22 8353, 8441
<i>Part V. General Services Commission</i>	7 TAC §3.41 8449
1 TAC §§111.61-111.70..... 8587	7 TAC §§3.41-3.45 8449
1 TAC §113.19 8557	7 TAC §3.42 8451
	7 TAC §3.43 8452
<i>Part X. Department of Information Resources</i>	7 TAC §3.44 8452
1 TAC §201.13 8929	7 TAC §3.45 8453
	7 TAC §3.61 8355
	7 TAC §3.91 8355, 8441
TITLE 4. AGRICULTURE	7 TAC §3.92 8357
<i>Part I. Texas Department of Agriculture</i>	7 TAC §4.10 8357
4 TAC §5.154 8651	7 TAC §4.11 8454
4 TAC §§5.500-5.506 8651	7 TAC §4.12 8455
4 TAC §§7.1, 7.3, 7.8, 7.10-7.20, 7.22-7.31.. 8591	
4 TAC §§7.10-7.16, 7.27-7.35..... 8599	<i>Part II. Texas Department of Banking</i>
4 TAC §20.22 8639, 9131	7 TAC §15.41 8455
4 TAC §25.13 9233	7 TAC §15.121 8359
	7 TAC §15.122 8361
<i>Part III. Texas Feed and Fertilizer Control Service</i>	7 TAC §25.7 8585
4 TAC §65.11 8930	7 TAC §25.25 8558
4 TAC §65.21 8930	7 TAC §25.26 8585
4 TAC §65.22 8931	7 TAC §29.2 8457
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