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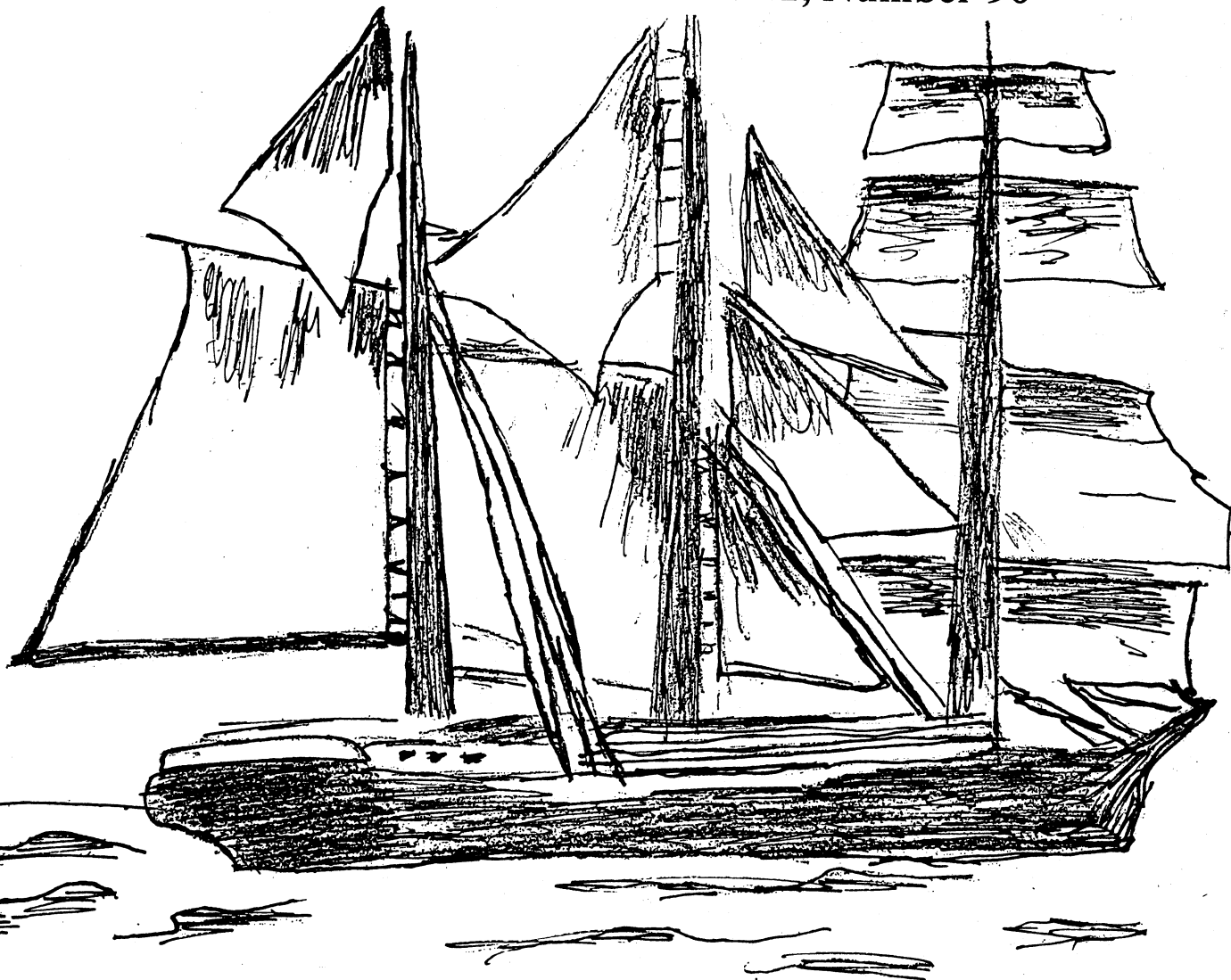
JAN 23 1997

# TEXAS REGISTER

Volume 21 Number 90 December 6, 1996

Page 11777-11882

## Part II- Volume 21, Number 90



***This month's front cover artwork:***

***Artist: Nick Davis***

***5th grade***

***Copeland Intermediate, Huffman 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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# ADOPTED RULES

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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.

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## TITLE 4. AGRICULTURE

### Part I. Texas Department of Agriculture

#### Chapter 19. Quarantines

##### Subchapter B. Burrowing Nematode Quarantine

###### 4 TAC §19.21

The Texas Department of Agriculture (the department) adopts an amendment to §19.21, concerning burrowing nematode quarantine, without changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10481).

The amendment is adopted because burrowing nematode is no longer established in the state of Louisiana thereby posing no threat to Texas agriculture. The amendment removes the state of Louisiana as a quarantined area.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Agriculture Code (the Code), §71.003 and §71.001, which provides the Texas Department of Agriculture with the authority to establish quarantines against out-of-state diseases and pests.

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 November 26, 1996.

TRD-9617229

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: December 17, 1996

Proposal publication date: October 25, 1996

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



#### Chapter 28. Texas Agricultural Finance Authority: Loan Guaranty Program

##### 4 TAC §28.8, §28.10

The Board of Directors (the board) of the Texas Agricultural Finance Authority (the Authority) of the Texas Department of Agriculture adopts amendments to §28.8 and §28.10, concerning the Authority's loan guaranty program. Section 28.8 is adopted with changes to the proposed text as published in the October 11, 1996 issue of the *Texas Register* (21 TexReg 9751). Section 28.10 is adopted without changes and will not be republished.

The proposed new language in §28.8(d) has been changed by the Board to allow for applicants and lenders to appeal a staff determination that the application does not meet the minimum underwriting standards and to provide a process for notifying applicants of which standards are not met. Applicants who appeal will be required to convince the Board why standards not met should be waived. The Board believes that the addition of an appeals process is appropriate in that it still streamlines the process, yet provides some recourse to applicants and places the burden on the applicant and lender to determine whether or not to appeal a staff determination and to show why minimum standards should be waived. The reference in §28.8(d) to the Credit Policy and Procedures has also been changed to delete the specific reference to Subsection E of the policy.

The amendments are adopted in order to make the loan guaranty program more efficient. The amendments to §28.8 add language to state the conditions under which a report on an application will not be presented to the board, clarify which applications must be reviewed by a majority of a quorum of the board and provide an appeal process for applicants and lenders. The amendments to §28.10 change the maximum percentage of the Authority's financial commitment in loans approved under the loan guaranty program and add a fee schedule adopted by the board for calculation of the loan guaranty fee payable by an applicant.

No public comments were received regarding the proposal.

The amendments are adopted under the Texas Agriculture Code, §58.022, which provides the Authority with the authority to adopt rules and procedures necessary for the administration of its programs including the setting and collection of fees in connection with the program; and, §58.023, which provides the Authority to adopt rules to establish criteria for eligibility of applicants and lenders under the loan guaranty program.

*§28.8. Filing Requirements and Consideration of Applications.*

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

(d) Board review. Staff will submit a report on each qualified application to the board, provided that the board has directed staff to present only those applications which meet those minimum underwriting standards established in the Credit Policy and Procedures, which shall include a recommendation for approval or denial. If staff determines that an application does not meet the minimum underwriting standards established in the Credit Policy and Procedures, the staff shall notify the applicant and the lender in writing to this effect, and shall advise them of which minimum underwriting standards are not met. The applicant and lender may appeal the determination of the staff to the Board, but shall have the burden of convincing the Board that the minimum standards not met should be waived. The board may, in its discretion, recommend the imposition of conditions and requirements in connection with approval of a qualified application. Approval of a qualified application will be by a majority of a quorum of the board, except for the approval requirements identified in §28.10(c) of this title (relating to General Terms and Conditions of the Authority's Financial Commitment).

(e) Notification of approval. Upon conditional approval of the qualified application by the board, the Authority will notify the lender and the applicant in writing identifying the terms and conditions of the loan guaranty. The board may set certain time limits regarding the acceptance of loan commitments by the applicant and lender and time limits regarding the closing of loans by the applicant and lender; however, in no event shall the time period exceed 30 days to accept the commitment and 180 days to close the loan, provided that the board may approve one additional extension of the commitment for a period of no more than 60 days. The lender will prepare the written agreements and documents necessary to close the loan guaranty in accordance with the terms and conditions set forth in the notice of conditional approval. The Authority will send the lender and the applicant final notice of guaranty approval after review of the closing documents by the Authority's legal counsel. The lender will disburse the loan according to the terms of the note and/or loan agreement.

(f)-(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.

Issued in Austin, Texas, on November 22, 1996.

TRD-9617051

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Effective date: December 13, 1996

Proposal publication date: October 11, 1996

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

## TITLE 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 9. Liquefied Petroleum Gas Division

##### Subchapter A. General Applicability and Requirements

##### 16 TAC §9.33

The Railroad Commission of Texas adopts the repeal of §9.33, relating to the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee, without changes to the proposed text as published in the September 20, 1996, *Texas Register* (21 TexReg 9034). The section implemented Senate Bill 383, 73rd legislature, 1993, and created the U.S. Department of Labor (DOL) Defense Conversion Adjustment Grant Advisory Committee of the commission. It also established the committee's duration; set forth the purpose and duties of the committee; prescribed the composition of the committee, the appointment process, and the membership terms of the committee; and set forth the mechanisms by which the committee met, performed its work, and was evaluated. The repeal was proposed because the term of the grant expired on June 17, 1996, after which the purpose for the advisory committee was terminated.

The commission received no comments on the proposed repeal.

The repeal is adopted 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.

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 November 27, 1996.

TRD-9617257

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel

Railroad Commission of Texas

Effective date: December 18, 1996

Proposal publication date: September 20, 1996

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

### Subchapter B. Basic Rules

##### 16 TAC §9.167, §9.189

The Railroad Commission of Texas adopts amendments to §§9.167 and 9.189, relating to filling density, and grounding and electrical requirements, without changes to the proposed text as published in the September 20, 1996, *Texas Register* (21 TexReg 9035). Section 9.167 defines filling density and specifies the maximum filling density for different types of containers. Section 9.189 requires that containers larger than 1,200 gallons shall be grounded and that electrical installations near those containers shall comply with the *National Electric Code*. The amendments to both sections are nonsubstantive and include some changes in wording or punctuation to provide clearer language. The main amendment to §9.167 is the correction of the subchapter titles, while §9.189 contains new text added to replace the information formerly in chart format and clarifies that automatic dispensers are exempt from the requirements in §9.189, but must comply with §9.1565 of this title (relating to safety requirements).

The commission received no comments on the proposed amendments.

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

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 November 27, 1996.

TRD-9617255

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel  
Railroad Commission of Texas

Effective date: December 18, 1996

Proposal publication date: September 20, 1996

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



## Subchapter F. Consumer LP-Gas Systems

### 16 TAC §9.463

The Railroad Commission of Texas adopts amendments to §9.463, relating to reinstallation of underground containers, without changes to the proposed text as published in the September 20, 1996, *Texas Register* (21 TexReg 9037). Section 9.463 lists requirements for underground containers which have been removed and are to be reinstalled.

The adopted amendments make identification requirements consistent, allow the use of either a metal tag or a decal, and allow one tag or decal to serve for all identification required in §§9.184, 9.231, 9.462, 9.771, and 9.952, relating to uniform safety requirements, identification of approved appliances, containers manufactured for underground installation, vehicle identification labels, and piping installation identification. Amendments to these sections regarding the single tag or decal were adopted by the commission and published in the October 17, 1995, *Texas Register* (20 TexReg 8450). This rulemaking will add §9.463 to those sections that may use a single tag or decal provided all the required information is included.

The commission received no comments on the proposed amendment.

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

Issued in Austin, Texas, on November 27, 1996.

TRD-9617256

Mary Ross McDonald

Deputy General Counsel, Office of General Counsel  
Railroad Commission of Texas

Effective date: December 18, 1996

Proposal publication date: September 20, 1996

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



## TITLE 22. EXAMINING BOARDS

### Part IX. Texas State Board of Medical Examiners

#### Chapter 166. Physician Registration

##### 22 TAC §166.2

The Texas State Board of Medical Examiners adopts an amendment to §166.2, without changes to the proposed text as published in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8561).

The section as adopted will allow physicians to choose programs which will enhance their education and be of most benefit to their practice and their patients. In addition, the requirement for continuing medical education in medical ethics and/or professional responsibility is anticipated to further enhance the quality of care and service provided by physicians to the citizens of Texas.

The section as adopted will function by allowing flexibility in the reporting of continuing medical education hours.

One written comment was received from the Texas Medical Association (TMA) and Clifford Moy, M.D., presented oral comments on behalf of TMA. The organization commented that proposed §166.2(a)(2) will cause unnecessary difficulties for physicians and accredited continuing medical education sponsors. It was noted that accredited sponsors will have a difficult time justifying the development of courses to meet requirements within the context of accreditation standards and adult learning principles. It was further noted that mandated subject requirements obligate accredited sponsors to divert scarce resources into the development of continuing medical education activities which are not necessarily consistent with priority indicators of need and have less potential to demonstrate effective outcomes of improved patient care. This organization also commented that physicians will have increased difficulty in obtaining time off to attend such training and that the ethics training will not create ethical physicians.

The board disagrees with the comments received because the effective date of the ethics requirement, January 1, 1999, is sufficient to allow sponsors to divert resources over a long period of time so as to minimize problems with the scarcity of such resources. Justification of ethical courses by sponsors and the need for time off for physicians can be accomplished by referring to the requirements for an annual ethics component for continued licensure. Improved awareness in all aspects of medical care, including ethical issues, will promote improved patient care, and therefore, an ethics continuing education component will be beneficial. While it is acknowledged that such training may not create ethical physicians, such training will promote ethical conduct by enhancing physician awareness of ethical issues and methods of addressing ethical problems in their day-to-day practice of medicine.

The amendment is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the

Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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 November 21, 1996.

TRD-9616970

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 12, 1996

Proposal publication date: September 6, 1996

For further information, please call: (512) 305-7016



## Chapter 174. Telemedicine

### 22 TAC §§174.1-174.15

The Texas State Board of Medical Examiners adopts new §174.1-174.15, without changes to the proposed text as published in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8562).

The sections as adopted will regulate the practice of medicine and patient care by those individuals residing outside the state of Texas who diagnose and treat Texas residents across state lines, but who do not hold a permanent license.

The sections will function by creating a system to regulate the practice of medicine across state lines and to collect revenue to fund the program.

Comments were received from the following groups: Texas Radiological Society, Texas Medical Association, and Texas Society of Pathologists.

Texas Radiological Society commented that the proposed rules are deficient because they should provide for the requirement for full licensure so that physicians practicing across state lines fall under the jurisdiction of the Texas State Board of Medical Examiners, Texas citizens who are injured by such practitioners may pursue redress for malpractice in Texas courts, and such practitioners demonstrate a knowledge of Texas law.

Texas Medical Association maintains that the board does not have authority to grant a special license and the board cannot create an exception to specific licensure requirements set forth in the Medical Practice Act.

Texas Society of Pathologists has commented simply that full licensure is the most appropriate requirement for patient care in Texas.

The board disagrees with the comments for the following reasons. Board jurisdiction over physicians holding the proposed special license will still be maintained through both the statute and the rule. Texas citizens may still pursue appropriate remedies for malpractice in Texas courts since any malpractice cause of action will have arisen in whole or in part in the state

of Texas. A knowledge of Texas law by holders of a special license is expected due to the requirements set forth in the rules requiring compliance with Texas laws governing practice. Also as set forth in the rules, violations of Texas law will still be actionable against physicians holding a special license. The safeguards requiring specialization, licensure in another state, and an unblemished disciplinary history are sufficient to address concerns about the quality of physicians licensed through this rule. The authority of the board to create such rules is provided for in the Medical Practice Act, Article 4495b, §2.09 and 3.06, and is sufficiently broad under the Medical Practice Act, Article 4495b, §2.09(a) and 3.06(b)(12) to authorize such rules. The rules, while streamlining the licensing process, provide for more stringent qualifications for licensure than are provided for in regard to other licensure avenues. In addition, the licensure fees are consistent with the fees for full licensure. Consequently, the creation of these rules is within the rulemaking authority of the board.

The new sections are adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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 November 21, 1996.

TRD-9616971

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 12, 1996

Proposal publication date: September 6, 1996

For further information, please call: (512) 305-7016



## Chapter 177. Certification of Non-Profit Organizations

### 22 TAC §177.16

The Texas State Board of Medical Examiners adopts new §177.16, with changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9753). A nonsubstantive change is necessary in §177.16(a) to correct a publication error regarding the size of the notification.

The section as adopted will outline the procedure for filing a complaint against a non-profit health organization and will potentially assist patients in having concerns addressed about health care delivery by such organizations.

The board will inform the public of the procedure for directing complaints to the board regarding non-profit health organizations.

Two written comments were received from the following groups: House Welfare Rights Organization and University of Texas Southwestern Health Systems.

House Welfare Rights Organization commented that the wording of the complaint notification should be simplified due to the limited literacy of many adults in Texas. This organization specifically noted that both the English and Spanish versions of the proposed complaint procedure notification contained surplus language and more complex sentence structure than is necessary. This organization requested that various deletions be made to the proposed complaint notification and that in some instances substitute language be inserted. This organization maintained that these changes would shorten and simplify the complaint procedure notification in both the English and Spanish versions.

University of Texas Southwestern Health Systems commented that other health care entities are not required to post such complaint procedure notifications. This organization further commented that not all non-profit health organizations provide health care through employed physicians, but that such care is often provided through independent physicians or groups of independent physicians. Consequently, this organization has stated that it seems preferable to focus on the actual provider of the care, the physician, rather than on the non-profit health organization which is arranging for the care. In addition, this organization commented that this requirement will mandate multiple complaint procedure notification postings which will lead to the confusion of patients who wish to file complaints. This organization stated that the current complaint procedure notification process is sufficient and easier for patients to understand. This organization commented that the Board will still be able to effectively pursue investigations and discipline physicians or non-profit health organizations without the proposed rule. This organization further stated that the proposed sign size is smaller than the size required for other similar postings. In conclusion, this organization suggested that if a complaint procedure notification is deemed necessary, it should be incorporated into the existing notification requirements for physicians and acupuncturists to avoid the need for multiple postings.

The Board disagrees with the comments for the following reasons. The comments received were few in number and consequently appear to represent isolated viewpoints. The Board finds that the proposed language changes are not significant enough to warrant revision, but simply focus on stylistic differences and minor semantics issues of limited concern. The Board further finds that due to the growth in non-profit health organizations and the potential for organizational impact on patient care, the need for the proposed complaint procedure notification outweighs the perceived problems anticipated by the commenting organizations. The Board further disagrees with the comments regarding the potential for confusion and the inability for patients to understand the procedure. Keeping in mind that the comments on this proposal were few, the Board finds that the potential for confusion of patients is minimal. As for the difference in sign size, the Board notes that this difference was the result of a publication error and that steps have been taken to correct this error. The sign size can and will be addressed through a nonsubstantive change to the published

proposal. The comment encouraging a single sign system has merit, but additional time would be needed to implement such a proposal. In the meantime, the use of a separate sign may lead to the filing of legitimate complaints and ultimately to better regulation of non-profit health organizations and affiliated physicians.

The new section is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

*§177.16. Complaint Procedure Notification.*

(a) Method of Notification. For the purpose of directing complaints to the board regarding health-care delivery by licensees of the board practicing through non-profit health organizations certified pursuant to the Medical Practice Act, §5.01, the non-profit health organizations which are certified or otherwise approved pursuant to the Medical Practice Act, §5.01(a) and §5.01(b), shall provide notification to the public of the name, mailing address, and telephone number of the board by displaying in a prominent location at each site of health-care delivery and readily visible to patients or potential patients, signs in English and Spanish of no less than 8 1/2 inches by 11 inches in size with the board-approved notification statement printed alone and in its entirety in black on white background in type no smaller than standard 24-point Times Roman print with no alterations, deletions, or additions to the language of the board-approved statement.

(b) Approved English Notification Statement. The following notification statement in English is approved by the board for purposes of these rules:

Figure 1: 22 TAC §177.16(b)

(c) Approved Spanish Notification Statement. The following notification statement in Spanish is approved by the board for purposes of these rules:

Figure 2: 22 TAC §177.16(c)

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 November 21, 1996.

TRD-9616974

Bruce A. Levy, M.D.,J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 12, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 305-7016



## Chapter 183. Acupuncture

### 22 TAC §183.21

The Texas State Board of Medical Examiners adopts new §183.21, without changes to the proposed text as published in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8564).



The section as adopted will ensure that licensed acupuncturists refrain from advertising in a manner that is misleading or deceptive.

The section as adopted will function by clarifying the rules for written advertising by acupuncturists.

No comments were received regarding adoption of the new section.

The new section is adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of this Act.

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 November 21, 1996.

TRD-9616972

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 12, 1996

Proposal publication date: September 6, 1996

For further information, please call: (512) 305-7016



## Chapter 185. Physician Assistants

### 22 TAC §§185.4, 185.9, 185.20, 185.23, 185.25, and 185.27

The Texas State Board of Medical Examiners adopts amendments to §§185.4, 185.9, 185.20, 185.23, 185.25, and 185.27, without changes to the proposed text as published in the September 6, 1996, issue of the *Texas Register* (21 TexReg 8565).

The sections as adopted will grant the Executive Director of the board discretion regarding licensure application eligibility for physician assistants and enhance the rules relating to disciplinary guidelines and rehabilitation orders.

The sections as adopted will function by clarifying the board's new address on the professional liability claims report, outlining procedures for board member participation in informal settlement conferences and show compliance proceedings, and by further defining disciplinary guidelines and self-reporting of in-temperate use of drugs or alcohol or physical or mental conditions.

No comments were received regarding adoption of the amendment.

The amendments are adopted under the Medical Practice Act, Texas Civil Statutes, Article 4495b, §2.09(a), which provides the Texas State Board of Medical Examiners with the authority to make rules, regulations and bylaws not inconsistent with this Act as may be necessary for the governing of its own proceedings, the performance of its duties, the regulation of the practice of medicine in this state, and the enforcement of

this Act, and the Physician Assistant Licensing Act, Texas Civil Statutes, Article 4495b-1, §23 which authorizes the Texas State Board of Physician Assistant Examiners to adopt reasonable and necessary rules for the performance of its duties.

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 November 21, 1996.

TRD-9616973

Bruce A. Levy, M.D., J.D.

Executive Director

Texas State Board of Medical Examiners

Effective date: December 12, 1996

Proposal publication date: September 6, 1996

For further information, please call: (512) 305-7016



## Part XXII. Texas State Board of Public Accountancy

### Chapter 511. Certification as CPA

#### Certification by Examination

##### 22 TAC §511.21

The Texas State Board of Public Accountancy adopts an amendment to §511.21, without changes to the proposed text published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9753).

The amendment allows for better tracking and identifying of applicants through their social security numbers.

The amendment will function by requiring applicants to disclose to the Board their social security numbers to be confidentially used as part of their identifiers.

No comments were received concerning adoption of the rule.

The rule is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law.

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 November 21, 1996.

TRD-9617265

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: December 18, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 505-5566



## Educational Requirements

## 22 TAC §511.57

The Texas State Board of Public Accountancy adopts an amendment to §511.57, without changes to the proposed text published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9754).

The amendment allows accounting students to participate in accounting internship programs and to receive credit from the Board.

The amendment will function by recognizing accounting internship programs and accepting the programs, under certain conditions, as other accounting courses in satisfying the educational requirements.

No comments were received concerning adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law; and §12(e)(1) which allows the board to accept accounting courses as defined in board rules.

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 November 21, 1996.

TRD-9617271

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: December 18, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 505-5566



## Chapter 523. Continuing Professional Education

### Continuing Professional Education Standards

#### 22 TAC §523.29

The Texas State Board of Public Accountancy adopts an amendment to §523.29, without changes to the proposed text published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9755).

The amendment allows continuing professional education credit to be awarded for self-study courses.

The amendment will function by allowing CPAs to satisfy their continuing professional education requirement through self-study.

No comments were received concerning adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the

law; and §15A which requires licensees to complete continuing professional education courses.

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 November 21, 1996.

TRD-9617270

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: December 18, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 505-5566



#### 22 TAC §523.31

The Texas State Board of Public Accountancy adopts an amendment to §523.31, with changes to the proposed text published in the October 11, 1996, issue of the *Texas Register* (21TexReg9755). The changes are substituting "The AICPA's Private Companies section on Technical Issues Committee" under paragraph (8).

The amendment allows CPAs who serve on either of the committees to qualify for continuing professional education credit by virtue of their participation on the committee.

The amendment will function by allowing those CPAs who serve on either committee to claim CPE credit.

No comments were received concerning adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6, which provide the Texas State Board of Public Accountancy with the authority to make such rules as may be necessary or advisable to carry in effect the purposes of the law; and §15A which requires licensees to complete continuing professional education courses.

*§523.31. Alternative Sources of Continuing Professional Education.*

(a) Credit hours may be claimed from other organizations not recognized as formal continuing professional education sponsors. Credit from membership in the committees listed can be claimed using 50 minutes per contact hour at meetings to equal one credit hour:

- (1) Financial Accounting Standards Board (FASB);
- (2) Governmental Accounting Standards Board (GASB);
- (3) FASB's Emerging Issues Task Force (EITF);
- (4) AICPA's Auditing Standards Board and Accounting Standards Executive Committee;
- (5) Financial Executives Institute's Committee on Corporate-Reporting (FEI/CCR);
- (6) National Association of Accountants' Management-Accounting Practices Committee;
- (7) AICPA's Accounting and Review Services Committee (ARSC); and

(8) The AICPA's Private Companies Section on Technical Issues Committee.

(b) Credit hours earned from sources other than registered sponsors, or membership on designated committees, must receive prior approval before credit may be claimed.

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 November 21, 1996.

TRD-9617267

William Treacy

Executive Director

Texas State Board of Public Accountancy

Effective date: December 18, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 505-5566

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 313. Athletic Trainers

##### General Guidelines and Requirements

##### **25 TAC §§313.1, 313.2, 313.9, 313.13-313.15, 313.17**

The Advisory Board of Athletic Trainers (board) adopts amendments to §§313.1, 313.2, 313.9, 313.13-313.15, and 313.17, concerning the licensing and regulation of athletic trainers, without changes to the proposed text as published in the June 7, 1996, issue of the *Texas Register* (21 TexReg 5133), except as corrected in the July 5, 1996, issue of the *Texas Register* (21 TexReg 6265), and therefore the sections will not be republished.

Sections 313.1, 313.2, 313.14, 313.15, and 313.17 were amended to correct statutory references. Section 313.9(a) was modified to delete the requirement that temporary license applicants must not have previously applied to take the licensure examination. Section 313.9(b) was amended to clarify the time frame during which a temporary license is valid. Section 313.9(c) was amended to provide for the issuance of a second temporary license based on documented hardship. Section 313.13(j) was amended to grant continuing education credit to licensees who instruct or present educational programs.

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

No comments were received concerning the proposed amendments.

The amendments are adopted under Texas Civil Statutes, Article 4512d, §5(a), which provide the Advisory Board of Athletic Trainers with the authority to adopt rules consistent with the Act which are necessary for the performance of its duties; under §5(b), which provides the board with the authority to establish requirements for continuing education for athletic trainers; and under §10(c), which provides the board with

the authority to establish requirements for temporary license issuance.

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 November 22, 1996.

TRD-9617029

Michael Daniel Saly

Chair

Texas Department of Health

Effective date: December 13, 1996

Proposal publication date: June 7, 1996

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

## TITLE 30. ENVIRONMENTAL QUALITY

### Part I. Texas Natural Resource Conservation Commission

#### Chapter 7. Memoranda of Understanding

##### **30 TAC §7.110**

The Texas Natural Resource Conservation Commission (commission) adopts new §7.110, concerning entering into a Memorandum of Understanding (MOU) with the Texas Department of Public Safety (department, with changes to the proposed text as published in the September 3, 1996, issue of the *Texas Register* (21 TexReg 8382).

**EXPLANATION OF ADOPTED RULE.** The addition of §7.110 satisfies requirements established in Executive Order GWB 96-1. This MOU divides program responsibilities between the commission and the department with regard to the Texas Motorist's Choice Program. Subsection (a) describes the need for the MOU, while subsection (b) defines which agencies are parties to the agreement. Subsections (c) and (d) delineate the responsibilities and related activities of each agency. Subsection (e) provides a mechanism for resolving any disputes between the two agencies. Subsection (f) provides conditions for review, amendment, and termination of the MOU by either agency.

**TAKINGS IMPACT ASSESSMENT.** The commission has prepared a Takings Impact Assessment pursuant to Texas Government Code Annotated, §2007.043, and has determined this rule will have no affect on private real property.

**HEARINGS AND COMMENTERS.** A public hearing was held in Austin on October 3, 1996. The comment period closed October 3, 1996. No oral comments were presented at the hearing. Only one written comment was received on the proposal. The United States Environmental Protection Agency (EPA) requested that the MOU be incorporated into the State Implementation Plan at the next major revision, or be submitted to the EPA when finalized.

The commission will submit the MOU to the EPA once the MOU has been approved by the commission and the department.

Administrative and clerical changes were made by the commission in order to make terminology consistent with terminology in

the rules of the department, to clarify a reference, and to clarify the responsibilities of the commission.

STATUTORY AUTHORITY. The new section is adopted under Texas Water Code, §§5.103, 5.105, 13.041, 26.011, 27.019, 32.009, 33.007, and 34.006 and Texas Health and Safety Code, §§341.002, 341.031, 361.011, 361.017, 361.024, 366.012, 382.017, 401.011, 401.051, and 401.412, which provide the commission with the authority to adopt the rules necessary to carry out its powers and duties.

*§7.110. Memorandum of Understanding Between the Texas Natural Resource Conservation Commission (commission) and the Texas Department of Public Safety (department).*

(a) Need for agreement.

(1) Executive Order GWB 96-1, authorized by Senate Bill 178 (Chapter 34, Acts of the 74th Legislature, Regular Session, 1995), directs the commission to enter into an agreement with the department to provide for the establishment of an Inspection/Maintenance (I/M) program in accordance with Executive Order GWB 96-1, the Texas Clean Air Act (TCAA), and federal regulations.

(2) The commission and the department have agreed to develop this Memorandum of Understanding between these agencies. This agreement will supplement any previous Memoranda of Understanding between these two agencies or including these two agencies as participating parties.

(3) The agencies entering into this Memorandum of Understanding are establishing a formal mechanism by which they will coordinate I/M program planning, implementation, oversight, evaluation, and areas of primary responsibility. This Memorandum of Understanding also provides for a system by which information developed by the commission and the department may be exchanged for the benefit of the I/M program.

(b) Definitions. Unless specifically defined in the TCAA, 37 Texas Administrative Code §23.93 relating to Vehicle Emissions Inspection Requirements, the department "Rules and Regulations Manual for Official Vehicle Inspection Stations and Certified Inspectors", 30 Texas Administrative Code §114.3 relating to Vehicle Emissions Inspection Requirements, or in other rules of the commission or the department, the terms used in this Memorandum of Understanding shall have the meanings commonly ascribed to them in the fields of air pollution control and vehicle inspection unless the context clearly indicates otherwise.

(c) Responsibilities.

(1) The commission:

(A) is the state agency responsible for conservation of natural resources;

(B) is the principal state authority on matters relating to the state's air quality; and

(C) shall have authority to make rules for the I/M program on matters that relate directly to:

(i) emissions reduction credits awarded by the United States Environmental Protection Agency (EPA);

(ii) computer modeling of the emissions reduction credits available to the Texas I/M Program;

(iii) data collection efforts required by 40 CFR Part 51 or the Texas I/M State Implementation Plan (SIP); and

(iv) responsibilities of the commission identified in this agreement.

(2) The department:

(A) is the state agency responsible for the safety of the motoring public;

(B) is the principal authority on matters relating to testing motor vehicles for safety and emissions compliance; and

(C) shall have authority to make rules for the implementation and operation of the I/M program.

(3) Both agencies agree to comply with the provisions of the Texas I/M SIP, including the most recent proposed revision signed by the Governor and submitted to the EPA on June 21, 1996, and the provisions of Executive Order GWB 96-1.

(4) It is neither the department's nor the commission's intention to direct the other agency's activities by rule or otherwise.

(d) Activities.

(1) In consultation with the department, the commission will:

(A) develop and design an I/M program for the State of Texas that satisfies the requirements of the Federal Clean Air Act and 40 CFR Part 51, Executive Order GWB 96-1 and other relevant legislation, including any amendments made to these requirements;

(B) develop, update, and amend the Texas I/M SIP and program rules as necessary to support state and federal requirements;

(C) evaluate the Texas I/M Program;

(D) develop criteria for emissions testing equipment required for use in emissions testing facilities;

(E) serve as the state's liaison with the EPA;

(F) provide the department with timely reports and data analysis as requested; and

(G) set fees for the Texas I/M Program by rule.

(2) In consultation with the commission, the department will:

(A) implement the Texas Motorist's Choice Program, including the adoption of necessary rules and procedures;

(B) actively enforce the Texas Motorist's Choice Program;

(C) serve as the state's liaison with participating emissions testing facilities;

(D) license emissions testing facilities;

(E) provide the commission with timely reports and data analysis as requested;

(F) implement Repair Effectiveness provisions of the Texas I/M SIP; and

(G) collect emissions testing and other applicable fees for the Texas Motorist's Choice Program.

(3) In order for both agencies to fulfill their respective program responsibilities, both agencies agree:

(A) to share information necessary for maintaining program effectiveness, quality, and approvability by the EPA;

(B) to allow the EPA to audit their program records;

(C) to jointly determine, within 60 days of the effective date of this Memorandum of Understanding, a list of information to be shared along with a schedule and acceptable format for its provision. This list may be amended by mutual agreement of the agencies.

(D) to consult on an appropriate course of action if an analysis of program data indicates that the Texas Motorist's Choice Program is not meeting commitments made in the Texas I/M SIP. Consultation requests may be made by the program director in either agency.

(e) Dispute resolution. In the event that the commission and the department are not able to decide on a mutually agreeable plan of action with regard to the terms of this agreement, each agency shall inform the other of its concerns, in writing, and make a good faith effort to address the major concerns of the other party.

(f) Reviews of and changes to the Memorandum of Understanding.

(1) This Memorandum of Understanding shall be reviewed and updated, at a minimum, every fifth year from its effective date. Either party may suggest amendments when it feels such changes are warranted.

(2) If a change in state or federal law or a change in the Texas SIP necessitates a change in this Memorandum of Understanding, then both the Director of the Mobile Source Division of the commission and the Director of the Vehicle Inspection and Emissions program of the department or their respective staffs will meet to work out a mutually agreeable amendment to the Memorandum of Understanding. If such an amendment is not possible, then either party may require dispute resolution under subsection (e) of this section.

(3) This Memorandum of Understanding may be terminated by either agency upon at least 30 days written notice.

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 November 22, 1996.

TRD-9617025

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: December 13, 1996

Proposal publication date: September 3, 1996

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



## Chapter 101. General Rules

### 30 TAC §101.25

The commission adopts the repeal to §101.25, concerning Fees for Registration of Nonpermitted Facilities, without changes to the proposed text as published in the September 10, 1996, issue of the *Texas Register* (21 TexReg 8646).

**EXPLANATION OF ADOPTED RULE.** The adopted repeal of §101.25 eliminates the unnecessary requirement for the registration of facilities that were constructed before the former Texas Air Control Board implemented its permitting program. The deadline for the registration of such facilities was February 28, 1986. The Texas Clean Air Act (TCAA) requirement for this registration was repealed in 1991. There is no longer any need for the commission to require the registration of these "grandfathered" facilities.

**TAKINGS IMPACT ASSESSMENT.** The agency has prepared a Takings Impact Assessment for this repeal in accordance with Texas Government Code, §2007.043. The specific purpose of this adoption is to repeal an unnecessary registration requirement. Promulgation and enforcement of this repeal will not affect private real property.

**HEARING AND COMMENTERS.** A public hearing was held on October 8, 1996, in Austin. No public testimony was offered at the public hearing. The public comment period closed on October 10, 1996, and no written comments were received.

**STATUTORY AUTHORITY.** The repeal is adopted under the Texas Health and Safety Code, the TCAA, §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA. §101.25. Fees for Registration of Nonpermitted Facilities.

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 November 25, 1996.

TRD-9617165

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: December 16, 1996

Proposal publication date: September 10, 1996

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



## Chapter 121. Control of Air Pollution from Municipal Solid Waste Facilities

### Subchapter

#### 30 TAC §§121.1, 121.3, 121.11, 121.13, 121.15, 121.21

The commission adopts the repeals to §§121.1, 121.3, 121.11, 121.13, 121.15, and 121.21, concerning Control of Air Pollution from Municipal Solid Waste Facilities, without changes to the proposed text as published in the September 3, 1996, issue of the *Texas Register* (21 TexReg 8385). This adoption removes obsolete Chapter 121, which no longer applies to the review and issuance of agency permits for municipal solid waste (MSW) facilities. Current MSW permitting activities by the agency are not affected by this repeal.

BRIEF EXPLANATION OF THE RULES. Chapter 121 was adopted in 1986 in response to amendments to the Solid Waste Disposal Act (SWDA), enacted by House Bill (HB) 2358 of the 69th Legislature in 1985. The HB 2358 amendments, referred to as "one-stop permitting," simplified permitting procedures for MSW facilities by specifying that a permit from the former Texas Air Control Board (TACB) was not required for facilities subject to Texas Department of Health (TDH) permit requirements. In addition, the amendments required the TACB to perform air quality reviews of permit applications submitted to the TDH, but this requirement applied only to MSW facilities that incinerated waste. The intent of one-stop permitting was to consolidate the permitting process and eliminate duplicative requirements and procedures of the individual agencies responsible for permit review.

Senate Bill (SB) 2, enacted by the 72nd Legislature and effective September 1, 1993, created the Texas Natural Resource Conservation Commission by merging the TACB, TDH MSW Division, and other regulatory entities. As a result, the agency's MSW Division has taken over the TDH's responsibility for handling MSW facility permits relating to solid waste issues, while the agency's New Source Review Division reviews and issues permits relating to air quality issues. SB 2 also repealed the one-stop permitting sections contained in the SWDA, thus making the provisions of Chapter 121 obsolete. MSW permitting activities continue to be carried out by the agency's respective divisions.

In order to facilitate the issuance of air quality permits for MSW facilities, the commission adopted amendments to Chapter 116, concerning Control of Air Pollution by Permits for New Construction or Modification, on March 29, 1996. The amendments created new §116.621, regarding Municipal Solid Waste Landfills, which specifies criteria for new or modified MSW facilities and MSW landfills to obtain a standard permit. Standard permits offer a simplified, streamlined alternative to the general new source review process by establishing standardized conditions for specific industries or types of facilities. The repeal of Chapter 121 is not directly related to the recent adoption of the standard permit rule for MSW facilities. However, the standard permit provisions help assure expedited permit review and issuance for MSW facilities in the absence of a one-stop permitting process.

TAKINGS IMPACT STATEMENT. The commission has prepared a Takings Impact Assessment for these rules pursuant to Texas Government Code, §2007.043. The commission has determined that adoption of the repeal will not affect private real property because the change is only to eliminate obsolete procedures for permitting MSW facilities.

HEARING AND COMMENTERS. A public hearing on this proposal was held September 26, 1996, at the commission's Austin offices. Two written comments were received on the proposed amendments, one in favor and one opposing the proposal.

ANALYSIS OF TESTIMONY. The Galveston-Houston Association for Smog Prevention expressed opposition to the proposal, citing the air, odor, groundwater, and other environmental problems that can arise from MSW facilities. The commenter op-

posed standard permits or streamlined methods of permitting MSW facilities because of these factors.

Repeal of Chapter 121, the subject of this rulemaking, does not concern standard permits for MSW facilities. In its review and issuance of such permits, the staff will apply appropriate technical criteria to ensure that all regulatory requirements are met.

The City of Houston, Department of Solid Waste Management supported simplification of the MSW permitting process through repeal of Chapter 121. The department recommended periodic review by the agency to further streamline all regulations pertaining to MSW facilities.

The commission acknowledges support for the repeal, and will continue to look for ways to facilitate MSW permitting through the regulatory review process.

STATEMENT OF STATUTORY AUTHORITY. The repeals are adopted under the Texas Health and Safety Code, the Texas Clean Air Act (TCAA), §382.017, which provides the commission with the authority to adopt rules consistent with the policy and purposes of the TCAA.

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 November 25, 1996.

TRD-9617162

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: December 16, 1996

Proposal publication date: September 3, 1996

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

◆ ◆ ◆  
Chapter 330. Municipal Solid Waste

Subchapter R. Management of Whole Used or Scrap Tires

**30 TAC §330.860**

The Texas Natural Resource Conservation Commission (commission) adopts new §330.860, concerning the Special Authorization Priority Enforcement List, is adopted without changes to the proposed text as published in the September 24, 1996, issue of the *Texas Register* (21 TexReg 9135). A similar rule was adopted on an emergency basis by the commission on June 26, 1996, and was published in the July 12, 1996, issue of the *Texas Register* (21 TexReg 6299) as necessary to prevent imminent peril to the public health, safety, or welfare. The emergency rule was originally scheduled to expire on October 24, 1996, but was extended on September 11, 1996, by the commission to expire on December 23, 1996, as published in the September 24, 1996, issue of the *Texas Register* (21 TexReg 9131).

EXPLANATION OF ADOPTED RULE. The commission has received numerous complaints from state, city, and county health officials regarding the problems associated with whole

tires piling up at generator locations primarily in the West Texas area. The concerns include fire, the creation of breeding grounds for mosquitoes, snakes, and rodents, human health problems, as well as traffic safety due to tires piling up alongside roadways. Because generator locations are usually located in large population centers, the threat of fire is of particular concern since whole tire piles are easily ignited. An uncontrolled burning tire pile releases toxic chemicals into the air and may also result in contamination to groundwater.

Specifically, the new section establishes the Special Authorization Priority Enforcement List (SAPEL) which will consist of waste tires generated in specially-designated counties or regions which are not receiving adequate collection service and which, as set forth in the Texas Health & Safety Code, §361.476, pose a threat to public health and safety, or the environment. Additionally, the rule establishes the framework for a contracting mechanism whereby the agency may contract with collection entities designated by the executive director for the collection and transportation of SAPEL tires.

COMMENTERS. The comment period closed on October 24, 1996. The commission did not receive any comments concerning the new rule.

TAKINGS IMPACT ASSESSMENT. The commission has prepared a Takings Impact Assessment for this rule pursuant to Texas Government Code Annotated Section 2007.043. The following is a summary of that assessment. The specific purpose of the rule is to provide a framework that will allow the commission to prevent imminent peril to the public health, safety, and welfare by contracting with waste tire collection entities for the collection and transportation of scrap tires and tire pieces that are accumulating in certain West Texas counties and regions. The commission has received numerous complaints from state, city, and county health officials regarding the problems associated with whole tires piling up at generator locations. Tire shreds have piled up at storage sites and scrap tires are not being collected from generator locations, raising the threat of fires, creation of breeding grounds for mosquitoes, snakes, and rodents, and human health problems, as well as traffic safety due to tires piling up alongside roadways. The rule will substantially advance this specific purpose by establishing procedures for designating scrap tires and tire pieces as SAPEL in counties or regions not receiving adequate tire collection and which pose a threat to human health, safety, and welfare. Under statutory authority, the commission may contract for collection of the tires. Promulgation and enforcement of this rule will not affect, nor create a burden on, private real property because the rule pertains only to new procedures to facilitate the collection of accumulated scrap tires and tire pieces so as to eliminate the threat to public health, safety, and welfare, as well as the environment. The rule may be considered less stringent than the existing rules to the extent that the agency will be reducing the burden on the regulated community by supplementing its efforts in carrying out a currently-uneconomical task. Except for the exemptions which are specified in Senate Bill 14 and addressed above, there are no other identifiable exemptions that would apply to this rulemaking.

STATUTORY AUTHORITY. The new section is adopted under the authority of the Health & Safety Code, §361.011, which charges the commission with the responsibility of managing

solid waste, coordinating municipal solid waste activities, controlling all aspects of the management of municipal solid waste, and which grants the commission with the powers necessary or convenient to carry out those responsibilities; §361.024 which gives the commission the authority to adopt rules consistent with Chapter 361, Health & Safety Code; §5.229, Texas Water Code, which gives the executive director the authority to enter into contracts on behalf of the commission; and Health & Safety Code, §§361.475, 361.476, 361.477 and 361.484 which give the commission the authority to adopt rules necessary to implement Subchapter P, Chapter 361, Health & Safety Code, relating to the Waste Tire Recycling Program.

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 November 22, 1996.

TRD-9617024

Kevin McCalla

Director, Legal Division

Texas Natural Resource Conservation Commission

Effective date: December 13, 1996

Proposal publication date: September 24, 1996

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

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part X. Texas Water Development Board

#### Chapter 363. Financial Assistance Programs

The Texas Water Development Board (the board) adopts amendments to Chapter 363, Subchapter A, §363.42 concerning Loan Closing and Subchapter G, §363.721 concerning Loan Closing, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9767).

Amendments to §363.42 and §363.721 will add the requirement and instructions for closing all loans in Book-Entry-Only form through the Depository Trust Company. The Book Entry payment method allows principal and interest payments to be tracked via data base eliminating the need for handling and depositing checks and the safekeeping of a physical bond, and providing same day receipt of payments made to the board by political subdivisions whose bonds the board holds.

There were no comments received on the proposed amendments.

#### Subchapter A. General Provisions

##### Prerequisites to Release of Funds

###### 31 TAC §363.42

The amendment is adopted under the authority of the Texas Water Code, §6.101 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry

out the powers and duties in the Water Code and other laws of the State.

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 November 21, 1996.

TRD-9616966

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

Effective date: December 12, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 463-7981



## Subchapter E. Economically Distressed Areas Program

### 31 TAC §363.505

The Texas Water Development Board (the board) adopts an amendment to §363.505, concerning Calculation of Financial Assistance, without changes to the proposed text as published in the October 11, 1996 issue of the *Texas Register* (21 TexReg 9768).

New subsection (d) will allow the Board to provide funds as 100% grants to political subdivisions approved for construction funding through the Economically Distressed Areas Program under the Community Self-Help Program, which provides assistance to small communities using self-help initiatives coordinated through a contract between the board, the Rensselaerville Institute and WaterWorks.

No comments were received on the proposed amendment.

The amendment is adopted under the authority of the Texas Water Code, §6.101 and §16.342, which provide the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State including specifically the Economically Distressed Areas Program.

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 November 21, 1996.

TRD-9616969

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

Effective date: December 12, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 463-7981



## Subchapter G. Small Community Emergency Loan Program

## Closing and Release of Funds

### 31 TAC §363.721

The amendment is adopted under the authority of the Texas Water Code, §6.101 which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State.

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 November 21, 1996.

TRD-9616967

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

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Proposal publication date: October 11, 1996

For further information, please call: (512) 463-7981



## Chapter 375. State Water Pollution Control Revolving Fund

### Prerequisites to Release of Funds

#### 31 TAC §375.72

The Texas Water Development Board (the board) adopts an amendment to §375.72, concerning Loan Closing, without changes to the proposed text as published in the October 11, 1996 issue of the *Texas Register* (21 TexReg 9769).

The amendment to §375.72 will add the requirement and instructions for closing all loans in Book-Entry-Only form through the Depository Trust Company. The Book Entry payment method allows principal and interest payments to be tracked via data base eliminating the need for handling and depositing checks and the safekeeping of a physical bond, and providing same day receipt of payments made to the board by political subdivisions whose bonds the board holds.

No comments were received on the proposed amendment.

The amendment is adopted under the authority of the Texas Water Code, §6.101 and §15.605, which provides the Texas Water Development Board with the authority to adopt rules necessary to carry out the powers and duties in the Water Code and other laws of the State including specifically the SRF program.

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 November 21, 1996.

TRD-9616968

Craig D. Pedersen

Executive Administrator

Texas Water Development Board

Effective date: December 12, 1996



Proposal publication date: October 11, 1996  
For further information, please call: (512) 463-7981

◆ ◆ ◆  
**TITLE 34. PUBLIC FINANCE**

**Part I. Comptroller of Public Accounts**

**Chapter 1. Central Administration**

**Subchapter A. Practice and Procedure**

**34 TAC §1.1, §1.2**

The Comptroller of Public Accounts adopts the repeal of §1.1 and §1.2, concerning intent and scope of rules, and construction of rules of practice and procedure, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9044).

The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.1, concerning intent, scope, and construction of rules of practice and procedure.

No comments were received regarding adoption of the repeals

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617143  
Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts  
Effective date: December 16, 1996  
Proposal publication date: September 20, 1996  
For further information, please call: (512) 463-4062

◆ ◆ ◆  
**34 TAC §1.1**

The Comptroller of Public Accounts adopts new §1.1, concerning intent, scope, and construction of rules, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9044).

The Comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.1, concerning intent and scope of rules and §1.2, concerning construction of rules.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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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Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts  
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For further information, please call: (512) 463-4062

◆ ◆ ◆  
**34 TAC §1.3, §1.42**

The Comptroller of Public Accounts adopts the repeal of §1.3, and §1.42, concerning definitions and contested cases, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9045).

These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.42, concerning definitions.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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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Martin Cherry  
Chief, General Law  
Comptroller of Public Accounts  
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For further information, please call: (512) 463-4062

◆ ◆ ◆  
**34 TAC §1.7, §1.8**

The Comptroller of Public Accounts adopts the repeal of §1.7 and §1.8, concerning content of statement of grounds and preliminary conference, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9045).

The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.7, concerning content of statement of grounds and preliminary conferences.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



#### 34 TAC §1.7

The Comptroller of Public Accounts adopts new §1.7, concerning content of statement of grounds; preliminary conference, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9045).

The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.7, concerning content of statement of grounds and §1.8, concerning preliminary conference.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



#### 34 TAC §1.10, §1.12

The Comptroller of Public Accounts adopts the repeal of §1.10 and §1.12, concerning acceptance or rejection of position letter, and motion to dismiss petition or set for hearing, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9046).

The sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in §1.10, concerning acceptance or rejection of position letter and motion to dismiss petition or set for hearing.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



#### 34 TAC §1.10

The Comptroller of Public Accounts adopts new §1.10, concerning acceptance or rejection of position letter; motion to dismiss petition or set for hearing, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9047).

The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.10, concerning acceptance or rejection of position letter and §1.12, concerning motion to dismiss petition or set for hearing.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



### 34 TAC §§1.17, 1.21-1.26

The Comptroller of Public Accounts adopts the repeal of §§1.17, 1.21-1.26, concerning administrative law judge to hear case; conduct of hearing; rules of evidence; oral evidence, witnesses, and penalty for false statements; documentary evidence; evidence by official notice; and transcription of oral hearing, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9047).

These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in new §1.21, concerning oral hearings.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



### 34 TAC §1.18, §1.19

The Comptroller of Public Accounts adopts the repeal of §1.18 and §1.19, concerning filing of documents and inspection of file, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9048).

The rules are being repealed in order to combine this information with existing rules dealing with the same subject matter.

The information contained in these sections may be found in §1.18, concerning filing of documents and inspection of file.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617149

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



### 34 TAC §1.18

The Comptroller of Public Accounts adopts new §1.18, concerning filing of documents and inspection of file, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9048).

The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.18, concerning filing of documents and §1.19, concerning inspection of file.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617150

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



### 34 TAC §1.21

The Comptroller of Public Accounts adopts new §1.21, concerning oral hearings, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9049).

The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.21, concerning conduct of hearing, §1.17, concerning administrative law judge to hear case, §1.22, concerning rules of evidence, §1.23, concerning oral evidence, witnesses, and penalty for false statements, §1.24, concerning documentary evidence, §1.25, concerning evidence by official notice, and §1.26, concerning transcription of oral hearings.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617148

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: December 16, 1996

Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



### 34 TAC §1.37, §1.38

The Comptroller of Public Accounts adopts the repeal of §1.37 and §1.38, concerning joint hearings and severance, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9050).

These sections are being repealed in order to combine this information with a new section dealing with the same subject matter. The information contained in these sections may be found in new §1.37, concerning joint hearings and severance.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617151

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: December 16, 1996

Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



### 34 TAC §1.37

The Comptroller of Public Accounts adopts new §1.37, concerning joint hearings and severance, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9050).

The comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.37, concerning joint hearings and §1.38, concerning severance.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617152

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: December 16, 1996

Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



### 34 TAC §1.42

The Comptroller of Public Accounts adopts new §1.42, concerning definitions, without changes to the proposed text as published in the September 20, 1996, issue of the *Texas Register* (21 TexReg 9051).

The Comptroller has determined that rules of similar subject matter should be combined. The consolidation of rules will benefit the taxpayers of Texas and provide a more effective means of obtaining information. This new section consolidates §1.42, concerning definitions and §1.3, concerning contested cases.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §111.009 and §111.105.

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 November 25, 1996.

TRD-9617154

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: December 16, 1996

Proposal publication date: September 20, 1996

For further information, please call: (512) 463-4062



## Chapter 3. Tax Administration

### Subchapter C. Crude Oil Production Tax

#### 34 TAC §3.35

The Comptroller of Public Accounts adopts an amendment to §3.35, concerning reporting requirements for producers and purchasers, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10276).

The amendment is necessary because a repeal of 34 TAC §3.318, concerning oil operations, has been proposed. The text of that provision is being transferred to this rule for clarity. Information regarding an exemption from sales tax for crude oil may be found in the Tax Code, §151.308.

No comments were received regarding adoption of the amendment.

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

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

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### Subchapter O. State Sales and Use Tax

#### 34 TAC §§3.286, 3.335, 3.353

The Comptroller of Public Accounts adopts the repeal of §3.286, §3.335, and §3.353, concerning seller's and purchaser's responsibilities; filing reports; and cancellation of sales tax permits with no reported business activity, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10277).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. These sections are being repealed in order to simplify the consolidation of related sections into a single section. The substance of the current §3.286, §3.335, and §3.353 will be included in the new §3.286, concerning seller's and purchaser's responsibilities.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeals implement Tax Code, §111.002.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-3699



#### 34 TAC §3.286

The Comptroller of Public Accounts adopts a new §3.286, concerning seller's and purchaser's responsibilities, with changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10278).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. Therefore, current §3.286 is being proposed for repeal. The new section consolidates the substance of the current §3.335, concerning filing reports, §3.353, concerning cancellation of sales tax permits with no reported business activity, part of §3.311, concerning auctioneers; letter of waiver, and subsection (e) of §3.352, with the substance of current §3.286 as modified below.

The new section omits all definitions of "engaged in business" except those definitions requiring a "physical presence" in Texas. This was done in response to a United States Supreme Court Case, *Quill v. North Dakota* 112 S. Ct. 1094 (1992). Subsection (b)(2) states current policy on the length of time an out-of-state seller is obligated to collect Texas use tax after

the seller ceases to have a physical presence in Texas but continues to make Texas sales from an out-of-state location. Subsection (d)(3) states current policy requiring sellers and purchasers to be specific as to the type of taxes included in lump-sum contracts. Subsection (i)(2) implements legislation allowing retailers from the United Mexican States to give a resale certificate in lieu of tax for inventory items to be sold in the regular course of business. Subsection (g)(6) implements a legislative change and imposes a \$50 penalty for failure to file timely returns. The additional penalty is imposed on persons who have failed to file timely on at least two other occasions. Subsection (i)(5) implements a legislative change and lists the penalties for persons who use invalid resale or exemption certificates to avoid or evade sales or use tax. Subsection (g)(5) implements a legislative change replacing the 12% interest rate compounded monthly with 12% simple interest.

A grammatical error in subsection (a)(1)(E) and (F) of the proposed section has been corrected.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §§111.0046, 151.008, 151.024, 151.051, 151.053, 151.054, 151.103, 151.107, 151.202, 151.203, 151.410, 151.7031, and 151.707.

*§3.286. Seller's and Purchaser's Responsibilities.*

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

(1) Engaged in business. A retailer is engaged in business in Texas if the retailer is:

(A) maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through an agent, by whatever name called, an office, place of distribution, sales or sample room, warehouse or storage place, or other place of business;

(B) having any representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the seller for the purpose of selling, delivering, or taking orders for any taxable items;

(C) promoting a flea market, trade day, or other event involving the sales of taxable items;

(D) utilizing independent salespersons in direct sales of taxable items;

(E) deriving receipts from a lease of tangible personal property located in this state;

(F) allowing a franchisee or licensee to operate under its trade name if the franchisee or licensee is required to collect Texas sales or use tax; or

(G) conducting business in this state through employees, agents, or independent contractors.

(2) Place of business of the seller - For tax permit requirement purposes means an established outlet, office, or location

operated by the seller, his agent, or employee for the purpose of receiving orders for taxable items. A warehouse, storage yard, or manufacturing plant may not be considered a "place of business of the seller" for tax permit requirement purposes unless three or more orders are received by the seller in a calendar year at the warehouse, storage yard, or manufacturing plant.

(3) Seller - Every retailer, wholesaler, distributor, manufacturer, or any other person who sells, leases, rents, or transfers ownership of taxable items for a consideration. A promoter of a flea market, trade day, or other event involving the sales of taxable items is a seller and is responsible for the collection and remittance of the sales tax collected by dealers, salespersons, or individuals at such events unless the participants hold active sales tax permits issued by the comptroller. A direct sales organization engaged in business as defined in paragraph (1)(D) of this subsection is a seller and is responsible for the collection and remittance of the sales tax collected by the independent salespersons selling the organization's product. Pawnbrokers, storagemen, mechanics, artisans, or others selling property to enforce a lien are also sellers. An auctioneer who does not receive payment for the item sold, does not issue a bill of sale or invoice to the purchaser of the item, and who does not issue a check or other remittance to the owner of the item sold by the auctioneer is not considered a seller responsible for the collection of the tax. In this instance, it is the owner's responsibility to collect and remit the tax. Auctioneers should refer to §3.311 of this title (relating to Auctioneers, Brokers, and Factors).

(4) Special purpose district - A district or other local taxing jurisdiction funded by a sales tax that is governed by the County Sales and Use Tax Act, Chapter 323.

(b) Permits required.

(1) Every seller must apply to the comptroller for a tax permit for each place of business.

(2) Every out-of-state seller engaged in business in this state must apply to the comptroller for a tax permit. An out-of-state seller that has been engaged in business in Texas continues to be responsible for collecting Texas use tax on sales made into Texas for 12 months after the seller ceases to be engaged in business in Texas.

(3) Independent salespersons of direct sales organizations will not be required to hold sales tax permits. It is the responsibility of the direct sales organizations to hold Texas permits and to collect Texas tax.

(c) Obtaining a permit.

(1) An application will be furnished by the comptroller and must be filled out completely. After the application is filled out and returned to the comptroller, together with whatever bond or other security is required by §3.327 of this title (relating to Taxpayer's Bond or Other Security), a separate permit under the same account will be issued to the applicant for each place of business. The permit is issued without charge.

(2) Each legal entity (corporation, partnership, sole proprietor, etc.) must apply for its own permit. The permit cannot be transferred from one owner to another. It is valid only for the person to whom it was issued and for the transaction of business only at the address shown on the permit. If a person operates two or more types of business under the same roof, only one permit is needed.

(3) The permit must be conspicuously displayed at the place of business for which it is issued. However, a person who has traveling salesmen operating from one central office needs only one permit, which must be displayed at the central office.

(4) All permits of the seller will have the same taxpayer number; however, each business location will have a different outlet number. The outlet numbers assigned may not necessarily correspond to the number of business locations owned by a taxpayer.

(d) Collection and remittance of the tax.

(1) Each seller must collect the tax on each separate retail sale in accordance with the statutory bracket system in the Tax Code, §151.053. Copies of the bracket system should be displayed in each place of business so both the seller and the customers may easily use them. The tax is a debt of the purchaser to the seller until collected.

(2) The sales tax applies to each total sale, not to each item of each sale. For example, if two items are purchased, each costing \$ .07, the seller must collect the tax on the total selling price of \$ .14. Tax must be reported and remitted to the comptroller as provided by the Tax Code, §151.410. When tax is collected properly under the bracket system, any over-collection need not be remitted by the seller. Conversely, when the tax collected under the bracket system is less than the tax due on the total receipts, the seller is responsible for remitting tax on total receipts even though not collected from customers.

(3) The amount of the sales tax must be separately stated on the bill, contract, or invoice to the customer or there must be a written statement to the customer that the stated price includes sales or use taxes. Contracts, bills, or invoices merely stating that "all taxes" are included are not specific enough to relieve either party to the transaction of its sales and use tax responsibilities. The total amount shown on such documents will be presumed to be the taxable item's sales price, without tax included. The seller or customer may overcome the presumption by using the seller's records to show that tax was included in the sales price. Out-of-state sellers must identify the tax as Texas sales or use tax.

(4) It is unlawful for any seller to advertise or hold out to the public that the seller will assume, absorb, or refund any portion of the tax, or that the seller will not add the tax to the selling price of the taxable items being sold.

(5) The practice of rounding off the amount of tax due on the sale of a taxable item is prohibited. Tax must be added to the sales price according to the statutory bracket system.

(e) Payment of the tax.

(1) Each seller or purchaser owing tax not collected by a seller must remit tax on all receipts from the sales or purchases of taxable items less any applicable deductions. On or before the 20th day of the month following each reporting period, each person subject to the tax shall file a consolidated return together with the tax payment for all businesses operating under the same taxpayer number. Reports and payments due to be submitted on due dates occurring on Saturdays, Sundays, or legal holidays may be submitted the next business day.

(2) The returns must be signed by the person required to file the report or by the person's duly authorized agent, but need not be verified by oath.

(3) The returns will be filed on forms prescribed by the comptroller. The fact that the seller or purchaser does not receive the form or does not receive the correct forms from the comptroller for the filing of the return does not relieve the seller or purchaser of the responsibility of filing a return and paying the required tax.

(f) Reporting period.

(1) Sellers, and purchasers owing tax not collected by sellers, who have less than \$1,500 in state tax per quarter to report may file returns quarterly. The quarterly reporting periods end on March 31st, June 30th, September 30th, and December 31st. The returns are to be filed on or before the 20th day of the month following the period ending date.

(2) Sellers, and purchasers owing tax not collected by sellers, having less than \$1,000 state tax to report during a calendar year and with authorization from the comptroller's office may file yearly returns.

(A) Authorization to file returns on a yearly basis will be conditioned on the correct filing of prior returns.

(B) Authorization to file returns on a yearly basis will be denied if a taxpayer's liability exceeded \$1,000 in the prior calendar year.

(C) A taxpayer filing on a yearly basis without authorization will be liable for applicable penalty and interest on any previously unreported quarter.

(D) Authority to file on a yearly basis is automatically revoked if a taxpayer's state sales and use tax liability is greater than \$1,000 during a calendar year. The taxpayer must file a return for that month or quarter, depending on the amount, in which the liability is greater than \$1,000. On that report, the taxpayer must report all accrued liability for the year and must file monthly or quarterly, as appropriate, as long as the yearly tax liability is greater than \$1,000.

(E) Once each year all accounts will be reviewed to confirm yearly filing status and to authorize permit holders who meet the filing requirements to begin filing yearly returns.

(F) Yearly filers must report on a calendar year basis. The return and payment are due on or before January 20th of the next calendar year.

(3) Sellers, and purchasers owing tax not collected by sellers, who have \$1,500 or more in state tax per quarter to report must file monthly returns except for sellers who prepay the tax.

(4) Every taxpayer required to file city, county, and Metropolitan Transit Authority/City Transit Department (MTA/CTD) sales and use tax returns must file them at the same time the state sales and use tax returns are filed.

(5) State agencies. State agencies that deposit taxes directly with the comptroller's office according to Accounting Policy Statement Number 12 are not required to file a separate tax return. A fully completed deposit request voucher is deemed to be the return filed by these agencies. Subsection (f)(1)-(3) of this section do not apply to these state agencies. Taxes must be deposited with the comptroller's office within the time period otherwise specified by law for deposit of state funds.

(g) Filing the return; prepaying the tax; discounts; penalties.

(1) The comptroller will make forms available to all persons required to file returns. The failure of the taxpayer to obtain the forms will not relieve that taxpayer from the requirement to file and remit the tax timely. Each taxpayer may claim a discount for timely filing and payment as reimbursement for the expense of collecting the tax. The discount is equal to 0.5% of the amount of tax due.

(2) The return for each reporting period must reflect the total sales, taxable sales, and taxable purchases for each outlet. The 0.5% discount for timely filing and payment may be claimed on the return for each reporting period and computed on the amount timely reported and paid with that return.

(3) Prepayments may be made by taxpayers who file monthly or quarterly returns. The amount of the prepayment should be a reasonable estimate of the state and local tax liability for the entire reporting period. "Reasonable estimate" means at least 90% of the total amount due or an amount equal to the actual net tax liability due and paid for the same reporting period of the immediately preceding year.

(A) A taxpayer who makes a prepayment based upon an estimate of tax liability may retain an additional discount of 1.25% of the amount due.

(B) The monthly prepayment is due on or before the 15th day of the month for which the prepayment is made

(C) The quarterly prepayment is due on or before the 15th day of the second month of the quarter for which the tax is due.

(D) On or before the 20th day of the month following the quarter or month for which a prepayment was made, the taxpayer must file a return showing the actual liability and remit any amount due in excess of the prepayment. If there is an additional amount due, the taxpayer may retain the 0.5% reimbursement provided that both the return and the additional amount due are timely filed. If the prepayment exceeded the actual liability, the taxpayer will be mailed an overpayment notice or refund warrant.

(4) Remittances which are less than a reasonable estimate as required by paragraph (3) of this subsection will not be regarded as a prepayment. The 1.25% discount will not be allowed. If the taxpayer owes more than \$1,500 in a calendar quarter, the taxpayer will be regarded as a monthly filer. All monthly reports not filed because of the invalid prepayment will be subject to late filing penalty and interest.

(5) If a taxpayer does not file a quarterly or monthly return together with payment on or before the due date, the taxpayer forfeits all discounts and incurs a mandatory 5.0% penalty. After the first 30 days delinquency, an additional mandatory penalty of 5.0% is assessed against the taxpayer, and after the first 60 days delinquency, interest begins to accrue at the rate of 12%.

(6) Permit holders are required to file sales and use tax returns monthly, quarterly, or yearly as set out in subsection (f) of this section. The sales and use tax returns must be filed even if there is no tax to report for the reporting period. A person who has failed to file timely reports on two or more previous occasions must pay an additional penalty of \$50 for each subsequent report that is not filed timely. The penalty is due regardless of whether the person subsequently files the report or whether no taxes are due for the reporting period.

(h) Records required.

(1) Records must be kept for four years, unless the comptroller authorizes in writing a shorter retention period. Exemption and resale certificates must be kept for four years following the completion of the last sale covered by the certificate. See §3.281 of this title (relating to Records Required; Information Required) and §3.282 of this title (relating to Auditing Taxpayer Records).

(2) The comptroller or an authorized representative has the right to examine any records or equipment of any person liable for the tax in order to verify the accuracy of any return made or to determine the tax liability in the event no return is filed.

(i) Resale and exemption certificates.

(1) Any person selling taxable items in this state must collect a tax on the taxable items so sold unless a valid and properly completed resale, exemption, direct payment exemption certificate, or maquiladora exemption certificate is received from the purchaser. Simply having permit numbers on file without properly completed certificates does not relieve the seller from the responsibility for collecting tax.

(2) A seller may accept a resale certificate only from a purchaser who is in the business of reselling the taxable items within the geographical limits of the United States of America, its territories and possessions, or in the United Mexican States. See §3.285 of this title (relating to Resale Certificate; Sales for Resale). To be valid, the resale certificate must show the 11-digit number from the purchaser's Texas tax permit or the out-of-state registration number of the out-of-state purchaser.

(3) A seller may accept an exemption certificate in lieu of the tax on sales of items that will be used in an exempt manner or on sales to exempt entities. See §3.287 of this title (relating to Exemption Certificates). There is no exemption number. An exemption certificate does not require a number to be valid.

(4) A purchaser claiming an exemption from the tax must issue to the seller a properly completed resale or exemption certificate. The seller must act in good faith when accepting the resale or exemption certificate. If a seller has actual knowledge that the exemption claimed is invalid, the seller must collect the tax.

(5) A person who intentionally or knowingly makes, presents, uses, or alters a resale or exemption certificate for the purpose of evading sales or use tax is guilty of a criminal offense:

(A) if the tax evaded by the invalid certificate is less than \$20, the offense is a Class C misdemeanor;

(B) if the tax evaded by the invalid certificate is \$20 or more but less than \$200, the offense is a Class B misdemeanor;

(C) if the tax evaded by the invalid certificate is \$200 or more but less than \$750, the offense is a Class A misdemeanor;

(D) if the tax evaded by the invalid certificate is \$750 or more but less than \$20,000, the offense is a felony of the third degree;

(E) if the tax evaded by the invalid certificate is \$20,000 or more, the offense is a felony of the second degree.

(6) Direct payment permit holders are entitled to issue an exemption certificate when purchasing all taxable items, other than those purchased for resale. The direct payment exemption



certificate must show the purchaser's direct payment permit number. See §3.288 of this title (relating to Direct Payment Procedures and Qualifications).

(7) Maquiladora export permit holders are entitled to issue a maquiladora exemption certificate when purchasing tangible personal property, other than that purchased for resale. Maquiladora export permit holders should refer to §3.358 of this title (relating to Maquiladoras).

(8) The seller should obtain a properly executed resale or exemption certificate at the time a transaction occurs. All certificates obtained on or after the date the auditor actually begins work on the audit at the seller's place of business or on the seller's records are subject to verification. All incomplete certificates will be disallowed regardless of when they were obtained. The seller has 60 days from the date written notice is received by the seller from the comptroller in which to deliver certificates to the comptroller. For the purposes of this section, written notice given by mail is presumed to have been received by the seller within three business days from the date of deposit in the custody of the United States Postal Service. The seller may overcome the presumption by submitting proof from the United States Postal Service or by other competent evidence showing a later delivery date. Any certificates delivered to the comptroller during the 60-day period will be subject to verification by the comptroller before any deductions will be allowed. Certificates delivered to the comptroller after the 60-day period will not be accepted and the deduction will not be granted. See §3.285 of this title (relating to Resale Certificate; Sales for Resale), §3.287 of this title (relating to Exemption Certificates), §3.288 of this title (relating to Direct Payment Procedures and Qualifications) and §3.282 of this title (relating to Auditing Taxpayer Records).

(j) Suspension of permit.

(1) If a person fails to comply with any provision of the Tax Code, Title 2, or with the rules issued by the comptroller under those statutes, the comptroller may suspend the person's permit or permits.

(2) Before a seller's permit is suspended, the seller is entitled to a hearing before the comptroller to show cause why the permit or permits should not be suspended. The comptroller shall give the seller at least 20 days notice, which shall be in accordance with the requirements of §1.14 of this title (relating to Notice of Setting).

(3) After a permit has been suspended, a new permit will not be issued to the same seller until the seller has posted sufficient security and satisfied the comptroller that the seller will comply with both the provisions of the law and the comptroller's rules and regulations.

(k) Refusal to issue permit. The comptroller is required by the Tax Code, §111.0046, to refuse to issue any permit to a person who:

(1) is not permitted or licensed as required by law for a different tax or activity administered by the comptroller; or

(2) is currently delinquent in the payment of any tax or fee collected by the comptroller.

(l) Cancellation of sales tax permits with no reported business activity.

(1) Permit cancellation due to abandonment. Any holder of a sales tax permit who reported no business activity in the previous calendar year is hereby deemed to have abandoned the permit, and the permit is hereby canceled by the comptroller. "No Business Activity" means zero total sales, zero taxable sales, and zero taxable purchases.

(2) Re-application. Nothing herein shall prohibit any applicant from receiving a new sales tax permit upon request provided the issuance is not prohibited by subsection (k)(1) or (2) of this section, or by the Tax Code, §111.0046.

(m) Direct payment. Yearly and quarterly filing requirements, prepayment procedures and discounts for timely filing do not apply to holders of direct payment permits. See §3.288 of this title (relating to Direct Payment Procedures and Qualifications). Direct payment returns and remittances are due monthly on or before the 20th day of the month following the end of the calendar month for which payment is made.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-3699

◆ ◆ ◆  
**34 TAC §3.292**

The Comptroller of Public Accounts adopts the repeal of §3.292, concerning repair, remodeling, maintenance, and restoration of tangible personal property, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10282).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The section is being repealed in order to simplify the consolidation of related sections into a single section. The new §3.292 includes the substance of the current §3.292, and the substance of §3.359 relating to repairs to private aircraft.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, §111.002.

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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Comptroller of Public Accounts  
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### 34 TAC §3.292

The Comptroller of Public Accounts adopts new §3.292, concerning the repair, remodeling, maintenance, and restoration of tangible personal property, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10282).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The new section consolidates the substance of the current §3.292 with the substance of §3.359, concerning repairs to private aircraft. Subsection (a)(8) of the new section refers flight school operators and students to 34 TAC §3.297, concerning carriers. Subsection (i)(3) of the new section also refers individuals who work on jet turbine aircraft engines to 34 TAC §3.300, concerning manufacturing; custom manufacturing; fabricating; processing.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The new section implements the Tax Code, §§151.0101, 151.058, 151.151, 151.3111, 151.328, 151.338, and 151.350.

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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For further information, please call: (512) 463-3699



### 34 TAC §3.318

The Comptroller of Public Accounts adopts the repeal of §3.318, concerning oil operations, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10284).

This section is unnecessary as the exemption from sales tax for crude oil is found in the Tax Code, §151.308. Information regarding taxation of crude oil may be found in 34 TAC §3.35, concerning Reporting Requirements for Producers and Purchasers.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, §111.002.

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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## Subchapter W. Comptroller of Public Accounts

### 34 TAC §§3.601, 3.606, 3.608, 3.610

The Comptroller of Public Accounts adopts the repeal of §§3.601, 3.606, 3.608, and 3.610, concerning definitions; record keeping requirements; gross receipts regulations; and changes in ownership information or other reporting information, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10285).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The new §3.601 includes the substance of the current §3.601, concerning definitions, §3.606, concerning record keeping requirements, §3.608, concerning gross receipts regulations, and §3.610, concerning changes in ownership information or other reporting information.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Texas Civil Statutes, Articles 8801 et seq.

The repeals implement the Tax Code, §111.002 and §111.0022.

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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Chief, General Law  
Comptroller of Public Accounts

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For further information, please call: (512) 463-3699

◆ ◆ ◆  
**34 TAC §3.601**

The Comptroller of Public Accounts adopts new §3.601, concerning definitions, changes in ownership information or other reporting information, gross receipts regulations, and record keeping requirements, with changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10285).

The comptroller has determined that the consolidation of sections of similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. Therefore, current §3.601, concerning definitions, is being proposed for repeal. The new section consolidates the substance of the current §3.601 with the substance of §3.606, concerning record keeping requirements, §3.608, concerning gross receipts regulations, and §3.610, concerning changes in ownership information or other reporting information.

The changes to the proposed text will add tax code references behind the section title and will replace the word "rule" with the word "section" in subsection (d)(1). The changes are consistent with format and language adopted in other sections.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Texas Civil Statutes, Articles 8801 et seq.

The new section implements Texas Civil Statutes, Articles 8801, 8802, 8810, and 8817, §§1(a) , 2, 10, 12, and 14.

*§3.601. Definitions, Changes in Ownership, Gross Receipts Regulations, and Record Keeping Requirements.*

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

(1) Gross receipts - The total sum of money derived from the operation of a coin-operated machine which vends music, skill, or pleasure.

(2) Issue a license - A license issued on an applicant's original application or a license issued on an application for renewal.

(3) License - A general business license, import license, or repair license issued by the comptroller.

(4) Machine or amusement machine - All machines which vend or dispense music, or are operated for skill or pleasure. A machine in an independent cabinet with a separate central control mechanism shall be considered a separate machine in regard to occupation tax requirements. A machine which is no longer functional, and has been permanently taken out of service, will not be considered to be a coin-operated machine operated for music, skill, or pleasure. In this context permanently taken out of service means

it is no longer financially practical to operate the machine and it will be used only for parts.

(5) Machines designed exclusively for children - Machines which can only be used for skill or pleasure by a child under 12 years of age.

(6) Owner of a registration certificate - An owner who possesses a valid registration certificate issued by the comptroller.

(7) Permit - The decal issued by the comptroller to an owner of a coin-operated machine evidencing the payment of the occupation tax.

(8) Person - Any natural person, association of natural persons, trustee, receiver, partnership, corporation, organization, or the manager, agent, servant or employee of any of them.

(9) Video game - An electronic mechanism played for skill or pleasure by means of images on a screen. Each cabinet which holds a game of skill or pleasure by means of images on a screen constitutes an independent operation subject to the occupation tax.

(b) Changes in ownership. Changes in ownership are reported in the following manner:

(1) if any partner of a partnership; trustee of a trust; receiver of a receivership; officer or director of a corporation; shareholder owning 10% or more of the outstanding shares of a corporation; individual applicant or licensee; officer, director or member of an association or other entity changes from the date the last ownership information was filed with the comptroller, written notification of the ownership change must be filed with the comptroller within 10 days of the ownership change;

(2) if any information on an application changes from the date the last application was filed or any information changes from the last date the comptroller was notified of an information change, including the change of ownership of any machine owned by the registration certificate holder, written notification of the change must be filed with the comptroller within 10 days of the change;

(3) if the owners of a corporation change, a written notification of the change must be filed with the comptroller within 10 days of the change. The business entity may continue to operate under its existing license or registration certificate;

(4) if partners in a partnership change or a business entity dissolves, the successor in interest must request a temporary extension of a license or file an application for a new license. A successor in interest is one who assumes the ownership interest of a business entity but does not include the purchaser of the assets of the entity. To request a temporary extension of a license, the successor in interest must file with the comptroller a certification by the county judge of the county in which the business is located that the person requesting the extension is successor in interest. In the case of a sole proprietor, only when there is a successor in interest as the result of the death of the licensee can there be an extension of a license. The death of this licensee must be certified by a county judge of the county in which the business is located, or by the judge of the probate court in the county in which the estate of the deceased licensee is probated. In all other instances, the entity assuming a sole proprietor's interest must obtain a license. At the time of renewal of a license that has been extended, the successor in interest must file an original license application; and

(5) if a sole proprietor owner of a registration certificate dies, the successor in interest must notify the comptroller in writing. The successor in interest may then continue to use the registration certificate until its expiration at which time the successor in interest must file an original application for a registration certificate. In all other instances, the successor in interest of the owner of a registration certificate shall file an application for a new registration certificate.

(c) Gross receipts regulations. The following regulations apply to gross receipts:

(1) distribution of gross receipts from amusement machines. The term "gross receipts from an amusement machine" is defined to be the total sum of money derived from the operation of a coin-operated machine which vends music, skill, or pleasure. No licensee shall enter into a contract or offer to contract with a bailee or lessee (location operator) of an amusement machine to compensate the bailee or lessee in excess of 50% of the gross receipts from an amusement machine, except that a licensee may refund a bailee or lessee of an amusement machine all money accepted by an amusement machine due to its malfunction. Before any money may be refunded under this exception, the name, address, and telephone number of the person who deposited money in the malfunctioning machine together with the sum of money deposited by him must be supplied to the licensee;

(2) collection records of distribution of gross receipts from an amusement machine. Complete and separate records showing the distribution of the gross receipts for each location that an amusement machine is operated shall be made on each and every occasion the licensee or one of his employees collects money from the cash box of an amusement machine placed in operation. These records showing the distribution of the gross receipts for each location that an amusement machine is operated shall be kept by a licensee at their designated address. These records shall be kept by the licensee for a period of two years; and

(3) entry to cash boxes of amusement machines. No licensee shall allow the bailee or lessee of an amusement machine to open or gain entry in any manner to the cash box except a coin-operated machine equipped with an income meter that totals or computes the sum of money deposited in the machine in dollars and cents. All keys to the cash box of a coin-operated machine other than a machine expressly exempt by this rule shall at all times remain in the possession of the licensee or his employees.

(d) Record keeping requirements. The following requirements are imposed on record keeping:

(1) in addition to all other record keeping requirements, each licensee shall maintain at the designated address, for inspection at all times by the comptroller, a record of each and every amusement machine purchased, received, possessed, controlled, handled, exhibited, or operated by him in this state as long as the licensee owns the machine and for two years after the date the licensee ceases to own the machine. Under this section the following information shall be shown in the licensee's records:

(A) the full name and address of the owner of each and every machine, or if other than an individual, the principal officers or members thereof and their addresses;

(B) the date each machine was acquired or received in Texas;

(C) the make, type, and serial number of each and every machine;

(D) the date each machine was first placed in operation;

(E) the date of the first and most recent registration of each machine;

(F) the location or locations of each machine including county, city, street, and/or rural route number;

(G) every change in ownership of each machine;

(H) the distribution of the gross receipts for each location that a machine is located and the receipts from each machine;

(I) the date each machine was taken out of operation, the reason the machine was taken out of operation, and the location of a machine taken out of operation or the description of the final disposition of a machine; and

(J) all contracts made with location owners;

(2) depreciation schedules and federal income tax returns must be maintained for four years to be in compliance with the sales tax statutes; and

(3) purchase invoices for the machines must be maintained for four years to be in compliance with the sales tax statutes.

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 November 26, 1996.

TRD-9617241

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-3699

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**34 TAC §§3.602, 3.604, 3.607, 3.609**

The Comptroller of Public Accounts adopts the repeal of §§3.602, 3.604, 3.607, and 3.609, concerning license and registration certificate renewal and occupation tax permit renewal due dates; licenses and registration certificates; tax permits; and exemptions, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10287).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The new §3.602 includes the substance of the current §3.602, concerning license and registration certificate renewal and occupation tax permit renewal due dates, §3.604, concerning licenses and registration certificates, §3.607, concerning tax permits, and §3.609, concerning exemptions.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Texas Civil Statutes, Articles 8801 et seq.

The repeals implement the Tax Code, §111.002 and §111.0022.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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### 34 TAC §3.602

The Comptroller of Public Accounts adopts a new §3.602, concerning licenses and certificates, renewals and due dates, occupation tax permits and exemptions, with changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10288).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. Therefore, current §3.602, concerning license and registration certificate renewal and occupation tax permit renewal due dates, is being proposed for repeal. The new section consolidates the substance of the current §3.602 with §3.604, concerning licenses and registration certificates, §3.607, concerning tax permits, and §3.609, concerning exemptions.

The change to the proposed text will replace "December 1" with "December 31" in subsection (c)(1). This change is consistent with the statute.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002, and §111.0022, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2, and other functions assigned to the comptroller by law.

The new section implements the Texas Civil Statutes, Articles 8802, (1) and (3), 8806, and 8817, §§4, 8, 9, 13, and 16.

*§3.602. Licenses and Certificates, Renewals and Due Dates, Occupation Tax Permits and Exemptions.*

(a) Licenses and registration certificates.

(1) Annual general business, import, and/or repair license fees, and registration certificate fees. Annual license and registration certificate fees are payable in advance and cannot be prorated quarterly.

(2) Age requirement for issuance of a license. No natural person shall be issued a license by the comptroller for the operation of coin-operated machines unless at the time the license is issued the applicant is above the age of 18 years.

(3) Information requirement for issuance of a license or registration certificate. An applicant for a license or registration certificate must complete all information asked for in the comptroller's application before a license or registration certificate will be issued or renewed.

(4) Registration certificate notification requirement. A registration certificate holder must notify the comptroller in writing of any change in ownership of a machine and each time the location of a machine is changed within 10 days of the change.

(5) Occasional sale exemption for registration certificate holder. A registration certificate holder may make one or two sales of coin-operated machines during any 12-month period if the certificate holder does not hold out as engaging (or does not habitually engage) in the business of selling coin-operated machines without losing the licensing exemption. Before the third sale of a coin-operated machine in a 12-month period by a certificate holder not previously in the business of selling, leasing, or renting coin-operated machines, a general business or import license must be obtained. The transfer of title or possession of more than one machine in a single transaction will constitute one sale.

(b) Annual general business, import and repair license renewals, and annual occupation tax.

(1) License renewal applications are due November 30. License renewal applications will not be considered complete for processing unless the tax due as well as the license fee is remitted. Complete license renewal applications filed after the due date may result in the renewal license being issued after December 31, the expiration date of the existing license. In such a case a person may not operate amusement machines after the expiration date until the renewal license is issued. A person who operates amusement machines without a license or with an expired license is guilty of a Class B misdemeanor.

(2) An applicant who properly completes the application and remits all fees and taxes with it by the due date may continue to operate amusement machines after the expiration date if the applicant's license renewal has not been issued unless the applicant is notified by the comptroller prior to the license expiration date of a problem with the license renewal.

(c) Annual registration certificate renewals and annual occupation tax.

(1) Registration certificate renewal applications are due November 30. Registration certificate renewal applications will not be processed unless the tax due as well as the registration fee is remitted. Registration certificate renewal applications filed after the due date may result in the renewal registration certificate being issued after December 31, the expiration date of the existing registration certificate. In such a case, a person may not operate amusement machines after the expiration date until the renewal certificate is issued. A person who operates amusement machines without a registration certificate or with an expired registration certificate is guilty of a Class B misdemeanor.

(2) An applicant who properly completes the application and remits all fees and taxes with it by the due date may continue to operate amusement machines after the expiration date even if the registration certificate renewal has not been issued unless the applicant is notified by the comptroller prior to the registration certificate expiration date of a problem with the registration certificate renewal.

(3) License and registration certificate fees may not be prorated quarterly and the annual license or registration fee must be submitted with an application.

(d) Occupation tax permits.

(1) Occupation tax. Each amusement machine is subject to the occupation tax at the time a person exhibits, displays, or permits a machine to be exhibited or displayed in this state with the exception of annual renewals. The occupation tax for annual renewals for each machine exhibited or displayed or permitted to be exhibited or displayed in this state is due November 30 of each year.

(2) Rate schedule. The following rate schedule will be applicable to machines first exhibited or displayed or permitted to be exhibited or displayed in this state in any quarter of the calendar year:

Figure: 34 TAC 3.602(d)(2)

(3) Replacement of lost, stolen, or destroyed valid Occupation Tax Permits. The comptroller shall provide a duplicate permit if a valid permit has been lost, stolen, or destroyed. The fee for each duplicate permit is \$5.00. If a tax permit is lost, stolen, or destroyed, a written statement must be submitted explaining the circumstances by which the tax permit was lost, stolen, or destroyed, and including the number of the lost, stolen, or destroyed permit, before a replacement permit can be issued. A permit for which a duplicate permit has been issued is void.

(4) Assignment of tax permits. Each coin-operated machine operated for music, skill, or pleasure shall be registered with the comptroller by make, model, and serial number. A tax permit issued by the comptroller shall be affixed to each registered machine. Each coin-operated machine shall have a serial number and the name and telephone number of the owner of said machine that is clearly visible on the outside surface of the machine cabinet. If a coin-operated machine is not manufactured with a serial number, a licensee or registration certificate holder shall assign a serial number to the machine and either stamp or engrave the assigned number on the machine cabinet. If all these requirements have been met, a tax permit may be assigned upon the transfer of title or possession of a machine.

(5) Attachment of tax permits. Tax permits shall be securely affixed to any permanent surface on a machine in such a manner that the tax permits may be clearly seen by the public and cannot be removed without the continued application of steam and water. Tax permits shall not be attached to a machine which has not been registered with the comptroller.

(6) Issuance of extra tax permits. No tax permits will be issued except for machines exhibited or displayed on location. The taxpayer shall not stockpile permits nor shall any permits be affixed to unregistered machines.

(7) Exemptions. In order to establish that an organization is exempt from the license requirements pursuant to the Coin-

Operated Services Law, Texas Civil Statutes, Article 8817, §8, it must do the following:

(A) submit a written statement to the comptroller setting out in detail the nature of the activities conducted or to be conducted, a copy of the articles of incorporation if the organization is a corporation, a copy of the bylaws, a copy of any applicable trust agreement or a copy of its constitution, and a copy of any letter granting exemption from the Internal Revenue Service; and

(B) furnish any additional information requested by the comptroller including, but not limited to, documentation showing all services performed by the organization and all income, assets, and liabilities of the organization.

(8) Written notice. After a review of the material, the comptroller will inform the organization in writing if it qualifies for an exemption.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-3699



## Subchapter Y. Controlled Substances Tax

### 34 TAC §3.681

The Comptroller of Public Accounts adopts the repeal of §3.681, concerning imposition and rate of tax, without changes to the proposed text as published in the October 15, 1996, issue of the *Texas Register* (21 TexReg 10171).

The section is being repealed because it virtually mirrors language found in Tax Code, Chapter 159, without adding any substantive meaning or interpretation. This section is therefore unneeded.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements the Tax Code, Chapter 159.

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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Martin Cherry

Chief, General Law

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### 34 TAC §3.682

The Comptroller of Public Accounts adopts an amendment to §3.682, concerning tax payment certificates, without changes to the proposed text as published in the October 15, 1996, issue of the *Texas Register* (21 TexReg 10171).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The sections are being repealed in order to simplify the consolidation of related sections into a single section. The substance of §3.684, concerning records required, confidentiality is being transferred to this section.

No comments were received regarding adoption of the amendment.

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

The amendment implements the Tax Code, Chapter 159.

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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### 34 TAC §3.684

The Comptroller of Public Accounts adopts the repeal of §3.684, concerning records required, confidentiality, without changes to the proposed text as published in the October 15, 1996, issue of the *Texas Register* (21 TexReg 10172).

The comptroller has determined that the consolidation of sections dealing with similar subject matter will benefit taxpayers by providing a more effective means of obtaining information. The section is being repealed to simplify the consolidation of related sections into a single section. The substance of this section is being transferred to §3.682, concerning tax payment certificates.

No comments were received regarding adoption of the repeal.

The repeal is adopted under the Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of the Tax Code, Title 2.

The repeal implements Tax Code, Chapter 159.

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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## Chapter 5. Funds Management (Fiscal Affairs)

### Funds Accounting - Deposit of State Funds

#### 34 TAC §§5.81-5.84

The Comptroller of Public Accounts adopts the repeal of §§5.81-5.84, concerning deposit of state funds: definitions; time of deposit; where deposited; how deposited, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10289).

The rules are being repealed because they are obsolete. The underlying statutes have been revised or repealed.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Government Code, §403.011, which authorizes the comptroller to adopt rules concerning the expenditure of state funds.

The repeals implement the Government Code, §403.011.

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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Martin Cherry  
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For further information, please call: (512) 463-4062



### Funds Accounting - Appropriation Accounts Operation

#### 34 TAC §§5.91-5.94

The Comptroller of Public Accounts adopts the repeal of §§5.91-5.94, concerning appropriation accounts operation: definitions; numerical identification; funding; increase, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10290).

The rules are being repealed because they are obsolete. The underlying statutes and procedures have been revised.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Government Code, §403.011, which authorizes the comptroller to adopt rules concerning the expenditure of state funds.

The repeals implement the Government Code, §403.011.

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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Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-4062



## Funds Accounting - Federal Revenue Sharing Trust Fund

### 34 TAC §§5.101-5.104

The Comptroller of Public Accounts adopts the repeal of §§5.101-5.104, concerning federal revenue sharing trust fund: definitions; cash allocations; transfers to other cash fund accounts; spending plan, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10290).

These provisions are obsolete. The federal statute relating to this procedure has been repealed, and the fund is now dormant.

No comments were received regarding adoption of the repeals.

The repeals are adopted under Government Code, §403.102, which authorizes the comptroller to adopt rules for the availability of money for use among the entities funded from the fund, and the Government Code, §403.011, which authorizes the comptroller to adopt rules concerning the expenditure of state funds.

The repeals implement the Government Code, §403.011 and §403.102.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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Chapter 9. Property Tax Administration

## Subchapter A. Practice and Procedure

### 34 TAC §9.101

The Comptroller of Public Accounts adopts new §9.101 concerning the conduct of the property value study, with changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10291).

The new section is being adopted to make the sections easier to use and to conform to current agency practice for conducting the property value study. The new section is streamlined to eliminate duplicative references to procedures already set out in the Property Tax Division procedures manuals. The new section will also reflect statutory changes as well as the Property Tax Division's use of random sampling procedures.

The new section sets forth how the Comptroller of Public Accounts conducts the study required by the Government Code, §403.302, and the Tax Code, §5.10, in the manner required by law.

In the adopted section, the title of subsection (g) has been changed to more accurately describe the subsection.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002 and §111.0022, which provide the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The new section implements the Government Code, §403.302, and the Tax Code, §5.10.

*§9.101. Conduct of the Property Value Study.*

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

(1) Appraisal - A statement that estimates the market value or other legally required value of property.

(2) Appraisal ratio - The ratio of a property's appraised value as determined by the appraisal office or appraisal review board (the County Appraisal District (CAD)) value, as applicable to:

(A) the sale price of the property; or

(B) an independent appraisal of the property, as applicable.

(3) Appraiser - A comptroller employee or contractor who conducts appraisals for the property value study.

(4) Assigned value - The value of property determined in the property value study.

(5) Coefficient of dispersion - The absolute average deviation of appraisal ratios in a sample from the median appraisal ratio for the sample, expressed as a percentage of the median.

(6) Comptroller - The Comptroller of Public Accounts or the Comptroller of Public Accounts designee.



(7) Confirm - A sale is confirmed when the comptroller has documented that the sale price for a property is correct.

(8) Documentary evidence - Writings such as letters, memoranda, appraisal records, or deeds.

(9) Local property - Property other than utility, industrial, mineral, or 1-d or 1-d-1 qualified agricultural property.

(10) Median appraisal ratio - The median level of appraisal is the median appraisal ratio of a sample of properties collected as part of the school district taxable value study in an appraisal district. The median appraisal ratio for a sample of properties is, in a numerically ordered list of the appraisal ratios for the properties:

(A) if the sample contains an odd number of properties, the appraisal ratio above and below which there is an equal number of appraisal ratios in the list; or

(B) if the sample contains an even number of properties, the average of the two consecutive appraisal ratios above and below which there is an equal number of appraisal ratios in the list.

(11) Price related differential - The price related differential is the mean of a property sample divided by the weighted mean of that sample.

(12) Property value study - The studies conducted by the comptroller pursuant to Government Code, §403.302 and Tax Code, §5.10.

(13) Random sample - A sample in which each item of the population has an equal chance of being included.

(14) Representative sample - Representative means composed of individual properties that collectively reflect the individual characteristics of the population from which they were drawn. A representative sample meets the requirements for operational representativeness set forth in the International Association of Assessing Officers' *Standard on Ratio Studies*.

(15) Sale - A transfer of property for consideration.

(16) Sale date - The date on which a deed or other document transferring title to real property by sale is executed.

(17) Sample - A group of properties analyzed to determine characteristics of property in a school or appraisal district.

(18) Stratification - Stratification divides the range of information for property in a district or property category into intervals and lists the number and CAD value of properties falling into each interval.

(19) Stratified weighted mean appraisal ratio - A stratified weighted mean appraisal ratio is calculated by separating the properties in a category sample into subcategories by value range or other property characteristics (strata) and determining the weighted mean appraisal ratio for each of the strata. The value of property in each of the strata is calculated by dividing the total CAD value by the weighted mean appraisal ratio. These individual market value estimates are then added to produce a market value estimate for the total category sample. The total CAD value of property in the category is then divided by the total category market value estimate to produce the stratified weighted mean ratio.

(20) Verify - A sale is verified when the comptroller has documented that a sale is a market value transaction as defined by the Tax Code, §1.04(7).

(21) Weighted mean appraisal ratio - The weighted mean appraisal ratio is a number calculated by dividing the total CAD value of property in a sample by the total of corresponding sale prices or appraised values of property in that sample.

(b) General statement of policy. The study constitutes a limited audit of the taxable value of property in the districts. The purpose of this section is to ensure that sufficient competent and relevant evidence affords a reasonable basis for the comptroller's judgments and conclusions regarding the taxable value of property in a school district and the appropriate measures of appraisal level and uniformity in an appraisal district.

(c) General standard. Except where inconsistent with these sections, the *Standard on Ratio Studies*, International Association of Assessing Officers, is adopted by reference as a standard for the conduct of the property value study.

(d) Changing appraisal methods. The comptroller will consult regularly with representatives of property owners, industries, appraisal firms, and other interested parties to keep abreast of changing appraisal methods.

(e) Selection of property categories studied. The priority in determining categories of samples is the accuracy of the estimate of taxable property value for each school district in this state.

(1) The comptroller may determine whether a category or class of property in a school district is a major category or class of property on a case-by-case basis. To maximize accuracy or efficient use of resources, the comptroller may decline to sample or estimate category values or measures.

(2) If the comptroller does not sample a category or a subcategory of property in a school district, the comptroller may calculate the district's taxable value by using the district's locally reported value to represent the value of the unsampled category.

(f) Taxpayer data. Owners of large unique or complex properties should be advised if these properties are included in the property value study. Taxpayers shall have the option of presenting data to the comptroller to verify the CAD value as representative of market value for inclusion in the study. The comptroller shall have the option of accepting the indicated market value for inclusion in the property value study.

(g) Determining taxable value. The procedures for determining the taxable value of certain classes of property are as follows:

(1) agricultural land qualified for productivity appraisal. The comptroller may determine the productivity value of land qualified for productivity appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each land class in each school district using information provided by published sources and by individuals knowledgeable concerning local agricultural conditions. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §9.4001 of this title (relating to Valuation of Open-space and Agricultural Lands). The estimated value per acre shall be applied to the total number of acres in each land class reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each

class is the total value of agricultural property receiving productivity appraisal in the school district.

(2) Timber land qualified for productivity appraisal. The comptroller may determine the productivity value of land qualified for timber appraisal in a school district through direct appraisal. The staff shall estimate an average value per acre for each soil class and type of timber in each school district using information provided by published sources and by individuals knowledgeable concerning local timber production. The estimated average productivity value per acre shall be developed using the same methods applicable to appraisal districts under §9.4011 of this title (relating to Appraisal of Timberlands). The estimated value per acre shall be applied to the total number of acres in each soil class for each type of timber reported in the school district report of property value to determine the total value of property in each class. The sum of the values of each class is the total value of timber property receiving productivity appraisal in the school district.

(3) Utility property. Utility samples in a school district are chosen using a method that ensures sampling dominant properties and other properties as appropriate. Utilities shall be valued using recognized unitary valuation methods, that may include one or more of the cost, income, and market (sales comparison or stock and debt) approaches. Utility unit values will be allocated using generally accepted allocation methods based on the best information available. Appraisers shall consider the effects of regulation, if applicable.

(4) Industrial property. If the comptroller appraises an industrial property, the property shall be valued using generally accepted appraisal methods. If staff selects an industrial property sample, the property sample shall be selected without regard to whether the appraisal district performs its own industrial property appraisals.

(5) Mineral property. Mineral samples in a school district shall be chosen using a method that ensures sampling dominant leases and a sample of other leases as appropriate. Minerals shall be appraised using generally accepted appraisal methods, emphasizing the income approach to value.

(6) Local property. The comptroller shall make its determination of local property values on the basis of representative samples of property selected within school districts. Except as provided in this section, the comptroller shall select samples of properties based on their judgment of the number and kind of properties required to be sampled to reasonably reflect the taxable value of property in each school district. The comptroller staff are not required to but may employ random sampling or other sampling procedures where feasible and appropriate.

(A) Estimated sample sizes shall initially be assigned by supervisory staff. The overall goal in setting the sample size is to obtain school district taxable values that are acceptably accurate and reliable. The sample size assigned for a particular category of property in a particular school district is based on the available comptroller time, the availability of current sales, variability of ratios, and the relative value of the category. A sample may be larger or smaller than the assigned sample if the school district's resulting taxable value is determined by supervisory staff to be acceptably accurate and reliable.

(B) Samples may include a combination of sales and appraisals that satisfies both size and representativeness requirements.

However, a sample may consist of sales only or appraisals only. All meaningful property characteristics shall be considered in selecting non-random samples. The following guidelines should be followed in non-random selection:

(i) the sample should not be weighted in favor of sold properties that are appraised at a different level from unsold properties;

(ii) a sample should include properties from each primary geographic area, if the geographic area contains a significant number of the kind of property being tested and the property has significant value;

(iii) a sample should include improvements of varying ages;

(iv) sample selection should consider other property characteristics such as construction type, size, use, and business type, as required;

(v) stratification information should be used to ensure that samples are representative. If stratification data are unavailable, an appraiser should use informed judgment and knowledge of the area in a reasonable effort to ensure that samples are representative.

(C) Appraisers shall categorize sample properties as they are categorized by appraisal districts (Category A, B, C, etc.).

(D) Appraisers should develop a sales population to maintain a thorough knowledge of local markets and appraisal practices; and to provide a population of sales from which to select property samples. Appraisers should gather sales that occurred over as broad a time period as practicable and should gather sales from a variety of sources, such as appraisal districts, real estate professionals, title companies, financial institutions, courthouse records, and other reliable sources.

(i) As a general rule, if an appraiser's sample size is less than all the sales within a relevant time period, the sales sample will be selected randomly. However, other sample selection methods may be used.

(ii) The appraiser must document the source of each sale included in the property value study. The appraiser must use codes provided in the appraisal guide to identify the source of each sale entered into the comptroller sale/appraisal system. The appraiser must maintain sufficient written documentation to permit source verification upon request.

(iii) The appraiser must confirm and verify at least 20% of the sales included in each category sample for each school district from sources other than the appraisal district.

(iv) Sales included in a sample must be market transactions. Market transactions are consistent with the definition of market value found in the Tax Code, §1.04(7). For the purposes of that section, the term "price" means the most probable price. As provided in the *Standard on Ratio Studies*, International Association of Assessing Officers, transactions that may be non-arm's-length sales should be clearly identified and used only if it can be established that they are consistent with the definition of market value.

(v) If an appraiser questions whether a transaction selected for use in the study is a market sale, the appraiser should obtain sales agreements, closing statements, statements from parties

to the transaction, deed records that disclose full consideration, or other evidence sufficient to determine whether or not the transaction is a market transaction.

(vi) The appraiser must exclude sales of properties that change category or significant physical characteristics after the sale but before the assessment date.

(vii) The appraiser may not exclude a sale solely because it appears to be inconsistent with other sales in the sample. Such sales should be verified. The inconsistencies may indicate that a sale is not a market transaction, but they also may indicate that information regarding the sale was recorded incorrectly. If further investigation reveals that the sale was indeed a legitimate market transaction, the appraiser may include it in the sample, despite its apparent inconsistency. If the investigation, however, reveals that the sale was not a legitimate market transaction, the sale should be excluded.

(viii) Generally, when financing reflects prevailing market practices and interest rates, sales prices require no adjustment. Adjustments should be considered if:

(I) the seller and lender are the same party and financing is not at prevailing market rates;

(II) the buyer assumes an existing mortgage at a non-market rate of interest; or

(III) lenders charge the seller "points" (a percentage of the loan amount) for making money available to the purchaser/borrower.

(ix) Some forms of mortgage terms also may require adjustment. If these adjustments alter the sales price significantly, the use of the sale as a good indicator of market value may be questionable.

(x) The appraiser shall adjust sales samples for the effect of time if there is evidence of a significant value increase or decrease during the period from which sales are drawn. The appraiser must document the procedures used to develop time adjustments. As an alternative to time adjustment, the appraiser may randomly select samples so that the value of properties sold during a specified period before the assessment date roughly approximates the value of properties sold during a similar period after the assessment date. A sample balanced in this manner will negate the effect of changes in the level of market values if those changes occurred uniformly over the study time frame.

(xi) The comptroller may use a method of adjusting for financing, time, personal property, or other matters affecting the sales price, that includes an overall adjustment affecting all or any relevant portion of the sales in the sample.

(xii) If the comptroller determines that recently sold properties are appraised by the appraisal district at a different level of value than unsold properties, the comptroller may take actions to ensure that the unsold properties are fairly represented in the sample. These actions may include using appraisals in the sample, using sales that occurred after the appraisal district certified the school district tax rolls in the sample, deleting sales from the sample, or other adjustments the comptroller deems necessary to maintain the integrity of the property value study.

(E) Appraisals of local property are performed if the comptroller determines they are necessary to ensure the study develops competent evidence of the value of all property in the school district. Appraisals are used to ensure a representative sample of sufficient size and to test whether sold and unsold properties are assessed at the same level. The following guidelines govern the use of appraisals:

(i) appraisal samples shall be selected randomly if practicable;

(ii) appraisals shall be conducted using generally accepted appraisal practices. The comptroller shall prepare an appraisal guide and other procedures as needed to conduct appraisals. Accurate and verifiable data from the market is usually preferable to information contained in the guide. Such information should be used in appraisals to the greatest extent possible. The guide and any other written instructions are open records. Supervisory staff shall selectively test appraisals to ensure the consistency and accuracy of data throughout the state;

(iii) appraisers should physically inspect each property appraised. If acreage or lots cannot be physically inspected, the appraiser may use appraisal cards, aerial photographs, soil maps, and other relevant information in performing appraisals;

(iv) in appraising a particular property, the appraiser may not consider the value placed on that property by the appraisal district. However, the appraiser may consult with appraisal district staff and review appraisal district records to gather information relevant to the appraisal;

(v) the market value estimate for a particular property account must include the value of all property associated with that account, e.g., multiple improvements, paving, outbuildings, signs, business vehicles, additional lots, etc. The appraiser may use the appraisal district's value for any item(s) that the appraiser is unable to appraise if the item(s) in question represent an insignificant portion of the appraisal district's total appraised value for the account.

(h) Local reports of taxable value. Local reports of taxable value are essential parts of the property value study. The comptroller shall issue and revise report forms as needed to incorporate necessary legal and technical changes. The comptroller shall thoroughly review and revise reports of property value as needed to ensure their reliability. The comptroller must document the date of and reasons for each revision. Between the time a report is filed and the time preliminary study findings based upon the report are issued, the reporting entity may request changes in the report. The comptroller may not make the requested changes in reported values or facts unless the reporting entity provides sufficient competent evidence supporting a change. The comptroller shall set reasonable deadlines for the return of local reports and may grant extensions of filing time of up to 30 days.

(i) Protest or request for audit. A protest or request for an audit of the Property Value Study findings may be made in accordance with Property Tax Division sections.

(j) Determination of school district value. School district taxable values shall be determined in a manner that maximizes the accuracy and reliability of the taxable value in each school district.

(1) The taxable value of a category of property in a school district shall be determined by dividing the total locally appraised

value of property in that category by the weighted mean or stratified weighted mean ratio for the sample of property selected from that category. However, the taxable value of property in a category may be determined by other methods if it is determined that sufficient competent evidence requires their use.

(2) The taxable value of property in a school district shall be determined by adding together the taxable value of property in each category of property in the school district and subtracting from the total the items listed in the Government Code, §403.302(d). However, the taxable value of property in a school district may be determined by other methods if it is determined that sufficient competent evidence requires their use.

(k) Determination of appraisal district measures. Appraisal district measures shall be determined from the sales and appraisals gathered as a part of the school district taxable value study.

(1) The median level of appraisal for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by the Tax Code, §5.10.

(2) The coefficient of dispersion for each category of property in the appraisal district and for the appraisal district as a whole is determined as provided by the Tax Code, §5.10.

(3) The comptroller may determine and report other measures of appraisal accuracy and uniformity it deems useful and informative.

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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Martin Cherry

Chief, General Law

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## Subchapter B. Performance Audit Administration

### 34 TAC §9.201

The Comptroller of Public Accounts adopts new §9.201, concerning conduct and procedures for appraisal district performance audits, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9783).

The comptroller has determined that the consolidation of sections of similar subject matter will benefit the customer by providing information in a more efficient manner. The new section consolidates the substance of the current 34 TAC §§9.5101-9.5107, concerning request for performance audit, pre-audit conference, cost estimate of performance audit, security requirements for audit costs, notice of commencement of audit, performance audit procedures and report requirements, and discontinuation of audit.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The new section implements the Tax Code, §5.12 and §5.13.

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## Subchapter H. Tax Record Requirements

### 34 TAC §§9.3018-9.3020

The Comptroller of Public Accounts adopts the repeal of §§9.3018-9.3020, concerning exemption applications for youth spiritual, mental, and physical development organizations; exemption applications for religious organizations; and exemption applications for privately owned schools, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9787).

The sections are being repealed because their provisions are being transferred to 34 TAC §9.415 without substantive change. The transfer will make it easier for the persons affected by those rules to read and interpret them.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeals implement the Tax Code, §11.43(f).

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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## Subchapter I. Validation Procedures

### 34 TAC §§9.4012, 9.4021-9.4025

The Comptroller of Public Accounts adopts the repeal of §§9.4012, 9.4021-9.4025, concerning the allocation of taxable value of vessels and other watercraft, of qualified property used in interstate or foreign commerce, and of aircraft property, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9787).

The rules are being repealed because their provisions are being transferred to 34 TAC §9.4033, concerning allocation of value, without substantive change. The transfer will make it easier for the persons affected by those rules to read and interpret them.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeals implement the Tax Code, §§21.02, 21.021, 21.03, 21.031, and 21.05.

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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### 34 TAC §9.4033

The Comptroller of Public Accounts adopts new §9.4033, concerning the allocation of taxable value of vessels and other watercraft, qualified property used in interstate or foreign commerce, and aircraft property, with changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9788).

The comptroller has determined that the consolidation of sections of similar subject matter will benefit the customer by providing information in a more efficient manner. The new section consolidates the substance of the current 34 TAC §9.4012 and 34 TAC §§9.4021-9.4025, concerning allocation of value by appraisal districts.

The new section sets forth how appraisal districts allocate taxable value as required by the Tax Code, §§21.02, 21.021, 21.03, 21.031, and 21.05.

The comptroller made formatting and order changes to the proposed section so that the issue of jurisdiction to tax property

is addressed before the issue of allocating value. In the adopted section, subsection (e) has been reordered to (c), as have subsequent subsections to reflect the change.

Comments were received from an attorney expressing concern that the text in subsection (d)(1)(A)-(D) did not clearly state that property must meet all the criteria listed before it can qualify for allocation. The attorney was also concerned that it was not clear that both criteria listed in the subsection (d)(2)(A)-(B) must be met before a commercial instrument or item of business equipment is determined present in the state for more than a temporary period. In addition, the attorney commented that subsection (c)(3)(A)-(D) did not specify that only one of the criteria listed must be met to establish tax jurisdiction. To address the attorney's concerns, changes were made to the proposed text to clarify these subsections in the adopted section.

The new section is adopted under the Tax Code, §111.002 and §111.0022, which provide the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The new section implements the Tax Code §§21.02, 21.021, 21.03, 21.031, and 21.05.

#### *§9.4033. Allocation of Value.*

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

(1) Commercial instrument or commercial equipment - Tangible personal property used for a business purpose, which includes, but is not limited to, aircraft, rolling stock not owned or leased by a railroad, motor vehicle, shipping containers, vessels and watercraft (except for special purpose vessels and watercraft used as an instrumentality of commerce as defined in the Tax Code, §21.031), mobile construction or drilling equipment, and mobile equipment of any other sort. The term does not include goods, wares, ores, or merchandise held for sale or resale, stored, warehoused, or in the process of assembly, manufacture, or refinement on January 1.

(2) Jurisdiction to tax - The legal power to levy a property tax on a property, regardless of whether the power to tax is exercised.

(3) Situs jurisdiction - A taxing unit, state, or nation that has jurisdiction to tax a property because of the property's location or use, or because of the owner's domicile or principal place of business.

(4) Used continually - Used several times on regular routes or for several tasks in close succession throughout the year.

(b) A property owner may apply for the allocation of total market value of a vessel, special-purpose vessel, or other watercraft.

(1) The allocation of taxable value of vessels and other watercraft used outside this state shall be determined according to the provisions of the Tax Code, §21.021 and §21.031.

(2) To receive an allocation of value for vessels and other watercraft, a property owner must apply for the allocation on a form that substantially complies with the appropriate form prescribed or approved by the Comptroller of Public Accounts. A person filing an allocation application form shall include all information required by the form. The application must be filed with the chief appraiser for the district in which the property is taxable and must be filed prior

to the approval of appraisal records by the appraisal board. Model Application for Interstate Allocation of Vessels or Other Watercraft (Form 50-146-1) is adopted by reference.

(3) If the chief appraiser determines that he needs information in addition to that furnished on the application, he may request additional information by written notice delivered to the property owner. A taxpayer shall furnish any additional information required within 15 days after the date the notice is mailed.

(c) The guidelines for determination of jurisdiction to tax are as follows.

(1) The chief appraiser shall determine whether property is within the taxing jurisdiction of another state or nation from the evidence supplied by the property owner. The burden of proof in establishing such jurisdiction is upon the property owner.

(2) The State of Texas has jurisdiction to tax property if:

(A) it is physically present within the State of Texas on January 1 for more than a temporary period;

(B) it has been used continually in Texas during the 12 months preceding January 1, regardless of its location on January 1; or

(C) its owner resides or does business in Texas and the property is outside Texas for a temporary period on January 1.

(3) Property is within the jurisdiction to tax of another state or nation if:

(A) it is physically present within that state or nation's boundaries on the state or nation's property tax lien date for more than a temporary period;

(B) it has been used continually in the state or nation during the 12 months preceding January 1, regardless of its location on January 1;

(C) its owner resides or does business in that state or nation and the property is outside that state or nation for temporary period on January 1; or

(D) the state or nation has in fact assessed a property tax against the property.

(4) Property is neither physically present nor used in a jurisdiction when it flies over the jurisdiction without landing.

(5) Property that leaves the boundaries of this state, and returns without being exposed to the taxing jurisdiction of another state or nation, remains within this state's taxing jurisdiction for the duration of the trip.

(6) Property is not within the jurisdiction to tax of this state or any other state of the United States if:

(A) it is an instrumentality of commerce;

(B) it is owned by a foreign domiciliary;

(C) it is taxed in the nation where its owner is domiciled;

(D) it is used exclusively in foreign commerce; and

(E) it is not present in this state for more than a temporary period on January 1.

(7) The chief appraiser may consider the following evidence in determining where a property has taxable situs:

(A) published schedules, if the property carries passengers and/or cargo on regular routes at regular times;

(B) records kept in the normal course of business, such as mileage, flight, or vessel logs, that indicate where the property has traveled, how long it was located at each destination, and the purpose of its location at each destination;

(C) reports filed with state or national agencies that indicate where the property has traveled, how long it was located at destination, and the purpose of its location at each destination; and

(D) actual tax bills or notices of appraisal or assessment from other jurisdictions.

(d) The chief appraiser shall allocate the market value of that property used in interstate or foreign commerce that qualifies for allocation under this subsection.

(1) Property qualifies for allocation if it:

(A) constitutes a commercial instrument or commercial equipment;

(B) is used for a business purpose;

(C) has taxable situs in a taxing unit within the appraisal district as provided by the Tax Code, §21.02 or §21.021; and

(D) is used continually outside Texas in interstate or foreign commerce, whether regularly or irregularly.

(2) A commercial instrument or item of business equipment is present in the state for more than a temporary period if:

(A) its owner maintains one or more places of business in this state and the property is present in this state on January 1 or at any time during the 12 months preceding January 1; and

(B) the property has contact with this state of a character that would permit this state to tax it under applicable federal law.

(e) A property owner who is entitled to an allocation of property must file a rendition form that provides enough information necessary to prove the entitlement to allocation and permit the chief appraiser to apply an allocation formula appropriate to the subject property. An appraisal district may use a rendition form that substantially complies with the appropriate Comptroller of Public Accounts allocation-rendition form. Each form shall require the property owner to identify the property that is the subject of the rendition and provide information measuring the use of the property within Texas and within other states or nations. The form must permit the property owner to state an opinion of the total market value of the property and the amount of value that should be allocated to each taxing unit in which the property has situs. Model Rendition of Property Qualified for Allocation of Value (Form 50-145-1) is adopted by reference.

(f) If the chief appraiser determines that the property was within the taxing jurisdiction of this state and within the taxing jurisdiction of another state or nation for the same calendar year, he shall allocate to each taxing unit in which the property has situs

the portion of the property's market value that fairly reflects its use in this state. If an allocation formula specified in this subsection does not fairly reflect the use of the property in this state and other situs jurisdictions, the chief appraiser may use another formula that more adequately reflects use. Such alternate formulas may include revenue-ton miles, equipment load factors, or other measures of property use.

(1) For aircraft property, the chief appraiser shall use the following allocation formula: the fair market value of the aircraft multiplied by a fraction, the numerator of which is the product of 1.5 and the number of revenue departures by the aircraft from Texas during the preceding tax year and the denominator of which is the greater of:

- (A) the number of hours in a year (8,760); or
- (B) the numerator.

(2) For vessels, the chief appraiser will normally use an allocation formula based on port days. The ratio of the days the vessel spends in port in Texas to total days spent in port in all situs jurisdictions is the allocation ratio.

(3) For motor vehicles and rolling stock, not including vessels or aircraft, the chief appraiser will normally use an allocation formula based on mileage. The ratio of total miles traveled in Texas during the year to the total miles traveled in all situs jurisdictions during the year is the allocation ratio.

(4) For other equipment, the chief appraiser will normally use an allocation formula based on time. The ratio of time spent in Texas during the year to the total time spent in all situs jurisdictions during the year is the allocation ratio.

(g) If the appraisal office allocates the value of property in a given year:

(1) the chief appraiser shall note on the property's appraisal record for the year:

- (A) that the allocation has been granted;
- (B) the market value of the property;
- (C) the allocation formula factor; and
- (D) the appraised value of the property after allocation.

(2) the chief appraiser shall retain a record of the allocation for three years after it is granted, including:

- (A) the rendition form requesting allocation;
- (B) supporting documents filed by the property owner;

and

(C) the formula chosen and calculations used in making the allocations.

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### Subchapter C. Appraisal District Administration

#### 34 TAC §§9.401, 9.403-9.407, 9.411

The Comptroller of Public Accounts adopts the repeal of §§9.401, 9.403-9.407, and 9.411, concerning exemption applications for charitable organizations, miscellaneous exemptions, application for exemption of goods exported from Texas, exemption applications for residence homesteads, exemption applications for charitable organizations improving property for low-income housing, application for exemption for cotton stored in a warehouse, and exemption application for pollution control property, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9785).

The sections are being repealed because their provisions are being transferred to 34 TAC §9.415 without substantive change. The transfer will make it easier for the persons affected by those rules to read and interpret them.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeals implement the Tax Code, §11.43(f).

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### Subchapter I. Validation Procedures

#### 34 TAC §§9.4101-9.4111

The Comptroller of Public Accounts adopts the repeal of §§9.4101-9.4111, concerning the policy for conduct of the property value study, without changes to the proposed text as published in the October 18, 1996, issue of the *Texas Register* (21 TexReg 10295).

The rules are being repealed in order to combine the information in these rules into new 34 TAC §9.101. The new section will make it easier for the persons affected by these rules to read and interpret them.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Tax Code, §111.002 and §111.0022 which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeals implement the Government Code, §403.302, and the Tax Code, §5.10.

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## Subchapter C. Appraisal District Administration

### 34 TAC §9.415

The Comptroller of Public Accounts adopts new §9.415, concerning applications for property tax exemptions, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9785).

The comptroller has determined that the consolidation of sections of similar subject matter will benefit the customer by providing information in a more efficient manner. The new rule consolidates the substance of the current 34 TAC §9.401, 34 TAC §§9.403-9.407, 34 TAC §9.411 and 34 TAC §§9.3018-9.3020, concerning model exemption application forms.

No comments were received regarding adoption of the new section.

The new section is adopted under the Tax Code, §111.002 and §111.0022, which provides the comptroller with the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The new section implements the Tax Code, §§11.111, 11.13, 11.17, 11.18, 11.181, 11.19, 11.20, 11.21, 11.22, 11.23(a)-(k), 11.24, 11.251, 11.27, 11.271, 11.28, 11.29, 11.30, 11.31 and 11.437.

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 November 22, 1996.

TRD-9617055

Martin Cherry

Chief, General Law

Comptroller of Public Accounts

Effective date: December 13, 1996

Proposal publication date: October 11, 1996

For further information, please call: (512) 463-3699



## Subchapter J. Procedures

### 34 TAC §§9.5101-9.5107

The Comptroller of Public Accounts adopts the repeal of §§9.5101-9.5107, concerning procedures for request of appraisal district performance audit, pre-audit conference, cost estimate of performance audit, security requirements for audit costs, notice of commencement of audit, performance audit procedures and report requirements, and discontinuation of audit, without changes to the proposed text as published in the October 11, 1996, issue of the *Texas Register* (21 TexReg 9790).

The rules are being repealed because their provisions are being transferred to 34 TAC §9.201, concerning performance audit procedures, without substantive change. The transfer will make it easier for the persons affected by those rules to read and interpret them.

No comments were received regarding adoption of the repeals.

These repeals are adopted under the Tax Code, §111.002 and §111.0022 which provides the comptroller the authority to adopt rules for the administration and enforcement of the Tax Code and programs or functions assigned to the comptroller by law.

The repeals implement the Tax Code, §5.12 and §5.13.

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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Martin Cherry

Chief, General Law

Comptroller of Public Accounts

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For further information, please call: (512) 463-3699



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part III. Texas Youth Commission

#### Chapter 81. Interaction With The Public

##### 37 TAC §§81.1, 81.7, 81.11, 81.17, 81.31, 81.35, 81.37, 81.41, 81.45, 81.61, 81.65, and 81.75

The Texas Youth Commission (TYC) adopts new §§81.1, 81.7, 81.11, 81.17, 81.31., 81.35., 81.37., 81.41, 81.45, 81.61, 81.65, and 81.75, concerning public information request, petition for adoption of a rule, complaints from the public, private real property rights affected by governmental action, concealed handguns, involvement of victims, public and media, confidentiality, volunteers and volunteer council, notification of facility opening or relocating, site selection for juvenile facility construction, copying costs, and historically underutilized business participa-



tion, without changes to the proposed text, and §81.53 and §81.79, concerning research projects and historically underutilized business participation with changes as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10515).

The changes to §81.53 consist of deleting detailed information on internal approval procedures and responsibilities which are irrelevant to rules controlling research projects. These deletions necessitated rearranging the remaining information. The changes to §81.79 consist of updating a departmental title to the new title in the listing of the departments primarily responsible for increasing HUB participation.

The justification for the new sections is the streamlining of general public interaction with the Texas Youth Commission as a governmental agency.

The new rules will establish rules regarding TYC interaction with the general public. TYC is recodifying all existing rules. Rules address procedures which may be used to request public information, request a rule adoption and file a complaint with the Texas Youth Commission. A rule is proposed to establish procedures for determining whether private real property rights will be affected by a governmental action taken by TYC. Rules involve (in the interest of safety) the prohibition of concealed handguns on TYC facility grounds. Procedures are established whereby persons victimized by a delinquent youth now in the TYC system, may request information and provide a victim's statement. Rules are established regarding the confidentiality of information protected by law and access of the public and the media to youth and to information about youth under TYC jurisdiction. Procedures are established for persons who consider volunteering to work with TYC youth and/or participating in community volunteer councils. Information regarding research projects in TYC by non-TYC personnel is provided. Rules address the notification to community authorities when TYC initiates a facility opening or considers initiating construction. The use of historically underutilized business in purchasing by TYC is supported in rules. Information regarding cost of copying information for the public is made available.

No comments were received regarding adoption of the new rules.

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

The proposed rules implement the Human Resource Code, §61.034.

*§81.53. Research Projects.*

(a) Purpose. The purpose of this rule is to allow for research related to juvenile delinquency and to ensure confidentiality by establishing procedures which comply with state and federal guidelines and accepted professional and scientific ethics.

(b) Restrictions.

- (1) The agency will encourage research.

- (2) The agency will use research results to aid decision making regarding agency operations and for youth treatment programs.

- (3) The agency will collaborate with other agencies whenever possible and share research information as appropriate.

- (4) Any patentable product, process, or idea that might result from a research project funded by the Texas Youth Commission shall be the property of the Texas Youth Commission.

(c) Youth Participation. Participation by TYC youth as research subjects shall be restricted as follows:

- (1) TYC youth will not be used in experimental projects involving medical, pharmaceutical, or cosmetic research.

- (2) TYC youth may participate in nonmedical, nonpharmaceutical or noncosmetic research on a voluntary, noncoercive basis.

- (3) TYC youth who elect to participate in research projects will not be denied basic services available to other youth, nor participate in research activities which may accrue negative personal results.

(d) Researchers. TYC staff, university faculty or students, or contracted firms or individuals may, if approved, conduct research if they:

- (1) show that the proposed project will provide benefits to TYC or the juvenile justice profession;

- (2) ensure confidentiality of TYC youth;

- (3) do not place undue burden on TYC staff, youth or resources; and

- (4) agree to comply with other agency rules of conduct for research as specified below.

(e) Project Management. Procedures for research projects are managed through the research and planning department.

(f) Research Proposals. Project directors other than those employed by the research and planning department must submit a research proposal to the research and planning department. The proposal should include as much of the following information as possible:

- (1) project title;

- (2) names and qualifications of all project researchers;

- (3) purpose (e.g., thesis, professional paper, dissertation);

- (4) research design and methodology;

- (5) number of and time required by each TYC youth if used in research;

- (6) provisions for confidentiality of youth names and identification numbers;

- (7) amount of TYC staff time needed;

- (8) benefit to TYC or juvenile profession;

- (9) research supervisor, if any (e.g., Chairman of Thesis Committee); and

- (10) amount and source of funding, if any.

(g) Research Agreement. TYC and the research consultant shall enter into a research agreement prior to the commencement of an outside research project. The agreement shall contain the following:

- (1) a description of the research project;
- (2) an agreement to maintain the confidentiality of individual youth;
- (3) a clause providing that any patentable product, process, or idea that results from the performance of the research agreement, and for which TYC has expended appropriated funds, shall become the property of the Texas Youth Commission; and
- (4) an agreement to furnish TYC with a copy of the final report.

*§81.79. Historically Underutilized Business Participation.*

(a) Purpose. The purpose of this rule is to establish the responsibility and guidelines by which the Texas Youth Commission will comply with the provisions of Title 10, Subtitle D, Government Code, Chapter 2161 for the development of historically unfertilized businesses as certified by the General Services Commission.

(b) Responsibility. TYC staff in the departments of business services, maintenance and construction, contract care, and juvenile corrections (purchasing and supply officer) will act as the Commission's agents to increase HUB participation in the procurement process by:

- (1) participating in cooperative multi-agency efforts in vendor education;
- (2) recruiting HUBs and assisting in gaining certification for current vendors who are minority or women owned; and
- (3) increasing the amount of business solicited from certified HUBs.

(c) Guidelines. TYC will comply with current legislation concerning the utilization of Historically Underutilized Businesses. The Commission's goal is to increase the participation of HUBs to exceed the minimum participation level established by the General Services Commission.

(d) Vendor Assistance and Education. The TYC will, when requested, provide assistance to HUBs by:

- (1) providing instruction on the preparation of bids, compliance with procurement policy and fulfillment of general bid requirements; and providing information on performance requirements, procurement opportunities and prerequisites for bidding on contracts.
- (2) disseminating relevant information using particular efforts to see that HUBs are informed of current and future procurement activities through minority and women publications and through direct contact with minority and women owned enterprises.

(e) Vendor Adherence. TYC purchasing offices may ask contractors providing services, materials or supplies to the department to demonstrate that they provide employment opportunities to minorities and women equal to those provided all other groups or individuals. Such contractors may also be expected to demonstrate that they take positive steps toward the utilization of HUBs. Joint ventures will be encouraged among HUBs and other firms bidding for agency requirements.

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 November 27, 1996.

TRD-9617264

Steve Robinson

Executive Director

Texas Youth Commission

Effective date: December 31, 1996

Proposal publication date: October 25, 1996

For further information, please call: (512) 424-6244



## Part XI. Texas Juvenile Probation Commission

### Chapter 341. Texas Juvenile Probation Standards

#### 37 TAC §341.4

The Texas Juvenile Probation Commission adopts an amendment to §341.4 concerning juvenile probation standards and juvenile boards and juvenile probation departments without changes to the proposed text as published in the October 25, 1996, issue of the *Texas Register* (21 TexReg 10533).

This rule is being amended to clarify juvenile probation services.

This rule will provide minimum standards for juvenile boards that are necessary to provide adequate and effective probation services.

One comment was received re-enforcing the mandatory status of standard 341.4(f).

The comment received from the Hale County Juvenile Probation Department was in support of the mandatory nature of the standard and urging strict interpretation.

The amendment is adopted under the Texas Human Resource Code §141.042, which provides the Texas Juvenile Probation Commission with the authority to adopt reasonable rules that provide minimum standards for juvenile boards that are necessary to provide adequate and effective probation services.

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 November 26, 1996.

TRD-9617205

Vickie Wright

Executive Director

Texas Juvenile Probation Commission

Effective date: December 17, 1996

Proposal publication date: October 25, 1996

For further information, please call: (512) 424-6682



## TITLE 40. SOCIAL SERVICES AND ASSISTANCE

### Part I. Texas Department of Human Services

#### Chapter 19. Nursing Facility Requirements for Licensure and Medicaid Certification

##### Subchapter V. Enforcement

The Texas Department of Human Services (DHS) adopts the repeal of §19.2128 and §19.2133, and adopts amendments to §19.2121 and §19.2146, without changes to the proposed text as published in the May 31, 1996, issue of the *Texas Register* (21 TexReg 4882).

Justification for the repeals and amendments is to protect the health and safety of nursing facility residents through strong federal enforcement rules.

The sections will function by adopting the federal Medicaid nursing facility regulations regarding appointment of a temporary manager and closure of a facility and provide details regarding the termination of a provider agreement on the basis of the imposition of enforcement actions three times within an accountability period.

The department received a comment from Texas Health Care Association.

Comment: We oppose the three-strike rule because it is no longer needed, is poor public policy, and should be repealed. If the rule is retained, its appeal provisions must provide for a contested case hearing before an administrative law judge on all elements of a proposed cancellation before taking any action.

Response: The department disagrees. The rule will be retained as proposed because it is an effective remedy and was approved by the Health Care Financing Administration as an additional remedy under the federal enforcement rules. The federal rules require the state to impose all remedies, except civil money penalties, during any pending hearing.

##### Remedies in Medicaid-Certified Facilities

#### 40 TAC §19.2121, §19.2146

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

The amendments implement the Human Resources Code, §§22.001-22.030 and §§32.001-32.042.

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 November 15, 1996.

TRD-9617136

Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services  
Effective date: February 1, 1997  
Proposal publication date: May 31, 1996  
For further information, please call: (512) 438-3765

#### 19 TAC §19.2128, §19.2133

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

The repeals implement the Human Resources Code, §§22.001-22.030 and §§32.001-32.042.

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 November 15, 1996.

TRD-9617135

Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services  
Effective date: February 1, 1997  
Proposal publication date: May 31, 1996  
For further information, please call: (512) 438-3765

#### 40 TAC §19.2129

The Texas Department of Human Services (DHS) adopts new §19.2129, without changes to the proposed text as published in the August 20, 1996, issue of the *Texas Register* (21 TexReg 7792).

Justification for the new section is to ensure that interest will be paid on Medicaid civil money penalties which have not been paid in a timely manner.

The section will function by establishing the interest rate which accrues if Medicaid civil money penalties are not paid.

The department received no comments concerning the adoption of the new section.

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

The new section implements the Human Resources Code, §§22.001-22.030 and §§32.001-32.042.

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 November 25, 1996.

TRD-9617137  
Glenn Scott  
General Counsel, Legal Services  
Texas Department of Human Services  
Effective date: January 1, 1997  
Proposal publication date: August 20, 1996  
For further information, please call: (512) 438-3765

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**Part XIX. Texas Department of Protec-  
tive and Regulatory Services**

**Chapter 732. Contracted Services**

**Subchapter L. Contract Administration**

**40 TAC §732.246**

The Texas Department of Protective and Regulatory Services (TDPRS) adopts an amendment to §732.246, without changes to the proposed text as published in the October 15, 1996, issue of the *Texas Register* (21 TexReg 10176).

The justification for the amendment is to allow TDPRS to use federal dollar limits for purposes of requiring a contractor to capitalize equipment and to define equipment.

The amendment will function by ensuring that contract providers have more reasonable limits for the purpose of capitalizing equipment and defining equipment.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code (HRC), Chapter 40, which describes the services authorized to be provided by the Texas Department of Protective and Regulatory Services; and authorizes the department to enter into agreements with federal, state, or other public or private agencies or individuals to accomplish the purposes of the programs authorized by the HRC; and grants authority to contract to that Department.

The amendment implements the HRC, Chapter 40, which authorizes the department to enter into agreements with federal, state, or other public or private agencies or individuals to accomplish the purposes of the programs authorized by the HRC and which authorizes the department to enter into contracts as necessary to perform any of its powers or duties.

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 November 22, 1996.

TRD-9616994  
C. Ed Davis  
Deputy Director, Legal Services  
Texas Department of Protective and Regulatory Services  
Effective date: December 13, 1996  
Proposal publication date: October 15, 1996  
For further information, please call: (512) 438-3765

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**TITLE 43. TRANSPORTATION**

**Part I. Texas Department of Transporta-  
tion**

**Chapter 1. Management**

**Subchapter C. Complaint Resolution**

**43 TAC §§1.6-1.10**

The Texas Department of Transportation adopts the repeal of §§1.6-1.10, concerning complaint resolution, without changes to the proposed text published in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8822).

Repeal of these sections is necessary because the subject matter of these sections more appropriately falls within Chapter 3, Public Information. The subject matter of the repealed sections will be re-enacted in an amended form and contemporaneously adopted as new §§3.20-3.25.

Transportation Code, §201.801, requires the department to make information available to the public and appropriate state agencies describing its complaint resolution process.

On October 2, 1996, the department conducted a public hearing on the proposed repealed sections. No oral or written comments were received.

The repeals are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and Transportation Code, §201.801 which requires the department to make information available to the public and appropriate state agencies describing its complaint resolution process.

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 November 25, 1996.

TRD-9617107  
Bob Jackson  
Deputy General Counsel  
Texas Department of Transportation  
Effective date: December 16, 1996  
Proposal publication date: September 13, 1996  
For further information, please call: (512) 463-8630

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**Chapter 3. Public Information**

**Subchapter C. Complaint Resolution**

**43 TAC §§3.20-3.25**

The Texas Department of Transportation adopts new §§3.20-3.25, concerning complaint resolution, without changes to the proposed text published in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8823).

Adoption of the new sections is necessary to replace, in an amended form, the provisions of §§1.6-1.10, concerning the department's complaint resolution program. Sections 1.6-1.10 are being contemporaneously adopted for repeal because the subject matter of the repealed sections more appropriately falls within Chapter 3, Public Information.

Transportation Code, §201.801, requires the department to make information available to the public and appropriate state agencies describing its complaint resolution process.

These new sections delete existing ineffective procedures and add new procedures which will improve the awareness and effectiveness of the policies and procedures concerning filing, resolving, and recording complaints against the department. These sections also improve the department's notification process of these policies and procedures to consumers and service recipients of the complaint process, including industries newly regulated by the department with the enactment of Texas Civil Statutes, Articles 6687-1a and 6687-9a, which were added by the 74th Legislature, 1995.

Section 3.20 establishes the purpose of the department's complaint resolution policy.

Section 3.21 identifies exceptions in which the complaint policies and procedures of this subchapter do not apply. Such exceptions include contested cases, vendor protests, employee complaints or routine communications.

Section 3.22 defines words and terms used in the subchapter.

Section 3.23 designates the Public Information Office as the department's office of primary responsibility for complaint resolution and to designate a separate 1-800 telephone number to receive complaints.

Section 3.24 specifies how the department will provide notice to consumers and service recipients of where to direct complaints. In order to increase the awareness of the department's complaint resolution program, the scope of notification includes public information literature; the official state travel map; the department's homepage of the Internet; at each business office; and on applications for vehicle storage facility operator's license; and applications for motor vehicle salvage dealer licenses, outdoor advertising license and renewals, and rural road sign permits. In addition, information pieces concerning the control of outdoor advertising signs, motor carrier regulation, and screening of junkyards and motor vehicle registration renewals will be developed which will include information on the complaint resolution program.

On October 2, 1996, the department conducted a public hearing on the proposed new sections. No oral or written comments were received.

The new sections are proposed under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and Transportation Code, §201.801 which requires the department to make information available to the public and appropriate state agencies describing its complaint resolution process.

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 November 25, 1996.

TRD-9617108

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

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Proposal publication date: September 13, 1996

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



## Chapter 4. Employment Practices

### Subchapter F. Employee Training and Education

#### 43 TAC §§4.60-4.64

The Texas Department of Transportation adopts new §§4.60-4.64, concerning the department's employee training and education program. Sections 4.63-4.64 are adopted with changes to the text as published in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8825). Sections 4.60-4.62 are adopted without changes and will not be republished.

Government Code, §656.048 requires state agencies to adopt rules relating to the eligibility of the department's administrators and employees for training and education supported by the state agencies and the obligations assumed by the administrators and employees on receiving the training and education.

Section 4.60 states the department's policy to encourage employee professional growth through training and education.

Section 4.61 includes words and terms as defined in this subchapter.

Section 4.62 provides that the department will provide training that will enhance an employee's ability to perform his or her current job duties, or enable the employee to perform prospective job duties. This section also provides that the training taken will benefit both the department and the employee by increasing employee skills, providing greater employee career planning choices, or introducing new, more effective technologies to the department.

Section 4.63 establishes eligibility criteria for a degree program, including standing and length of service with the department, completion of an education assistance agreement; acceptance from the academic institution, enrollment in a field of study related to assigned work, professional development, or department needs, and approval of a management team member for all degrees except doctoral degrees which must have the approval of the executive director. This section also provides for a department sponsored master's program in which the selected employee receives funding for education financial assistance and salary compensation while pursuing a master's degree on a full-time basis and completing an assigned research project related to the department's functions. This section establishes eligibility criteria for this master's program including standing and length of service with the department, completion of an education assistance agreement, acceptance from the academic

institution; nomination from a management team member, and selection by the Program Selection Committee. This section requires the student to be enrolled each semester and maintain a passing grade point average to continue participation, and provides that for a degree program, other than the department sponsored master's program, the employee participation will be reconsidered each semester and the employee may be denied further participation if it is determined that participation adversely affects job performance. This section provides that an employee may take courses without pursuing a degree and that an employee may pursue a general equivalency diploma; specifies the type of institution an employee may attend and the expenses eligible for financial assistance; and allows the student to use specific types of state property for course assignments, but prohibits the student from using duty hours.

Section 4.64 describes the length of time the student will agree to work for the department depending on the type of degree sought; requires that the employee must adhere to the terms and conditions of the education assistance agreement and requirements for continued eligibility, and the employee must pass each course; and provides that the department will deduct any grant, scholarship or other financial aid toward tuition, required fees, and books before reimbursement. This section requires the department to declare cancellation and require repayment of funds if the student withdraws from the institution, is removed or prohibited from attending the institution, fails to comply with the assistance agreement, or is terminated; describes that if an employee is placed on disciplinary probation, the department may suspend the employee's participation in the education assistance program; requires that if an employee's participation is canceled or a non-degree student fails to complete or pass a courses, he or she must repay the department; and requires the department to establish a repayment schedule. This section provides that the executive director may temporarily reduce or defer payments and/or extend the repayment period if the student demonstrates hardship, and a student whose agreement has been canceled will no longer be eligible for assistance unless the student demonstrates that the cancellation was due to hardship or it has been at least three years since the department canceled the student's education assistance agreement.

On October 1, 1996, a public hearing was held to receive comments, views, or testimony regarding new §§4.60-4.64, concerning the department's employee training and education program. No oral comments were submitted. Written comments were received from three employees.

Comment: One employee commented that the proposed sections do not allow the executive director the discretion to establish doctoral education programs, eligibility requirements, reimbursement levels, and selection criteria.

Response: The majority of the public college or university systems are able to offer most employees comparable quality education programs that meet the business needs of the department as well as professional growth of the employee. The department has determined that the calculation of a cost equivalent and monitoring of adjustments to this equivalent would not be an effective and efficient use of department resources.

Comment: Another employee commented that an individual who pursues a master's degree at night and an individual who pursues the department sponsored master's program should not have the same time pay back requirements. The employee suggested that those in the department sponsored program should pay back a ratio of 1.5 years to those in other masters courses. The employee also suggested those in other masters courses should pay back less than three years.

Response: In determining the length of time for pay back, the department considered a number of variables including the total cost of education, length of time the individual has pursued the education goals, and the reasonable expectation of the department to recoup its investment. Participants in the department sponsored program provide some return on investment during their education through completion of an assigned research project related to the department's functions.

Comment: The commenter also suggested that an employee seeking a bachelor's degree should pay back four times the length of a master's a program because a bachelor's degree usually needs about 120 hours for completion and a master's usually only takes about 30 hours. An adjustment for difference in cost per credit hour could be made.

Response: It is the department's position that the resources spent in calculating and monitoring such a program would outweigh the benefit of a longer payout period. In addition, two years for an associate or bachelors degree and three years for a graduate degree was determined to be a reasonable time period for an employee to promise to remain with the department.

Comment: Another employee suggested the elimination of §4.63(c) concerning the circumstances under which an employee may attend a private institution. The employee suggests the department allow the employee to choose the institution and if the employee chooses a private institution, then the department would only pay the cost equivalent of the public institution.

Response: The majority of the public college or university systems are able to offer most employees comparable quality education programs that meet the business needs of the department as well as professional growth of the employee. The department has determined that the calculation of a cost equivalent and monitoring of adjustments to this equivalent would not be an effective and efficient use of department resources.

Comment: An employee who does not comply with the requirements of the agreement to work for the department should reimburse the department for the remaining time based upon funds spent on the employee per year of education. Collection action against an employee failing to make reimbursement should be referred to the Office of General Counsel for appropriate legal action.

Response: The terms of the education assistance agreement stipulates a set period of time depending on the type of degree sought for employment pay back. Employees who sign the agreement do so with full understanding of said terms. They are also asked to declare their intention to honor the terms and willingness to pay back the department for their assistance. The monitoring of partial pay backs would not be cost effective to the program. The department collects debts pursuant to Title

43, Texas Administrative Code, §5.10. Section 5.10 provides that unpaid debts are ultimately referred to the Office of the Attorney General for collection.

Section 4.63(b) has been revised to state that only full-time employees are eligible to participate in the education assistance program; except that upon approval of an employee's management team member, an employee may change his or her status from full-time to part-time in order to accommodate class scheduling. The investment of department funds towards employee academic attainment or continuing education is viewed as a long-term staffing goal. Generally speaking, part-time employees are more transitory and have less commitment to an organization. Also, the return on investment of employee professional growth, contribution of new technology, and educational methods introduced into the work place is lower. The department must invest resources on staffing that will generate the highest knowledge and skills development supporting its current and future strategic goals.

Section 4.63(e) has been revised to clarify that a student may utilize flex-time hours to accommodate classes with prior written approval from his or her supervisor.

Section 4.64(c) has been amended to clarify that students in the department sponsored master's program will not be obligated to repay salary compensation received during their participation in the program.

The new sections are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation and Government Code, §656.048 which requires state agencies to adopt rules relating to the eligibility of the department's administrators and employees for training and education and the obligations assumed by the administrators and employees on receiving the training and education.

#### §4.63. Education Assistance Program.

(a) Purpose. The department provides professional development opportunities through an education assistance program. The program enables the department to assist employees who wish to pursue an academic degree or continuing education if they meet minimum requirements and this pursuit benefits the department. This section establishes eligibility criteria for participation in the program.

##### (b) Eligibility.

(1) Degree program. To be eligible for participation in an associate's, baccalaureate, master's, or doctorate degree program under the educational assistance program an employee must:

- (A) be a full-time employee;
- (B) be in good standing with the department;
- (C) have at least 12 months of service time with the department, or 24 months if the employee is seeking a graduate degree;
- (D) complete and file with the department, on forms prescribed by the department, an education assistance agreement that will set forth the terms and conditions of the assistance, including, but not limited to, the amount of the assistance and the requirements

of continued eligibility pursuant to this subsection, and a declaration of intent to abide by terms set forth in the agreement;

(E) have written acceptance from an accredited institution of higher learning and a degree plan signed by the institution's department dean or the dean's designee;

(F) seek enrollment and participation in a field of study that:

- (i) relates to assigned work;
- (ii) satisfies a professional development requirement; or
- (iii) meets minimum requirements for a profession in which the department anticipates staffing needs, provided that the employee receives the appropriate senior management team member's approval based upon the employee's aptitude demonstrated through job performance; and

(G) have a management team member's approval for associate, baccalaureate, and master degree programs and the executive director's approval if the employee is seeking a doctoral degree.

(2) Department sponsored master's program. An employee may apply for an in-house competitive program in which the employee who is selected receives funds for tuition, fees, books, and supplies plus salary compensation while pursuing a master's degree on a full-time basis and completing an assigned research project related to the department's functions. To be eligible for the program an employee must:

- (A) be a full-time employee;
- (B) be in good standing with the department;
- (C) have at least four years of service time with the department;
- (D) complete and file with the department, on forms prescribed by the department, an education assistance agreement that will set forth the terms and conditions of the assistance, including, but not limited to, the amount of the assistance and the requirements of continued eligibility pursuant to this subsection, and a declaration of intent to abide by terms set forth in the agreement;
- (E) have met the acceptance criteria of the appropriate graduate program at the participating university;
- (F) be nominated by the employee's management team member; and
- (G) be selected by the Program Selection Committee based on qualifications and field or work experience.

##### (3) Continued eligibility.

- (A) In order to maintain eligibility, a student must:
  - (i) be enrolled each semester in an institution in a course of instruction leading toward a degree in an eligible profession; and
  - (ii) maintain an overall institutional passing grade point average.

(B) Upon approval of an employee's management team member, an employee may change his or her status from full-time to part-time in order to accommodate class scheduling.

(C) The employee's management team member will reconsider the employee's participation in the program each semester. The department may deny further participation if the employee does not meet the requirements of subparagraph (A) of this paragraph or §4.64(a) of this title (relating to Employee Obligations), or if the management team member determines that the employee's participation in a degree program adversely affects the employee's job performance. The requirement concerning employee job performance does not apply to the department sponsored master's program.

(4) Non-degree program. Eligibility and continued eligibility requirements do not apply when a full-time employee is not pursuing a degree, but is taking one or more classes as a requirement of the employee's position or is pursuing a general equivalency diploma, except that a management team member must approve the request.

(c) Type of institution. An employee who participates in the education assistance program must attend a public institution in the State of Texas, unless:

(1) there is no accredited public institution which offers program courses that can reasonably be attended by an employee within a normal combination work/school day;

(2) the public institution does not offer the approved courses or degree program;

(3) the admission requirements of the public institution are so restrictive as to preclude the employee's qualification into the program;

(4) the completion of the degree or course at a private institution costs less than a public institution; or

(5) the employee attends the private institution under an agreement that the department will pay only the equivalent of what the education would have cost at a public institution.

(d) Eligible expenses. The following expenses are eligible for financial assistance:

(1) tuition, including correspondence courses that fulfill a degree, trade, or technical school plan requirements or are taken while pursuing a general equivalency diploma;

(2) College Level Equivalency Program (CLEP) exams, or similar exams if the student scores high enough to receive college credit or a waiver of the course requirements if part of the employee's degree plan;

(3) life experience assessments for which the student obtains a credit if part of the employee's degree plan; and

(4) required fees and books.

(e) Use of state time and property.

(1) Unless the student is participating in a department sponsored master's program as provided in subsection (b)(2) of this section, department duty hours may not be used for attending classes, studying, or other activities associated with the program. A student may use annual leave, flextime, or compensatory time with prior written approval from his or her supervisor.

(2) A student in the program may use the department's self-service copy machines, typewriters, calculators, and microcomputers to complete course assignments.

#### §4.64. *Employee Obligations.*

(a) Obligation.

(1) Educational assistance is conditional upon the employee:

(A) agreeing to work for the department for a minimum of two years for an associate's or bachelor's degree and three years for a graduate degree, commencing 30 days following the date of the employee's receipt of the degree providing the employee meets all conditions of employment and eligibility at that time;

(B) adhering to the terms and conditions of the education assistance agreement and requirements for continued eligibility; and

(C) completing and passing each individual course.

(2) Each semester, a student must provide grade reports for verification that full credit was received for courses taken.

(b) Offset. Employees shall provide fee receipts for courses to be taken and shall promptly report any outside funds such as grants, scholarships, or other financial aid received before reimbursement of expenses. The department will deduct any amounts students receive through grants, scholarships, or other financial aid toward tuition, required fees, and books.

(c) Cancellation and suspension.

(1) Cancellation. The department will cancel the student's education assistance agreement and require the student to repay all funds, not to include salary, received from the department under §4.63 of this title (relating to Education Assistance Program) if the student:

(A) withdraws from the institution;

(B) is removed or prohibited from attending the institution;

(C) fails to comply with one or more terms of the education assistance agreement; or

(D) is terminated for poor performance or behavior during the duration of the student's education assistance agreement, including the employment period required by subsection (a)(1)(A) of this section.

(2) Suspension. If an employee is placed on disciplinary probation, the department may suspend the employee's participation in the education assistance program.

(d) Repayment.

(1) A student who is liable for repayment under subsection (c) of this section shall repay the department in accordance with this subsection.

(2) The department will establish a degree program repayment schedule of:

(A) up to 60 equal monthly installments beginning 90 days after the effective date of cancellation; and



(B) minimum installments based on the student's ability to repay and amount of funds owed, with a minimum installment requirement of \$20 per month.

(3) Non-degree program students taking academic classes who fail to complete or pass a course must repay funds provided by the department for that course.

(A) The department will establish a repayment schedule of up to 12 equal monthly installments beginning 60 days after verification of failure or noncompletion.

(B) The department will not pay expenses incurred to retake the same course or take a substitute for that course.

(4) The executive director may approve the reduction, deferral, and extension of the prescribed repayment period if the student demonstrates an inability to pay due to a hardship.

(5) Any reduction, deferral, or extension does not relieve the employee of his or her responsibility to repay the funds owed.

(6) If the department cancels a student's education assistance agreement, the student will no longer be eligible for assistance under §4.63 of this title, unless the student has repaid the department in accordance with this subsection and:

(A) the student demonstrates that the cancellation was due to hardship; or

(B) it has been at least three years since the department canceled the student's education assistance agreement.

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 November 25, 1996.

TRD-9617109

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Effective date: December 16, 1996

Proposal publication date: September 13, 1996

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



## Chapter 9. Contract Management

### Subchapter E. Maintenance Project Contracts

#### 43 TAC §§9.70-9.73

The Texas Department of Transportation adopts new §§9.70-9.73, concerning maintenance project contracts, without changes to the proposed text as published in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8829).

Transportation Code, §223.042 provides that of the amount spent in a fiscal year by the department for maintenance projects, the department shall spend not less than 50% through contracts awarded by competitive bid. The department is also required to consider all of its direct and indirect costs in determining the cost of providing the services and the commission is required to adopt rules to administer the section.

Section 9.70 states that the department is required to contract a minimum percentage of maintenance project contracts to the private sector and identifies the process by which the department determines the cost effectiveness of this contracting and the activities to contract to the private sector.

Section 9.71 establishes definitions applicable to this subchapter.

Section 9.72 establishes the amount to be spent by the department for maintenance projects, through contracts awarded by the competitive bidding process; states that the bidding requirements does not apply unless the department determines that a function of comparable quality and quantity can be purchased or performed at a savings by using private sector contracts; provides that materials purchased by the department for maintenance projects performed by department personnel do not apply toward the calculation of the percentage to be contracted; and establishes the types of payments that will be included in the contract amount.

Section 9.73 provides that the department will perform evaluations of the quality and cost of maintenance projects to determine whether to use the private sector. This section also provides the type of projects that will be evaluated and what will be considered in the evaluations.

On September 30, 1996, the department conducted a public hearing on the new sections. No oral or written comments were received.

The new sections are adopted under Transportation Code, §201.101 which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, Transportation Code, §201.103 which requires the commission to plan and make policies for the maintenance of a comprehensive system of state highways and public roads, and Transportation Code, §223.042 which provides for the privatization of not less than 50% of maintenance projects.

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 November 25, 1996.

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## Chapter 15. Transportation Planning and Programming

### Subchapter H. Transportation Corporations

#### 43 TAC §§15.80-15.93

The Texas Department of Transportation adopts new §§15.80-15.93, concerning transportation corporations. Sections 15.81-

15.85, §15.87, §15.89, §15.90, and §15.93 are adopted with changes to the proposed text as published in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8831). Section 15.80, §15.86, §15.88, §15.91, and §15.92 are adopted without changes and will not be republished.

The Texas Transportation Corporation Act, Transportation Code, Chapter 431, provides for the creation of transportation corporations for the purpose of the promotion and development of public transportation facilities and systems.

Section 15.80 describes the commission's authority to establish the policies and procedures governing the creation and operation of transportation corporations in Texas.

Section 15.81 defines words and terms used in the new subchapter.

Section 15.82 prescribes the application procedures for the creation of a corporation and sets out the qualification requirements for applicants.

Section 15.83 identifies the information that must be contained in a notice that will be published in a newspaper in the corporation's geographic area prior to the commission considering the application. The section also states that, before the commission may approve the creation of a corporation, the executive director must submit the application and department's recommendations to the commission.

Section 15.84 describes the conditions by which the commission will approve the creation of a corporation, and the content of the approval order.

Section 15.85 identifies the information that must be submitted by an applicant to become a member of a corporation's board. The section also identifies those circumstances where an individual would be ineligible to serve on a corporation's board. The section explains how vacancies on the board will be addressed and how replacement and additional directors will be appointed to the board, whether by board nomination or commission nomination. Finally, the section states that the commission may remove a director with or without cause.

Section 15.86 identifies prohibited actions for directors and certain employees of a transportation corporation. The actions that are prohibited reflect the same provisions that govern department employees, officers, and members of the Texas Transportation Commission.

Section 15.87 explains the powers and limitations granted to the board by the commission.

Section 15.88 specifies that donated cash, goods, services and property may be used only for the purpose of furthering the corporation's authorized purposes.

Section 15.89 sets out terms and conditions that must be adhered to by a transportation corporation when it enters into a contract. The section also requires the prior review of: all contracts in excess of \$100,000; construction contracts; and contracts relating to the provision of professional or scientific services.

Section 15.90 explains that quarterly financial and semi-annual project status reports are required from each corporation and

discusses the minimum requirements for each type of report. This section also addresses the necessity of an annual audit.

Section 15.91 explains the procedure for dissolution of a corporation by either the board or the commission.

Section 15.92 states that the corporations are subject to the requirements of the Open Meetings Act, the Public Information Act, and the Texas Non-Profit Corporation Act.

Section 15.93 declares that the commission and the department shall not assume liability for any action of the corporation, any debt incurred by the corporation, or any judgment against the corporation, its officers, employees, or agents. Further, the section states that the formation of a corporation does not imply commission commitment for future construction, operation or maintenance, nor shall such action be considered as authorization for right of way acquisition, construction funding or development of a transportation project.

On October 4, 1996, a public hearing was held to receive comments, views, or testimony concerning the proposed adoption of the new sections. No commenters were present to offer oral comments, views, or testimony, however, the department received written comments from Jane Hughson, a director of the San Marcos Parkway Association and from the Grand Parkway Association.

Regarding §15.85(b)(1), ineligibility of elected public officials to serve as directors, Ms. Hughson stated that she was disappointed that elected officials are ineligible to serve as directors. She stated that the project the San Marcos Parkway Association is involved in is a county project and she cannot see that serving on the City Council would be detrimental to the project. In response, a city council and a transportation corporation both have jurisdiction over public projects. A public road in a county, though not geographically in a city, could have an effect on a city. To ensure that there is no conflict between a director's duty of loyalty to the corporation and an elected official's duty of loyalty to his or her electorate, this section has not been revised.

Also regarding §15.85(b), the Grand Parkway Association (GPA) stated that it generally agrees with the requirements related to an individual's qualifications to serve as a director. However, the GPA is concerned about the possible unintended consequences resulting from stating that a director is ineligible to serve. GPA stated that this ineligibility would seem to result in an automatic resignation that could produce serious unintended consequences. The GPA suggests the department restate the language to require that the named individuals "cannot be appointed" rather than "are ineligible." The GPA specifically requests that the language of §15.85(b)(4) be changed to "once appointed, directors must comply with §15.86(b) of this title (relating to Conflict of Interest)." In response, corporation directors are carrying out duties of commission members, and therefore the department believes that directors should have the same ethical standards. The restrictions on eligibility in §15.86 track the statutory language in Transportation Code, §201.051, concerning eligibility for appointment as a member of the commission. Therefore, the section has not been revised.

Regarding §15.85(d)(1), Ms. Hughson stated she had no argument with limiting the period in which a director may serve

on a Board to six years. She does have a concern with how §15.85(g), Retroactivity, affects this limitation. She specifically requests that, if this means that any director currently serving, who has served for six or more years, must be replaced, that they be allowed a one year transition period.

In response, the department notes that the term limit of six years is a statutory requirement under Transportation Code, §431.028(c). To ensure efficient transitions of corporation boards, Section 15.84(b) has been revised to provide for the staggering of terms, and Section 15.85(d) has been revised to clarify that directors are eligible for re-appointment.

Regarding §15.86(a), prohibited conduct for directors and employees, the GPA states that the standards related to such prohibited conduct are not consistent and, therefore, unclear. They suggest that the prohibition in §15.86(a)(1) concerning accepting or soliciting any gift, favor, or service that might reasonably tend to influence a director or employee in the discharge of official duties or that the director or employee knows or should know is being offered with the intent to influence the director's or employee's official conduct be changed to be consistent with the language in §15.86(a)(2)-(4), i.e., "prohibit conduct that the employee would reasonably expect." They suggest that the language in §15.86(a)(1) be revised to read: "accept or solicit any gift, favor, or service that the director or employee would reasonably expect to be offered with the intent to influence the director's or employee's official conduct."

In response, since a corporation acts on behalf of the commission, the department desires to apply to directors and corporation employees the same ethical requirements applicable to state officers and employees. The language in the subsection tracks the language in Government Code, §572.051 concerning standards of conduct for state officers and employees. Thus, the section has not been revised.

Regarding §15.86(b), eligibility of directors and chief administrative officers, the GPA commented that the proposed standard prohibits a person serving as a director if that person is a lobbyist " . . . on behalf of a profession related to the operation of the department." The GPA stated that the proposed standard is so broad that virtually any significant company doing business in Texas is "related" to the operation of the department. They suggest that "the department is interested in a much stronger connection; consequently, the standard should be whether the lobbyist represents an entity that is regulated or receives funds from the department."

In response, since a corporation acts on behalf of the commission, the department desires to apply to corporate directors and chief administrative officers the same conflict of interest standards applicable to commission members. The language cited tracks the language in Transportation Code, §§201.051 and 201.401, relating to the qualifications of a member of the commission and employees of the department. The language has not been changed.

Regarding §15.89, Contracts for Goods and Services, the GPA expressed concerns that the proposed language in the section changes the basic structure under which the GPA has entered into contracts for goods and services during its 12 years of operation. They request that this section be revised to conform with existing commission policy governing GPA's contracts.

Specific comments regarding this section include comments regarding subsection (a), Adequate funds. This subsection, as proposed, states that "a corporation shall not enter into a contract for goods or services that creates a legally binding obligation against the corporation unless there are available to it, at the time of execution of the contract, adequate funds and projected receipts sufficient to pay the obligation created by such contract as well as all other known obligations of the corporation." The GPA states that it receives professional services on a contingent fee arrangement, which is necessary for the GPA to continue operation in an uninterrupted fashion, since the funding from local counties and other potential users is sporadic. They assert that current policy is adequate to ensure that transportation corporations do not create obligations that they cannot fund. Current policy states that if adequate funds are not available at the time of its execution, the contract must state that the transportation corporation is not legally obligated for such goods and services beyond funds on hand.

Regarding §15.89(b)(1), Department review, the GPA states that the required approval by the commission of all contracts in excess of \$200,000 defeats one of the primary purposes for the creation of transportation corporations, since the required review would slow down the pace of operations and work of the corporation. They state that current policy requires an independent annual audit and quarterly financial and project reports, which allow the commission to review the activities of transportation corporations. The GPA asserts they are unaware of any problems that have arisen under existing procedures that require such drastic changes that will slow down the entire process. They suggest that the language be revised so that these contracts be reviewed at the district engineer level.

Regarding §15.89(b)(2), which requires all contracts, regardless of contract amount, to be submitted to the deputy executive director no more than 30 days subsequent to contract execution, the GPA asserts that the required department review has the potential to create a very slow and unwieldy system. They suggest that small contracts be excluded and that the district engineer have the review authority. The GPA suggests a contract amount of \$10,000 and that the contract be submitted to the district engineer.

The department agrees with many of the concerns of GPA and has revised §15.89 in a way to prevent financial management problems, while allowing for the efficient operation of the corporation by deleting the requirement for commission approval of contracts over \$200,000. Also as requested by GPA, small contracts unrelated to the primary purposes of the corporation will not be reviewed by department staff. The section has been revised to require the prior review of: all contracts in excess of \$100,000; construction contracts; and contracts relating to the provision of professional or scientific services. The department considers this requirement to be less onerous to the corporations while allowing the commission and the department to properly monitor significant corporate activities. With the removal of department approval of large contracts, the department has revised the section to reinstate previous commission policy, as requested by GPA, to require each contract to specify whether there are adequate funds and projected receipts available, and if not available, to state that the corporation is not legally obli-

gated for the goods and services beyond funds on hand. This requirement is intended to ensure proper fiscal management.

The department disagrees with the suggestion that contracts be submitted to the district engineer. Contractual review is proper at the headquarters level where the necessary expertise resides.

The GPA also recommends that wording be included that a contract requiring approval be approved or disapproved 30 days after the contract is submitted. The department disagrees with this recommendation. As previously described, the section was amended to remove the requirement for department approval. The section does, however, require prior review. The department considers placing deadlines on the department to be inconsistent with the source of a corporation's power and authority.

Regarding §15.81, the department has deleted the definition of deputy executive director and revised the definition of executive director to include the executive director's designee. Wherever the term "deputy executive director" appears in the rules, it has been changed to "executive director." The purpose of this revision is to allow the department the flexibility to appoint the appropriate department liaison to a corporation as circumstances dictate.

Regarding §15.82(a), the department has changed paragraph (3) to read from "a diagram of the proposed transportation project or projects" to "a project location map indicating" such limits to more accurately define the information needed in an application for creation of a transportation corporation.

Regarding §15.84, the department has reviewed the proposed section and has deleted subsection (c) concerning the bond requirement since the requirements in §15.91 (relating to dissolution of a corporation) are sufficient to protect the interests of the department.

Regarding §15.87(c), the department has amended this subsection to specifically reflect the fact that the commission authorizes a transportation corporation to complete various stages of project development.

Regarding §15.90, the department has amended subsection (a)(2), Project status report, to more accurately reflect the commission's interest in the scope of any work or project it authorizes.

Also regarding §15.90, the department has added a new subsection (b) to provide for periodic appearances before the commission whereby corporations will have the opportunity to report on their status. This revision is necessary to ensure proper communication between the commission and corporations. Proposed subsections (b) and (c) have been renumbered to reflect this addition.

Regarding §15.93, subsection (a) has been revised to clarify that the commission and the department are not liable for any debt of, action by, or judgment against a corporation, its officers, employees, or agents.

The new sections are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of work of the Texas Department of Transportation, and more specifi-

cally, the Texas Transportation Corporation Act, Transportation Code, Chapter 431, which provides for the creation of transportation corporations for the purpose of the promotion and development of public transportation facilities and systems.

*§15.81. Definitions.*

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

Act - The Transportation Corporation Act, Transportation Code, Chapter 431.

Board - The Board of Directors of a corporation.

Commission - The Texas Transportation Commission.

Corporation - A transportation corporation created under this subchapter.

Department - The Texas Department of Transportation.

Director - A director of a corporation's Board.

Executive director - The executive director of the Texas Department of Transportation or the executive director's designee.

Transportation project - The planning, construction, or reconstruction of a transportation facility which the department has the legal authority to plan, construct, or reconstruct, including but not limited to, a public road or highway, bridge, ferry, transit facility, or high occupancy vehicle lane.

*§15.82. Application for Creation of Corporation.*

(a) Three or more qualified individuals may file with the executive director an application for the creation of a corporation. The application shall be in a form prescribed by the department and shall, at a minimum, include:

- (1) the name, address, and telephone number of a person who may be contacted for additional information;
- (2) a description of the proposed transportation project or projects;
- (3) a project location map indicating the limits of the proposed transportation project or projects;
- (4) copies of project feasibility studies, if available;
- (5) proposed articles of incorporation;
- (6) proposed bylaws; and
- (7) applications for appointment as a director, submitted in accordance with §15.85(a) of this title (relating to Board of Directors).

(b) For purposes of this section, an applicant is qualified if he or she is a:

- (1) qualified voter in this state; and
- (2) resident of a county within the geographic area of the corporation's operations or resident of a county adjacent to such county or counties.

*§15.83. Department Action.*

(a) Notice of Publication.

(1) After the department has determined that the application is complete and ready for consideration by the commission, the

applicants shall publish a notice in a newspaper with general circulation in each county located in the corporation's geographic area. The notice must be published at least once a week for two consecutive weeks, with the first publication being at least 20 days before commission action on the application. The form and content of the notice must at a minimum include:

- (A) the proposed purpose of the corporation;
- (B) the names of the proposed initial directors;
- (C) a statement that the commission is considering an application for the creation of a corporation and the applications of the proposed directors;
- (D) a statement that inquiries may be made to the executive director;
- (E) date, time, and location of the commission meeting; and
- (F) who to contact, within the department, if special accommodation is required.

(2) The applicants must furnish the executive director with a publisher's affidavit at least seven days prior to commission action on the application.

(b) Department recommendation. Prior to approval of the creation of a corporation under §15.84 of this title (relating to Approval of the Creation of a Corporation), the executive director will submit to the commission the application together with the department's recommendations.

*§15.84. Approval of the Creation of a Corporation.*

(a) Creation. The commission will by order approve the creation of a corporation if it finds that such creation is advisable and will:

- (1) serve the public interest;
- (2) address a statewide or regional transportation need; and
- (3) develop or promote a transportation project that is or will be consistent with the statewide transportation plan and an existing regional transportation plan developed by a metropolitan planning organization, if any.

(b) Approval order.

(1) An order of the commission approving the creation of a corporation shall:

- (A) include a finding that the commission determines that the creation of the corporation is advisable;
- (B) approve the articles of incorporation and bylaws to be used in organizing the corporation;
- (C) designate the geographic area of the state in which the corporation may operate; and

(D) appoint three or more directors to the Board, in accordance with §15.85 of this title (concerning Board of Directors), for individual terms not to exceed six years.

(2) The commission will stagger the terms of the directors to the extent practicable.

*§15.85. Board of Directors.*

(a) Application for initial appointment. Each applicant for appointment as an initial director shall submit the following information to the executive director:

- (1) an application for appointment, in a form prescribed by the department;
- (2) a financial statement in conformance with Government Code, §572.023;
- (3) three letters of reference; and
- (4) an executed bond, payable to the state in a sum of \$5,000, and conditioned on the faithful performance of the director's duties.

(b) Ineligible to serve. The following individuals are ineligible to serve as directors:

- (1) elected public officials;
- (2) persons who are not residents of a county within the geographic area of the corporation's operations, or resident of a county adjacent to such county or counties;
- (3) persons owning an interest in real property which will be acquired by the Corporation or the department for the Corporation's project; and
- (4) persons ineligible under §15.86(b) of this title (relating to Conflict of Interest).

(c) Vacancies. The Board must notify the executive director within 30 days of a vacancy on the Board. If the Board fails to nominate a replacement director within 60 days of a vacancy, the commission will appoint a replacement director in accordance with subsection (d)(2) of this section.

(d) Appointment of replacement and additional directors.

(1) Board nomination. If nominated by the Board, the commission may appoint replacement or additional directors for a term not to exceed six years. The Board will submit to the commission the information on behalf of the prospective director required under subsection (a) of this section.

(2) Commission nomination. The commission may, on its own motion, appoint replacement or additional directors for a term that does not exceed six years. The prospective director will submit, directly to the executive director, the information required under subsection (a) of this section.

(3) Re-appointment. Directors completing their terms are eligible for re-appointment under this subsection.

(4) Publication. After the completed application is received, the executive director have published, or if nominated by the Board, authorize the Board to publish, a notice in a newspaper with general circulation in each county within the corporation's geographic area, at least 20 days before the commission action. The form and content of the notice should include, at a minimum:

(A) the names of the proposed replacement or additional directors;

(B) a statement that the commission will consider the application for such proposed directors at a future meeting, in accordance with this section; and

(C) a statement that inquiries may be made to the executive director.

(5) Publisher's affidavit. If nominated by the Board, the Board shall furnish the executive director with an affidavit of publication.

(e) Removal. The commission may remove a director for cause or without cause.

(f) Compensation. A director serves without compensation but is entitled to reimbursement from the corporation for expenses incurred in the performance of the director's duties.

(g) Retroactivity. Not including the requirements of subsection (b)(2) of this section, all requirements concerning qualifications and eligibility for directors including those of this section and of §15.86 of this title (relating to Conflict of Interest), shall apply to all directors serving prior to the effective date of this subchapter.

*§15.87. Powers of Corporation.*

(a) A corporation has the powers, duties, and responsibilities granted it under the Act and this subchapter.

(b) A corporation shall coordinate proposals and actions involving the promotion and development of transportation projects through the executive director.

(c) All powers and authorizations granted to a corporation concerning the promotion and development of a transportation project are subject to the direction of the commission. The corporation's powers and authorizations shall not be exercised until the commission, by order or resolution, explicitly authorizes the applicable specific stage of project development.

(d) Development of projects shall be performed according to applicable state and federal laws, rules, and regulations and in accordance with state policies and guidelines.

(e) If directed by the commission as a part of the transportation project, the corporation shall prepare an environmental assessment and/or environmental impact statement in accordance with Chapter 2, Subchapter C of this title (relating to Environmental Review and Public Involvement for Transportation Projects). The form and content of an environmental assessment and environmental impact statement prepared by a corporation and any decision by a corporation that an environmental impact statement is not necessary must be approved by the department.

*§15.89. Contracts for Goods or Services.*

(a) Adequate funds.

(1) A corporation shall not enter into a contract for goods or services that creates a legally binding obligation against the corporation unless there are available to it, at the time of execution of the contract, adequate funds and projected receipts sufficient to pay the obligation created by such contract as well as all other known obligations of the corporation.

(2) Each contract shall specify on its face whether or not there are adequate funds and projected receipts available at the time of its execution. If adequate funds and projected receipts are not available at the time of its execution, the contract must state that the corporation is not legally obligated for such goods and services beyond funds on hand and actual payment for such goods and services shall be within the sole discretion of the Board at such time as funds

may be available to the corporation. Each contract where there is inadequate funding shall also include a statement to the effect that:

(A) the contract does not create a present or future legally binding obligation of the corporation beyond monies on hand as of the effective date of the contract;

(B) the contractor waives his or her right to sue for non-payment if no monies are available; and

(C) the contract is subject to termination upon 30 days written notice by either party.

(b) Department review.

(1) The following contracts must be submitted to the executive director prior to contract execution for review as to form and consistency with the provisions of this subchapter:

(A) construction contracts;

(B) contracts relating to the provision of professional services;

(C) contracts relating to the provision of scientific services; and

(D) all contracts in excess of \$100,000.

(2) A corporation may not divide contracts into smaller quantities, reduce time periods, or otherwise limit the maximum amount payable to a contractor to avoid or appear to avoid the requirements of this subsection.

(c) The department will not be a third party to a contract.

*§15.90. Reports and audits.*

(a) Written reports.

(1) Financial report. Except as provided in paragraph (4) of this subsection, a corporation shall submit a quarterly financial report after the end of each of the state's fiscal quarters. The quarterly financial report must include a balance sheet as of the end of the quarter and a fiscal year-to-date statement of revenues, expenditures, and changes in fund balance prepared in accordance with generally accepted accounting practices.

(2) Project status report. Except as provided in paragraph (4) of this subsection, for each transportation project, the corporation shall submit a semi-annual project status report after the end of the mid-point of the state's fiscal year and after the end of the state's fiscal year, that must include, at a minimum:

(A) the scope of work authorized by the commission;

(B) the work that has been accomplished in that quarter;

(C) the anticipated completion date of the project, as well as anticipated completion dates for various segments of the project, if applicable;

(D) the status of coordinating activities with other governmental entities and with railroads, utilities and others;

(E) project fiscal data, including funds received, expended, available, and projected completion costs; and

(F) comments on significant accomplishments, problems, and concerns of the corporation.

(3) Certification. Reports submitted under this subsection must be approved by official action of the board and certified as correct by the president of the Corporation.

(4) Inactivity. If no financial activity has taken place or the project status has not changed in the preceding period, the corporation may submit, in lieu of the quarterly financial report and semi-annual project status report, a certification stating that no activity has taken place.

(5) Submission dates. Reports or the certification required by this subsection must be submitted to the executive director within 60 days after the end of each of the state's fiscal quarter.

(b) Annual commission report. Every 12 months, the corporation shall appear before the commission to report on its current condition, status of projects, and activities undertaken the preceding 12 months.

(c) Annual audits. The Corporation shall submit reports of an annual financial audit in accordance with this subsection.

(1) Submission date. The annual audit shall be submitted to the executive director within 90 days after the end of the state's fiscal year (August 31).

(2) Certification. The audit must be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. The accompanying financial report shall be prepared according to pronouncements by the Government Accounting Standards Board.

(3) Content. The audit shall include, at a minimum:

(A) an evaluation of the corporation's internal accounting system and controls;

(B) a statement regarding the corporation's compliance with the guidelines established by the commission for its operation, including both the positive and negative compliance (summary of all instances of noncompliance, if any, must be included);

(C) a complete recapitulation of the corporation's income and expenditures as well as assets and liabilities; and

(D) an unqualified certification by the certified public accountant.

(4) Paperwork retention period. All work papers and reports shall be retained for a minimum of four years from the date of the audit report, unless the certified public accountant is notified by the department in writing, to extend the retention period.

(5) Availability of audit work papers. If requested by the department, audit work papers shall be made available to the executive director at the completion of the audit.

(d) Other reports. The corporation will provide other reports and information regarding the corporation promptly when requested by the executive director.

*§15.93. Commission and Department Responsibility.*

(a) Debt. The commission and the department shall not assume liability for any action of the corporation, any debt incurred by the corporation, or any judgment against the corporation, its officers, employees, or agents.

(b) Commitment. Creation of a corporation by the commission shall not be construed to be a commitment for future roadway

construction, operation, or maintenance, nor shall such action be considered as authorization for right of way acquisition, construction funding, or development of a transportation project.

(c) Authority.

(1) It is and shall remain the policy of the commission that corporations are to be viewed as acting on behalf of the commission. A corporation only has the powers and may perform only the functions specifically delegated to it by order of the commission. All decisions with respect to location, design, construction and related matters shall be made by the commission and the department.

(2) The board shall comply with such directions as the commission may from time to time communicate concerning staffing, contracting, and corporation organizational matters.

(d) Curative actions. In the event that a corporation is determined to be insolvent, found to be in noncompliance with the requirements of this subchapter, or fails to respond to a request of the commission or the department, the corporation is subject to curative actions by the commission up to and including dissolution.

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 November 25, 1996.

TRD-9617111

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Effective date: January 1, 1997

Proposal publication date: September 13, 1996

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



## Chapter 25. Traffic Operations

### Subchapter H. City Pride Sign Program

#### 43 TAC §§25.420-25.425

The Texas Department of Transportation adopts new §§25.420-25.425, concerning the city pride sign program. Sections 25.421- 25.425, are adopted with changes to the proposed text as published in the June 28, 1996, issue of the *Texas Register* (21 TexReg 5965). Section 25.420 is adopted without changes and will not be republished.

These new sections prescribe the policies and procedures for the program which will allow municipalities to erect and display signs concerning points of interest or geographical, recreational, cultural, or civic information at the city limits on state highway right of way.

Section 25.420 outlines the purpose of the program.

Section 25.421 provides definitions of the words and terms included in the proposed sections.

Section 25.422 provides a procedure for a municipality to apply for participation in the city pride sign program, establishes conditions under which the department will approve the application, and provides for the form and content of the written agreement between the municipality and the department. This

section requires a municipality to cooperate with contractors working on state right of way, provides installation requirements for the signs, requires that the municipality maintain the sign, and allows the department to require that a sign be removed or relocated. This section also restricts municipalities from charging fees for local participation in the program.

Section 25.423 defines the eligibility requirements for local civic organizations to participate in the sign program.

Section 25.424 establishes the design, content, and placement requirements of a city pride sign and its attachment signs. This section also restricts municipalities from removing existing regulatory, warning, destination, guide, recreational, and cultural interest signs on state highway right of way. The section provides that existing signs may be relocated at municipal expense with prior written approval from the department. This section provides that a municipality shall remove or relocate existing, non-complying civic organization or attachment signs. Beginning on September 1, 1998, the department will remove a sign that is not in compliance with this section.

Section 25.425 provides that a civic organization must apply to the municipality, that the municipality is responsible for selection, and prescribes a procedure for removal of civic organization attachment signs.

On July 18, 1996, a public hearing was held to receive comments, views, or testimony regarding new §§25.420-25.425, concerning the city pride sign program. Oral and written comments were submitted on behalf of the Texas Natural Resource Conservation Commission (TNRCC) and Keep Texas Beautiful (KTB) opposing the new sections. The following governmental groups, civic organizations, businesses, and individuals submitted written comments opposing the new sections: City of Caldwell, Moody Beautification Committee, Eldorado Pride Committee, City of Eldorado, The Colony, Cuero Chamber of Commerce and Agriculture, City of Richland Hills, City of Richland Hills Clean City Commission, City of San Marcos, Farmers Insurance Group of Companies (Keep Round Rock Beautiful Organizer), Keep Dublin Beautiful, Canton Chamber of Commerce, City of Rankin, Keep Texas Beautiful Proud Community of Rankin, Farmersville Clean and Proud, City of Wichita Falls, City of Beaumont, Keep DeKalb Beautiful, Keep Columbus Beautiful, Escentis (Keep Texas Beautiful), Keep Point Comfort Beautiful Committee, City of Lockhart, Kountze Middle School, Rockport-Fulmont Area Chamber of Commerce, City of West Tawankoni, Nacogdoches Proud Inc., City of Lake Jackson, City of Chandler, City of Cedar Park, and one individual. Keep Victoria Beautiful submitted written comments supporting the new sections. Wichita Falls Clean Country submitted written comments asking for clarification of the rules.

Comment: TNRCC objected to the placement of the Superior Public Drinking Water Supply and Clean Cities 2000 on the city pride sign and asked the department to allow the signs from these programs to be posted individually. KTB supported TNRCC's comments and also requested that its signs remain. Numerous commenters submitted comments similar to TNRCC and KTB. Most comments opposed moving the KTB signs. Keep Victoria Beautiful supported the decision to condense signage into one area.

Response: The new sections apply only to highways under the department's jurisdiction. They do not apply to county or city roadways.

The department's primary concern is safety. The department proposed these new sections not only to allow a municipality to erect and display signs that will inform the traveling public along the state highway system, but to comply with the new breakaway safety standards. The Federal Highway Administration adopted these national standards after the publication of the National Cooperative Highway Research Report No. 350 "Recommended Procedures for the Safety Performance Evaluation of Highway Features." The breakaway safety standards must be implemented by September 1, 1998. Most of the Superior Public Drinking Water Supply, Clean Cities 2000, and KTB signs are currently posted on the city limit sign. Continued placement of these signs on the city limit sign will not meet the new safety standards. To comply with the new breakaway safety standards these signs must be removed from the city limit signs.

In some cases, an individually posted sign is the only sign placed near the city limits. In that case, the city may approve that sign as the city pride sign and the sign will not have to be moved until the city chooses to change the sign.

TNRCC's Superior Public Drinking Water Supply and Clean Cities 2000 signs are posted pursuant to Natural Resources Code, Chapter 26 concerning water quality control. In order to promote the maintenance of the quality of the state's water consistent with public and environmental health enjoyment, these signs may be placed on a TNRCC sign separate from the city pride sign. A definition of "TNRCC sign" has been added to §25.421 and changes have been made to §25.422 and §25.424 to reflect the addition of the TNRCC sign to this subchapter.

Comment: Several commenters opposed the new sections because they thought that the program would limit a city to one sign.

Response: The new sections do not limit a city to only one sign per city. A city may have more than one sign since a city pride sign and a TNRCC sign may be erected at each non-controlled access highway entrance. Section 25.422(a)(1) has been changed to clarify this.

Comment: Several commenters were concerned that the standard size of 80 square feet would be too large.

Response: Smaller size signs are allowed as long as the total sign area does not exceed 80 square feet. Individual signs may be placed on a sign post or posts if the total sign area at any location does not exceed 80 square feet and the sign meets breakaway standards or is mounted in accordance with department specifications. The maximum total sign area is 80 square feet.

Comment: TNRCC noted that there would be a negative financial impact to TNRCC if TNRCC were to move the signs. Several commenters noted that small cities may not have the budget available to build a city pride sign and thus, may be deterred from seeking recognition in these programs. KTB commented that moving the signs would be an unfunded mandate. Several commenters suggested that the department should pay for the cost involved and the City of Caldwell also



suggested that the department should reimburse the city for its existing signs.

Response: The cost for the city pride sign or TNRCC sign will depend upon the size of the sign. The cost estimate may range from \$200 to \$2,000 depending upon the size of the sign. For many cities, the cost would be minimal, because the cities already have the employees and expertise to replace city signs. In these situations, the cost would be for the support structure and attachment hardware.

Comment: The commenters stated that having so many attachment signs on one sign would create a safety hazard when a motorist tries to read the sign.

Response: Safety is the department's primary consideration. The city pride signs should reduce the problem of trying to read too many signs, not exacerbate it. The introduction of the new 70 mile per hour rural speed limit has resulted in the placement of reduced speed limit signs at most entrances to cities. Typically a speed limit sign is posted directly adjacent to the city limit sign. This has created situations where the city limit sign, the speed limit sign, and the civic organizations and other signs present so much information that the driver is overloaded and may not see the speed limit sign.

Comment: A few commenters suggested that if the current KTB sign is removed, then people might think that the litter problem has been solved. Keep Victoria Beautiful expressed the opinion that moving the sign would not create the impression that the litter problem has been solved and "residents would be thrilled with the reduction of so many signs on so many posts, spaced so far apart, going so far into city limits."

Response: The department agrees with Keep Victoria Beautiful and does not think that moving the sign will cause people to think the litter problem has been solved.

Comment: Several commenters thought that their sign would lose exposure if placed with other signs on a city pride sign. Keep Victoria Beautiful suggested that if KTB thinks the signs will be overlooked that it could establish a standard placement for the KTB sign, in the bottom right hand corner, for example.

Response: The department does not think that an organization will lose exposure if it is moved to a city pride sign. Instead, with standard signage, travelers will know exactly where to look to find the organization's sign.

Comment: The City of Lake Jackson supported limitations or prohibitions on signs for individual civic organization signs, such as the Lions and Rotary Clubs, but not for community-wide signs, such as "All-America City" and "Superior Water Supply System." A city ordinance currently prohibits civic organization signs. The city wants to keep the community-wide signs, but its city ordinance also prohibits the placement of billboards.

Response: Under this program, the city may limit the signs placed on the city pride sign to community-wide signs. The department will consider a design other than a billboard design if it meets department specifications.

Comment: An individual commented that to have one program throughout the State of Texas would interfere with freedom of choice.

Response: The city pride signs are located on the department's right of way. The department has the responsibility to maintain the right of way in a safe manner. It is the department's opinion that safety will be served with the implementation of these signs. The city is free to decide which signs should be placed on the city pride sign.

Comment: Wichita Falls Clean Country inquired whether the new sections would apply to signs for its sister city sign.

Response: The new sections will apply to a sign for a sister city.

Comment: Wichita Falls Clean Country asked if space on the sign would have to be purchased.

Response: Space will not have to be purchased, because the municipality will own the sign. The municipality will be responsible for selecting the civic organizations and placing the attachment signs.

Comment: Wichita Falls Clean Country asked for clarification as to whether the signage would be part of the logo sign program.

Response: This is a separate program from the logo sign program.

The definition of attachment sign in §25.421 has been changed to clarify that an award for participation in a program is considered civic information. The definition has also been changed to clarify that the rules apply to a governmental entity. The definition of city pride sign has been changed to require the sign to be located near the city limits instead of at the city limits. This change conforms to the placement requirements of §25.424(a)(3)(1).

Section 25.422(g)(2) has been changed to require submittal of the city pride sign application to the district, instead of allowing submittal to the Traffic Operations Division or the district.

Section 25.422 and §25.425 have been changed to eliminate the requirements that a missing sign be removed.

Section 25.423(b)(2) has been revised to clarify that an organization may have more than one attachment sign if the city agrees to the placement of additional signs.

Section 24.424(a)(1) has been revised to delete the requirement for reflective sheeting, because the reflective sheeting requirement is contained in the department specifications. The removal date for non-conforming signs in §25.424(a)(5)(B) has been extended from September 1, 1997, to September 1, 1998. The extension allows the department more time to inform the municipalities of the new sections and seek voluntary removal of non-conforming signs. This date coincides with the implementation date of the new breakaway standards.

Section 24.424(a)(3)(F) has been revised to change the phrase "without blocking motorists' visibility" to "without blocking motorists' view" to clarify that a sign may not block motorists' view of traffic control and guide signs.

These new sections are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically under Transportation Code, §203.002, which au-

thorizes the commission to lay out, construct, maintain, and operate a modern state highway system.

*§25.421. Definitions.*

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

Attachment sign - A sign, provided by a civic organization or a governmental entity, that displays points of interest or geographical, recreational, cultural, or civic information, including awards for participation in programs.

City pride sign - A sign placed near a city's jurisdictional limits that displays attachment signs.

Civic organization - A non-profit organization.

Department - The Texas Department of Transportation.

District - One of the 25 geographical areas managed by a district engineer, in which the department conducts its primary work activities.

Eligible highway - A non-controlled access highway on the state highway system.

Municipality - A city, town, or a self-governing unincorporated community.

Non-controlled access highway - In accordance with applicable state law, a state highway on which owners, or occupants of abutting lands, and other persons have access to or from the highway other than at such points determined by the department.

Non-profit organization - A non-profit unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Texas Non-Profit Corporation Act (Texas Civil Statutes, Article 1396-1.01 et seq.).

Texas MUTCD- Texas Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, issued by the Texas Department of Transportation.

TNRCC sign - A sign that promotes the maintenance of the state's water quality and contains attachment signs for the Texas Natural Resources Conservation Commission's Superior Public Drinking Water or Clean Texas 2000 programs.

*§25.422. City Pride Sign Program.*

(a) Municipality application.

(1) A municipality may obtain an application for participation in the city pride sign program from the Texas Department of Transportation, Traffic Operations Division, 125 East 11th Street, Austin, Texas 78701-2483, or a district office. The application may contain a request for more than one sign. One city pride sign and one TNRCC sign may be placed at each eligible highway entrance.

(2) An application must be submitted to a district office.

(b) Department approval.

(1) The district engineer or his or her designee will approve the design and locations of the city pride and TNRCC signs if the plans meet department specifications in accordance with §25.424 of this title (relating to Specifications for Signs).

(2) The department will notify a municipality in writing whether its specifications have met the department's criteria. Deficiencies will be noted in the returned application.

(3) A municipality may resubmit its application when the noted deficiencies have been corrected.

(c) Written agreement. If the district engineer or his or her designee approves the sign, the municipality must enter into a written agreement with the department. The participation agreement shall be in a form prescribed by the department and shall, at a minimum, contain the requirements of this subchapter.

(d) Cooperation with contractors. While installing or maintaining the sign, the municipality is required to cooperate with any department contractor working on the state highway system at that location.

(e) Installation.

(1) The municipality or its contractor may install the city pride or TNRCC sign. The department will inspect installation to ensure that the sign meets department and Texas MUTCD standards.

(2) The municipality shall submit as-built plans to the department within 45 calendar days upon completion of the installation of a city pride and/or TNRCC sign.

(f) Maintenance. The municipality shall maintain the city pride and TNRCC signs in a safe manner and condition in accordance with department standards.

(g) Sign relocation or removal.

(1) If the department determines that additional regulatory, warning, or guide signing is needed, it may require the municipality to remove or relocate an existing or planned city pride or TNRCC sign at the expense of the municipality. If the department determines that construction or maintenance activities within the state highway right of way will create conditions where an existing city pride or TNRCC sign will not be in compliance with the provisions of this subchapter, the municipality shall remove the city pride or TNRCC sign at its expense.

(2) The municipality shall remove a city pride or TNRCC sign if it has not provided a replacement sign within 60 calendar days of written notification from the department that the sign is damaged, broken, faded, or has become a hazard due to failure to build to specifications, inclement weather, inadequate maintenance, accidental damage, or other cause.

(3) A sign not removed in compliance with paragraph (2) of this subsection is subject to removal by the department and the municipality is liable for removal and disposal costs as provided by §25.10 of this title (relating to Signs on State Highway Right of Way).

(h) Fees. The department and the municipality shall not require fees for participation in the city pride sign program.

(i) Termination. The department may terminate the agreement upon default of the municipality.

*§25.423. Civic Organization Eligibility.*

(a) General requirements for eligibility. A civic organization's application must be approved by the municipality. To be eligible to have an attachment sign placed on a city pride sign in accordance with §25.422 of this title (relating to City Pride Sign Program), a civic organization must:

(1) be located within or have a member who resides in the municipality; and

(2) comply with all applicable laws concerning the provisions of public accommodations without regard to race, religion, color, sex, or national origin.

(b) Placement.

(1) The attachment sign shall be placed within the available sign space.

(2) An organization may have only one attachment sign per city pride sign unless the city and organization agree to installation of additional signs.

*§25.424. Specifications for Signs.*

(a) City pride and TNRCC signs.

(1) Design.

(A) A city pride sign:

(i) shall be fabricated in conformance with department standard plan sheet CPS (CITY PRIDE SIGN);

(ii) may contain a message no greater than eight inches in height identifying the municipality;

(iii) shall meet the applicable provisions of the Texas MUTCD;

(iv) shall have background material which conforms with department specifications;

(v) be fabricated, erected, and maintained in conformance with department specifications and fabrication details; and

(vi) have attachment signs spaced for a balanced appearance.

(B) A TNRCC sign:

(i) shall meet the applicable provisions of the Texas MUTCD;

(ii) shall have background material which conforms with department specifications; and

(iii) be fabricated, erected, and maintained in conformance with department specifications and fabrication details.

(2) Content. A city pride sign shall not contain:

(A) advertising or words that may be construed as advertising, including, but not limited to, the offering of products and services;

(B) notification of municipal ordinances or regulations;

(C) attachments to the city pride sign that extend beyond the sign borders; or

(D) attachments to the supports of the city pride or TNRCC signs, including banners and flags.

(3) Placement. Subject to approval of the department, a city pride or TNRCC sign shall be installed or placed:

(A) between 300 feet and 800 feet from the city limits;

(B) to take advantage of natural terrain;

(C) to have the least impact on the scenic environment;

(D) to avoid visual conflict with other signs within the state highway right of way;

(E) with a lateral offset greater than existing guide signs;

(F) without blocking motorists' view of existing traffic control and guide signs; and

(G) in locations other than hanging above the road.

(4) Lighting. A sign approved for placement under paragraph (3) of this subsection may not display lighting.

(5) Existing signs.

(A) A municipality may not remove existing regulatory, warning, destination, guide, recreation, and cultural interest signs; provided, however, existing signs may be relocated with written permission of the department at the expense and responsibility of the municipality to the extent necessary to accommodate city pride and TNRCC signs.

(B) A municipality shall remove existing civic organization or attachment signs from department right of way and relocate these signs to a city pride or TNRCC sign approved in accordance with §25.422 of this title (relating to City Pride Sign Program). Beginning on September 1, 1998, the department will remove a sign that is not in compliance with this subchapter in accordance with §25.10 of this title (relating to Signs on State Highway Right of Way).

(b) Attachment signs.

(1) Design.

(A) An attachment sign shall not exceed 48 inches in width or 36 inches in height.

(B) An attachment sign may be any color or combination of colors.

(2) Content.

(A) An attachment sign may not:

(i) consist of text, symbols, trademarks or a legend message identifying the name or abbreviation of a commercial establishment, service, or product; or

(ii) contain supplemental address or directional information, such as meeting dates or locations.

(B) An attachment sign may contain a message, symbol, or trademark only if the message, symbol, or trademark does not resemble an official traffic control device.

*§25.425. Program Operation.*

(a) Civic organization application. A civic organization shall apply to the municipality.

(b) Civic organization selection. The municipality will be responsible for selecting the civic organizations and placing the attachment signs.

(c) Removal of civic organization attachment sign.

(1) The municipality shall contact the civic organization in writing if the civic organization does not meet the requirements of §25.423 of this title (relating to Civic Organization Eligibility), or if the attachment sign is missing, damaged, broken, or faded.

(2) The civic organization has 30 calendar days after written notification to meet the requirements of §25.423 of this title (relating to Civic Organization Eligibility). The civic organization has 60 calendar days after written notification to replace a missing, damaged, broken, or faded attachment sign.

(3) The municipality shall remove an attachment sign of a participating civic organization if the civic organization:

(A) ceases to exist;

(B) does not meet the requirements of this subchapter, and all corrections are not made within the time limits set in the written notification; or

(C) has not provided a replacement attachment sign within 60 calendar days of written notification that the attachment sign is damaged, broken, or faded or has become a hazard due to failure to build to specifications, inclement weather, inadequate maintenance, accidental damage, or other cause.

(4) A sign not removed in compliance with paragraph (3) of this subsection is subject to removal by the department and the

applicant is liable for removal and disposal costs as provided by §25.10 of this title (relating to Signs on State Highway Right of Way).

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 November 25, 1996.

TRD-9617112

Bob Jackson

Deputy General Counsel

Texas Department of Transportation

Effective date: December 16, 1996

Proposal publication date: June 28, 1996

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

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# TEXAS DEPARTMENT OF INSURANCE

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## **Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L**

As required by the Insurance Code, Article 5.96 and 5.97, the *Texas Register* publishes notice of proposed actions by the Texas Board of Insurance. Notice of action proposed under Article 5.96 must be published in the *Texas Register* not later than the 30th day before the board adopts the proposal. Notice of action proposed under Article 5.97 must be published in the *Texas Register* not later than the 10th day before the Board of Insurance adopts the proposal. The Administrative Procedure Act, the Government Code, Chapters 2001 and 2002, does not apply to board action under Articles 5.96 and 5.97.

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

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

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## ADOPTED

The Commissioner of Insurance at a public hearing held on September 11, 1996, at 9:00 a.m., under Docket Number 2237, in Room 100 of the Texas Department of Insurance Building, 333 Guadalupe Street in Austin, Texas, adopted a fire suppression rating system for residential property insurance purposes (this includes homeowners, dwelling, farm and ranch owners, and farm and ranch insurance coverage). The Commissioner's action included: (1) repeal of the Texas Key Rate Schedule effective January 1, 1997; (2) adoption of the Fire Suppression Rating Schedule and Texas Addendum effective for residential property insurance purposes on the effective date of the residential property insurance benchmark rates determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G; (3) adoption of public protection classifications for cities, towns, and unincorporated areas in Texas effective January 1, 1997; and (4) the freezing on January 1, 1997, of any existing key rates of cities and towns in Texas. The actions taken by the Commissioner were proposed by Department staff in a petition filed on July 2, 1996 (Reference Number P-0796-25-I). Notice was published in the August 6, 1996 issue of the *Texas Register* (21 TexReg 7427 and 7488). The Commissioner adopted the staff's petition without any changes to the proposal as published.

(1) Repeal of the Texas Key Rate Schedule. The Commissioner has determined that it is necessary and in the public interest to repeal the Texas Key Rate Schedule. The key rate schedule has been used to grade public fire protection of cities and towns in Texas for the past 80 years. The Commissioner has determined that the repeal of the Texas Key Rate Schedule is necessary and in the public interest because it is obsolete and is no longer a reasonable method of grading public fire protection of a community. The majority of the key rate schedule remains unchanged since its original adoption sometime around 1918 to 1920 with only minor amendments to the schedule through the years. The key rate schedule for establishing the public fire protection of a city or town is based on the population of the city or town, with the size of the population the factor that determines the level of need for fire equipment, manpower and adequate water distribution for protecting against fire losses. The use of population as a means of judging the level of necessary fire defenses of a city

or town is based on the development of cities in the early 1900s with the existence of core central business districts with concentrations of major fire exposures which produced mass conflagration hazards. The continued existence of only single core business districts in a city or town with structures of combustible construction and common walls causing a substantial risk of mass conflagration hazards has long ago been replaced by a diversification of businesses into outlying areas of cities and towns. Many of the business structures built today are of non-combustible material, are single buildings, and are located in outlying areas of a city. Using population and core business districts as the basis for determining public fire protection is outdated and is no longer a reasonable method of establishing or grading public fire protection of a city or town. This outmoded approach does not give adequate consideration to the need of differing fire flow requirements of a city or town (the quantity of water calculated as necessary to extinguish fire at each specific location or area in a city or town) with differing fire hazards nor does it consider the appropriate diversification of manpower and fire fighting equipment necessary to respond to differing fire hazards. Cities and towns are no longer generic in their development. One city may be a bedroom community while another may be highly industrialized. Texas remains the only state using population as the basis for determining the necessary public fire protection of its cities and towns.

(2) Adoption of Fire Suppression Rating Schedule and Texas Addendum. The Commissioner has determined that it is necessary and in the public interest to adopt the Fire Suppression Rating Schedule and the Texas Addendum to the Fire Suppression Rating Schedule to replace the Texas Key Rate Schedule. The Commissioner has determined that the adoption of the Fire Suppression Rating Schedule and Texas Addendum is necessary to provide the State of Texas with an up-to-date rating schedule that recognizes public fire protection must be based on the needed fire flow to evaluate a city or town's fire defense needs. This evaluation permits the flexibility necessary to accurately assess the unique fire defense requirements resulting from major structures such as shopping centers, office and industrial parks, etc., which may be remote from a central core. The diversification of city planning in locating businesses, use of non-combustible construction material, and the use of non-conventional water systems have eliminated the need to concentrate on conflagration hazards,

which is the basis of the key rate schedule, as the most important factor in determining adequate fire defenses.

The Fire Suppression Rating Schedule adopted by the Commissioner was developed in 1980 by the Insurance Services Office as a fire insurance rating tool and measures the major elements of a community's fire protection facilities, including the fire alarm system (receipt of alarm, operators, and alarm dispatch circuits), fire department (engine companies, ladder/service companies, distribution of companies, pumper capacity, department manning and training), and water supply (supply works, fire flow delivery, distribution of fire hydrants, hydrant size, type and installation, and hydrant inspections and condition). The schedule is currently used in all of the other states to determine the grading of public fire protection. The Texas Addendum to the Fire Suppression Rating Schedule adopted by the Commissioner was filed by the Texas Commission on Fire Protection and amended by staff. The Addendum is necessary to provide a system of credits for fire prevention, fire investigation, public education, and construction code enforcement. The Addendum includes two supplements—one supplement details how credit will be given for volunteer firefighter certification and attendance at Firemen's Training School at Texas A&M University, and the other supplement indicates where the Addendum credit will be applied to the Fire Suppression Rating Schedule. The newly adopted Fire Suppression Rating Schedule and Texas Addendum will be used to establish the public fire protection classifications of cities, towns, and unincorporated areas in Texas as a means of determining appropriate insurance costs for residential property insurance. Under the new rating system, only public protection classifications developed under the new rating schedule and addendum and that are approved by the Commissioner may be used in Texas to determine appropriate premiums for residential property insurance, and key rates will no longer be developed or used for this purpose.

It is the position of the Commissioner that the adoption of the Fire Suppression Rating Schedule and Texas Addendum does not change the duties or responsibilities of the Texas Commission on Fire Protection (Fire Commission) pursuant to §419.901 of the Government Code. The Fire Commission may continue to exercise the same responsibilities under §419.901 of the Government Code as it currently exercises with the Department's key rate schedule, i.e., review the schedule as adopted by the Commissioner at least once every four years and recommend changes that the Fire Commission believes should be made in the schedule; and inspect municipalities using the new schedule, recommend the grading for individual municipalities to the Commissioner for approval, and report information obtained as a result of the inspections to the Commissioner. This position is based on the analysis by the Commissioner that in enacting §419.901 of the Government Code (Acts 1991, 72nd Legislature, Chapter 628, §4, effective. Sept. 1, 1991), which transferred certain duties relating to the key rate schedule to the Fire Commission, the Legislature did not in any manner affect the authority of the Commissioner of Insurance to promulgate rates for residential property insurance or to approve rates for commercial property insurance, including the adoption of any rating schedule to grade public fire protection for a city, town, or unincorporated area as a factor to be used in developing appropriate insurance premium costs. Article 5.33 of the Insurance Code grants the Commissioner "full authority and power to give each city, town, village, or locality credit for each and every hazard they may reduce or entirely remove and also for all added fire fighting equipment, increased police protection, or any other equipment or improvement

that has a tendency to reduce the fire hazard of any such city, town, village or locality. . . ." Article 5.101 of the Insurance Code requires the Commissioner to promulgate a benchmark rate for each line of insurance subject to Article 5.101, including residential property insurance, which can include a benchmark rate by classification. Public protection classifications are specific classifications for which a specific benchmark rate will be determined and adopted by the Commissioner. Based on the authority granted to the Commissioner in Articles 5.33 and 5.101, the Commissioner may amend the existing key rate schedule or repeal the existing key rate schedule and adopt a new rating schedule that more appropriately recognizes up-to-date elements of the public fire protection of cities, towns, and unincorporated areas in Texas. It is the Commissioner's position that pursuant to the Commissioner's statutory authority to promulgate residential property insurance benchmark rates, that he is, in fact, obligated to assure that the rating schedule for grading public protection of Texas communities is the most appropriate and accurate means of determining and grading public fire protection.

The Commissioner has determined that the adoption of the new rating schedule will change the method of determining the premium charge for residential property insurance. Under the key rate system, residential property insurance premiums are determined largely on the basis of three factors: the amount of insurance desired, the construction of the dwelling risk, and the applicable key rate of the city or town in which the risk is located. Because key rates vary by city, it is impossible to have a premium determined for each individual key rate, and therefore, ranges of key rates are combined into several groups for the purpose of development of a premium chart (as set forth in the Homeowners and Dwelling sections of the Texas Personal Lines Manual) for determining appropriate premium charges for a residential property insurance policy. The introduction of the Fire Suppression Rating Schedule will result in the development of public protection classes for each city or town in Texas on a scale of one to ten. This public protection class scale approach will be in lieu of the assignment of a specific key rate. Under the new system, premiums will be developed for individual risks on the basis of three factors: amount of insurance desired, construction of the dwelling risk, and the applicable public protection classification of the city, town, or unincorporated area in which the risk is located. The only factor that will change is the applicable public fire protection classification of the city, town, or unincorporated area in which the risk is located, which will be applied in lieu of the applicable key rate. Although the method of determination of the applicable premium under the two systems is somewhat similar and there is some correlation between the two systems, the existing key rate of a particular city or town does not necessarily have a direct relationship to the new public protection classification. The transition from the key rates to public protection classifications could, in some instances, produce significant differences in the premiums for residential risks in some communities. The Commissioner has determined that measures to alleviate the impact of these possible significant differences in premium costs should be addressed pursuant to the residential property insurance benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G. The Commissioner has determined that these measures should ensure that the transition from the key rate system to the fire suppression rating system shall be, to the greatest extent possible, revenue neutral, and should spread any significant increases or decreases in premiums over a reasonable period of time.

(3) Adoption of Public Protection Classifications. The Commissioner has determined that it is necessary and in the public interest to adopt the public protection classifications of cities, towns, and unincorporated areas of Texas, as developed by the Insurance Services Office (July 1, 1996) and submitted to the Texas Department of Insurance, for use in determining residential and commercial property insurance premiums. Although Texas has not previously recognized public protection classifications as a means of determining insurance costs in Texas, these public protection classifications have been developed by the Insurance Services Office for the purpose of providing underwriting information to its member companies. The adoption of these protection classifications is necessary to ensure a smooth transition from the key rate schedule to the newly adopted Fire Suppression Rating Schedule within a reasonable time period. The Commissioner has determined that to require a complete reinspection and regrading of all the areas eligible for a public protection classification would take, at a minimum, six to ten years. The Commissioner has further determined that it is not feasible or reasonable to maintain two rating systems for this extended period of time. Because the fire services in Texas rely on a public fire protection rating system as a means of developing future fire service needs of a community, and the existence of two systems over a long period of time will produce conflicting requirements, the Commissioner has determined that it is important that any transition to a new rating system for public fire protection be done in as short a time period as possible to minimize the time in which there are conflicts between rating schedules and in which duplicate costs are being incurred for the inspection and grading of communities. The adoption of the public protection classifications will allow the implementation of the new Fire Suppression Rating Schedule without the need to reinspect and regrade all communities in Texas eligible for a public protection classification. Currently, 1,200+ communities in Texas have been graded by the Insurance Services Office for assignment of the appropriate public protection classification. Of these 1,200+ communities, 209 were graded using the Texas Addendum. The Commissioner has determined that when the remainder are graded using the Texas Addendum, these classifications shall be submitted to the Commissioner for approval. The Commissioner has further determined that any changes in the adopted public protection classifications shall be submitted to the Commissioner for approval before they may be used in Texas. The Fire Suppression Rating Schedule and Texas Addendum will be used to maintain current and accurate public protection classifications for all Texas communities. The Commissioner has determined that the Public Protection Classifications for Texas should be adopted to be effective January 1, 1997. This will give communities time, before the new rating schedule becomes effective on the effective date of the residential property insurance benchmark rate determined pursuant to the November 1996 hearing, to obtain information on the new classification and the basis for the determination and to take the necessary steps for additional review by the Department if a community believes that its classification is inaccurate. The public protection classifications, however, shall not be used to determine premiums for residential property risks until the effective date of the residential property insurance benchmark rate determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G.

(4) Freeze of existing key rates. The Commissioner has determined that it is necessary and in the public interest to freeze all existing key rates of cities and towns in Texas effective January 1, 1997. Thus, the

existing key rate schedule shall not be used to amend or alter existing individual key rates of cities and towns on and after January 1, 1997. The Commissioner has determined that this freeze is necessary to halt the development of key rate adjustments based on a rating schedule that will no longer be operative. The frozen key rates shall be used to determine premiums for residential property risks until the effective date of the residential property insurance benchmark rate determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G.

The Commissioner has jurisdiction of this matter pursuant to the Insurance Code, Articles 5.29, 5.30, 5.33, 5.101, 5.96, and 5.98.

The Fire Suppression Rating Schedule and the Texas Addendum to the Fire Suppression Rating Schedule and the Public Protection Classifications for Texas as adopted by the Commissioner are on file in the Chief Clerk's Office of the Texas Department of Insurance under Reference Number P-0796-25-I and are incorporated by reference into Commissioner's Order Number 96-1377.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts action taken under Article 5.96 from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Consistent with the Insurance Code, Article 5.96(h), prior to the effective date of this action, the Texas Department of Insurance will notify all insurers affected by this action.

IT IS THEREFORE THE ORDER of the Commissioner of Insurance that (1) the Texas Key Rate Schedule is repealed effective January 1, 1997; (2) the Fire Suppression Rating Schedule and Texas Addendum to the Fire Suppression Rating Schedule, as specified herein and attached to this Order, are adopted to be effective for use for residential property insurance purposes on the effective date of the residential property insurance benchmark rates determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G; (3) the Public Protection Classifications for Texas, as specified herein and attached to this Order, are adopted effective January 1, 1997; changes to these classifications shall be submitted to the Commissioner of Insurance for approval before they may be used in Texas; and these public protection classifications shall not be used to determine premiums for residential property risks until the effective date of the residential property insurance benchmark rate determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G; and (4) existing key rates for cities and towns in Texas are frozen effective January 1, 1997, as specified herein, and the frozen key rates shall be used to determine premiums for residential property risks until the effective date of the residential property insurance benchmark rate determined pursuant to the benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G. IT IS FURTHER THE ORDER that measures, as specified herein, to alleviate the impact of any significant differences in premium costs caused by the transition from the key rate system to the fire suppression rating system be addressed pursuant to the residential property insurance benchmark rate hearing held in November 1996 under Docket Number 454-96-1638.G.

Issued in Austin, Texas, on November 27, 1996.

TRD-9617291

Caroline Scott

Assistant General Counsel

Texas Department of Insurance



Filed: November 27, 1996



# TABLES & GRAPHICS

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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.

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**NOTICE CONCERNING COMPLAINTS  
REGARDING  
NON-PROFIT HEALTH ORGANIZATIONS**

The provision of medical care at this location is through a non-profit health organization which has been approved and certified by the Texas State Board of Medical Examiners. Complaints about the delivery of medical care through this organization and/or its physicians, as well as other licensees and registrants of the Texas State Board of Medical Examiners, including physician assistants and acupuncturists, may be reported for investigation at the following address:

Texas State Board of Medical Examiners  
Attention: Investigations  
333 Guadalupe, Tower 3, Suite 610  
P.O. Box 2018, MC-263  
Austin, Texas 78768-2018

Assistance in filing a complaint is available by calling the following telephone number:

1-800-201-9353

## **AVISO REFERENTE A QUEJAS RESPECTO A ORGANIZACIONES MEDICAS SIN FINES DE LUCRO**

La atención médica en este local se proporciona a través de una organización médica sin fines de lucro, que ha sido aprobada y certificada por la Junta de Examinadores Médicos del Estado de Texas. Las quejas respecto al suministro de la atención médica a través de esta organización y/o sus facultativos, así como de otros titulares de licencias y registrantes de la Junta de Examinadores Médicos del Estado de Texas, incluidos facultativos asistentes y acupunturistas, podrán reportarse para su investigación a la siguiente dirección:

Texas State Board of Medical Examiners  
333 Guadalupe, Tower 3, Suite 610  
Attention: Investigations  
P.O. Box 2018, MC-263  
Austin, Texas 78768-2018

Se puede obtener ayuda en la presentación de una queja llamando al siguiente número telefónico:

1-800-201-9353

**FIGURE NO. 1: 28 TAC§3.3832(b)**

(Company Name)  
 (Address-City & State)  
 (Telephone Number)  
 Long-Term Care Insurance  
 Outline of Coverage  
 (Policy Number or Group Master Policy and Certificate Number)  
 (Except for policies or certificates which are guaranteed issue, the  
 following caution statement, or language substantially similar, must  
 appear as follows in the outline of coverage.)

Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company may have the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)

**FIGURE NO. 2: 28 TAC §3.3832(b)(15)(A)**

Example

\$1000 Annual Premium

<u>Age</u>	<u>Total Premium Paid (No claims)</u>	<u>Rider Premium</u>	<u>Shortened Benefit \$50/day</u>	<u>Shortened Benefit \$100/day</u>
<u>40</u>	<u>\$ 1,000</u>	<u>\$ 150</u>	<u>20 days</u>	<u>10 days</u>
<u>50</u>	<u>\$10,000</u>	<u>\$1,500</u>	<u>200 days</u>	<u>100 days</u>
<u>60</u>	<u>\$20,000</u>	<u>\$3,000</u>	<u>400 days</u>	<u>200 days</u>
<u>70</u>	<u>\$30,000</u>	<u>\$4,500</u>	<u>600 days</u>	<u>300 days</u>
<u>80</u>	<u>\$40,000</u>	<u>\$6,000</u>	<u>800 days</u>	<u>400 days</u>

APPENDIX

RESCISSION REPORTING FORM FOR  
LONG-TERM CARE POLICIES  
FOR THE STATE OF \_\_\_\_\_  
FOR THE REPORTING YEAR 19[ ]

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

Due: June 1 annually

Instructions: The purpose of this form is to report all rescissions of long-term care insurance policies or certificates. Those rescissions voluntarily effectuated by an insured are not required to be included in this report. Please furnish one form per rescission.

<u>Policy Form #</u>	<u>Policy and Certificate #</u>	<u>Name of Insured</u>	<u>Date of Policy Issuance</u>	<u>Date/s Claim/s Submitted</u>	<u>Date of Rescission</u>

Detailed reason for rescission:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title (please type)

\_\_\_\_\_  
Date

LTC RESCIND

Figure: 34 TAC 3.602(d)(2)

1st Quarter - January 1 to March 31

\$60.00

2nd Quarter - April 1 to June 30

\$45.00

3rd Quarter - July 1 to September 30

\$30.00

4th Quarter - October 1 to December 31

\$15.00

# 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 the 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 equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting summary several days prior to the meeting by mail, telephone, or RELAY Texas (1-800-735-2989).

## State Office of Administrative Hearings

Friday, December 13, 1996, 10:00 a.m.

1201 Brazos, Room 314

Austin

Utility Division

### AGENDA:

A PREHEARING CONFERENCE is scheduled for the above date and time in SOAH DOCKET Number 473-95-1713; PUC DOCKET Number 14653- Application of Kaufman County Electric Cooperative, Inc. for a Certificate of Convenience and Necessity for a Transmission Line within Kaufman County, Texas.

Contact: J. Kay Trostle, 300 West 15th Street, Suite 502, Austin, Texas 78701-1649, (512) 936-0728.

Filed: November 25, 1996, 4:16 p.m.

TRD-9617170

## Texas Aerospace Commission

Wednesday, December 11, 1996, 9:30 a.m.

Stephen F. Austin Building, Conference Room B-50, 1700 North Congress Avenue

Austin

Commissioners Meeting

### AGENDA:

Welcome and Call to Order

Approval of Last Meeting's Minutes

Executive Director Report

Old Business

New Business

Commissioner's Forum

## Summary of Outstanding Action Items

Adjournment

Contact: Larry Griffin, Texas Aerospace Commission, P.O. Box 12088, Austin, Texas 78711-2088, (512) 936-4822.

Filed: November 27, 1996, 8:38 a.m.

TRD-9617248

## Texas State Affordable Housing Corporation

Monday, December 2, 1996, Noon

507 Sabine, Room 437

Austin

Board

### EMERGENCY MEETING AGENDA

The Board of the Texas Department of Housing and Community Affairs will meet to consider and possibly act on: Minutes of November 4, 1996; Election of Additional Officers of the Corporation and Approving Signature Authority for the Officers; Proposed Acquisition of Town Oaks Apartments, Rockdale, from the Federal Deposit Insurance Corporation; Renewal of Insurance Policies of Directors and Officers Liability Coverage, Commercial Auto Coverage, Financial Institution Bonds, Workers Comp. Coverage, Mortgage Protection Insurance; President's Report; Executive Session on Personnel Matters regarding duties and responsibilities in relationship to budget under \$551.074; Anticipated Litigation under \$551.071 and \$551.103 of Texas Government Code Litigation Exception; Adjourn.

**REASON FOR EMERGENCY:** To provide housing for the Citizens of Texas, Low Income Housing

Contact: Larry Paul Manley, 507 Sabine, #900, Austin, Texas 78701, (512) 475-3934.

Filed: November 26, 1996, 3:53 p.m.

TRD-9617227



## Texas Department on Aging

Wednesday, December 4, 1996, 9:30 a.m.

15th and Congress Avenue, Capitol Extension, Room E2.18

Austin

Options for Independent Living Advisory Committee

### AGENDA:

Consider and possibly act on:

- A. Call to Order
- B. Minutes of September 10, 1996 meeting
- C. Efforts to demonstrate an integrated model of health care delivery through public-private sector initiatives
- D. Anticipated legislative issues, 75th Legislature
- E. Update on LBJ School of Public Affairs Policy Research Project
- F. Subcommittee reports
- G. Discussion of March 1997 Education Forums on Managed Care and Implementation of Developmental Disabilities Grant Project for Area Agencies on Aging
- H. Other business
- I. Adjourn

Contact: Mary Sapp, P.O. Box 12786, Austin, Texas, 78711,(512) 424-6840.

Filed: November 25, 1996, 4:15 p.m.

TRD-9617168

## Texas Department of Agriculture

Wednesday, December 4, 1996, 8:00 a.m.

Ambassador Hotel, 3100 IH40 West

Amarillo

Texas Wheat Producer's Board

### AGENDA:

- Call meeting to order and opening remarks
- Discussion and Action: Minutes of August meeting; Quarterly and Year to Date Financial Report.
- Adjourn for Executive Session:
- Executive Session: To discuss personnel matters in accordance with Texas Government. Annotated. §551.074; Adjourn Executive Session

Call to Order

Discussion and Action: Take action on Executive Session, if necessary; Lease/Purchase contract on vehicles; Scheduling date and time for next meeting.

Reports: Report from TDA Representative; Collection and Refund Report; Reports from various meetings and updates from members.

Discussion: Other Business

Adjourn

Contact: Bill Nelson, 2201 Civic Circle, Amarillo, Texas 79109-1853, (806) 352-2191.

Filed: November 26, 1996, 9:45 a.m.

TRD-9617183

Monday, December 9, 1996, 9:00 a.m.

Texas Department of Agriculture, 1700 North Congress Avenue, Room 911

Austin

Produce Recovery Fund Board

### AGENDA:

Introduction and Welcome: Review and Approval of the Minutes for October 1, 1996 Produce Recovery Fund Board Business Meeting; Discussion and Possible Action on Produce Recovery Fund Rules; Discussion and Possible Action on Produce Recovery Fund Financial Statement for FY 1997; Discussion on APA/PACA License Membership; Deliberations and Action on Cases Heard at October 1, 1996 Meetings; Pennington vs. Sillaway Produce (Docket No. 7-95-APA), John Storch vs. Mittag/Texas Int'l Melon (Docket Number 25-94-APA), Keith Baccus vs. Mittag/Texas Int'l Melon (Docket Number 25-95-APA) and Robert Ruiz vs. World Wide Consultants (Docket Number 52-93-APA).

Contact: Margaret Alvarez, P.O. Box 12847, Austin, Texas 78711, (512) 463-7604.

Filed: November 27, 1996, 10:16 a.m.

TRD-9617277

Tuesday, January 28, 1997, 9:00 a.m.

300 West 15th Street, Suite 502

Austin

State Office of Administrative Hearings

### AGENDA:

Administrative hearing before the State Office of Administrative Hearings regarding SOAH Docket Number 551-96-2052, in the case of Texas Department of Agriculture vs. Robert M. Tiemann.

Contact: Dolores Alvarado Hibbs., P.O. Box 12847, Austin, Texas 78711, (512) 463-7583.

Filed: November 25, 1996, 3:51 p.m.

TRD-9617119

## Texas Commission on Alcohol and Drug Abuse

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

9001 North IH35, Suite 105, Whitney Jordan Plaza at North IH35 and Rundberg

Austin

Board of Commissioners

### AGENDA:

Call to order; approval of November 13, 1996 minutes; chairman's report; executive director's report; public comment; senior management team (SMT) and workgroup profiles; action item: agreed final order in the matter of Deborah Parker; action item; approval of the dual diagnosis pilot progress report; information items: status of resolution of task force issues, prevention workgroup update, and Legislative Appropriations Request (LAR) update; information/action items for Fiscal Year 1998 funding: recommendations for statewide formula, request for proposal (RFP) plan: funding goals and time tables, executive order for non-competition, executive order for the report card, eligibility criteria, selection criteria, and funding rules, and estimated availability of funds; and adjournment.

Contact: Terry F. Bleier, 9001 N. IH35, Suite 105, Austin, Texas 78753-5233, (512) 349-6602.

Filed: November 27, 1996, 4:12 p.m.

TRD-9617326



Tuesday, December 10, 1996, 1:30 p.m.

6451 Boeing, Conference Room, Texas Department of Human Services

El Paso

Regional Advisory Consortium (RAC), Region 10

AGENDA:

Call to order; public comment; comments: convener and regional representative; award presentation; approval of November 13, 1996 minutes; nomination/selection of co-convener; ad-hoc committee membership recommendations: nominations/elections (one year term members) and new membership recommendations; approval of final report on goals three and four; meeting schedule (January-December, 1997); scheduling of next meeting; adjournment.

Contact: Joe Salas, 1200 Golden Key Circle, 4th Floor, El Paso, Texas, 79925, (915) 783-8660.

Filed: November 27, 1996, 11:53 a.m.

TRD-9617286



Tuesday, December 10, 1996, 1:30 p.m.

9001 North IH35, Suite 105

Austin

Regional Advisory Consortium (RAC), Region 7

AGENDA:

Call to order; welcome and introduction of members and guests; approval of October 22, 1996 minutes; update on RAC conveners meeting with TCADA; funding update for Region 7, selection of new Region 7 RAC members; discussion period; setting of next meeting; and adjournment.

Contact: Annette Wieser, 9001 North IH35, Suite 105, Austin, Texas, 78753, (512) 349-6666.

Filed: November 27, 1996, 11:52 a.m.

TRD-9617285



## Texas Alcoholic Beverage Commission

Friday, December 6, 1996, 1:30 p.m.

5806 Mesa Drive, Suite 185

Austin

AGENDA:

1:30 p.m.- Call to order. Convene in open meeting

Announcement of Executive session.

1. Executive Session: a) briefing regarding operations of the general counsel's office.

Continue Open Meeting.

2. Take action, including a vote if appropriate, on topics listed for discussion under executive session.

3. Recognition of agency employees with 20 or more years of service.

4. Approval of minutes of October 28, 1996 meeting; discussion, comment, possible vote.

5. Administrator's report.

6. Amend 16 TAC §45.113 as published 21 TexReg 8561 on September 6, 1996; discussion, comment, possible vote. (Relaxation of Certain Restrictions)

7. Discussion of the Distilled Spirits Council of the United States (Discus) decision to change their voluntary ban on media advertising of distilled spirits.

8. Public comment.

9. Adjourn.

Contact: Doyne Bailey, P.O. Box 13127, Austin, Texas 78711, (512) 206-3217.

Filed: November 26, 1996, 9:23 a.m.

TRD-9617179



## Texas Catastrophe Property Insurance Association

Tuesday, December 10, 1996, 8:30 a.m.

OMNI Bayfront Hotel, 900 North Shoreline Boulevard.

Corpus Christi

Board of Directors

AGENDA:

I. Call to Order-Reminder of Anti-Trust Statement

II. Approval of Minutes of the Board of Directors Meetings: September 17, 1996, October 1, 1996, October 8, 1996, October 18, 1996.

III. Report of the Secretary/Treasurer

IV. Participation Committee Report

V. Legislative Committee Report

VI. Policy Rewrite Committee Report

- VII. Claims Committee Report
- VIII. 1997 Budget Approval
- IX. Chairman's Report
- X. Any Other Business That May Come Before the Board
- XI. Executive Session
- XII. Adjourn

Contact: Charles F. McCullough, 2028 East Ben White, Suite 200,  
Austin, Texas 78741, (512) 444-9612.  
Filed: November 25, 1996, 3:51 p.m.  
TRD-9617118

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### Texas Board of Chiropractic Examiners

Thursday, December 12, 1996, 9:00 a.m.

333 Guadalupe, Tower III, Suite 825

Austin

Enforcement Committee

**AGENDA:**

The Enforcement Committee of the Texas Board of Chiropractic Examiners will meet on Thursday, December 12, 1996 at 9:00 a.m. to consider, discuss, and take any appropriate action on: 1. Informal conferences, cases #96-6, 96-100, 96-109, 96-118, 96-140, 96-153, #96-161, 96-162, 96-172, 96-211, 96-215, 96-223, 96-226, 96-193 and 96-235; 2. Cases which are pending and may be considered, discussed and any appropriate action taken are cases #95-5, 95-6, 95-8 to 95-11, 95-70, 95-191, 95-324, 96-1, 96-115, 96-173, 96-206, 96-208, 96-212, 96-214, 96-217, 69-231, 96-238, 97-1 through 97-57, 93-58, 94-29, 94-64, 94-189 and 95-195.

Contact: Patte B. Kent, 333 Guadalupe, Tower III, Suite 825, Austin,  
Texas 78701, (512) 305-6700.  
Filed: November 26, 1996, 4:21 p.m.

TRD-9617242

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### Texas County and District Retirement System

Monday, December 9, 1996, 7:00 p.m.

112 College Street

San Antonio

Investment Committee

**AGENDA:**

Chairperson will open meeting. Approve minutes of preceding meeting. Receive and act upon report from Investment Officer. Receive and act upon proposed 1997 Investment Department Budget. Set date and location of March, 1997 meeting. Adjourn meeting.

Contact: Alan Adams, 901 Mopac Expressway South, Suite 340,  
Austin, Texas 78746-5789.

Filed: November 26, 1996, 9:23 a.m.

TRD-9617181

Tuesday- Wednesday, December 10-11, 1996, 5:00 p.m. and 4:00 p.m. respectively.

La Mansion Hotel, 112 College Street

San Antonio

Board of Trustees

**AGENDA:**

APPROVE: Minutes of September 5, 1996, Regular, and October 30 and 31, 1996 Special Board Meetings. REVIEW AND APPROVAL OF: Applications for TCDRS Participation. Financial Statements. CONSIDER AND ACT ON: Proposed Administrative Rule Change for the Recognition of Service Credit and Age for Retirement Under the Rule of 75/80, and Deletion of Various IRC Section 415 Limitations. Depository Bank Proposals and Authorization to Contract for Service. Administrative and Investment Policies, Practices, Budgets and Personnel, including Resolution for Transfer of Monies to Expense Fund, and Building Operations Considerations. REVIEW OF Proposed Amendments to TCDRS Governing Law.

Contact: Terry Horton, P.O. Box 2034, Austin, Texas 78768-2034,  
(512) 328-8889.

Filed: December 2, 1996, 9:55 a.m.

TRD-9617365

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### Texas Department of Criminal Justice

Thursday, December 12, 1996, 10:00 a.m.

Love field, Frontiers of Flight Museum

Dallas

Correctional Managed Health Care Advisory Committee

**AGENDA:**

- A. Call to Order
- B. Approval of Minutes from September 17, 1996, Committee Meeting
- C. Texas Tech University Health Sciences Center Project
- D. Peer Review Process Update
- E. Executive Director Report
- F. Medical Director Activity Report: 1. University of Texas Medical Branch at Galveston; 2. Texas Tech Health Sciences Center; 3. Texas Department of Criminal Justice
- G. State Audit Update
- H. National Commission on Correctional Health Care Annual Conference Report
- I. Inmate Transportation Issues
- J. Hospice Update
- K. Methicillin-resistant Staphylococcus Aureus (MRSA) Surveillance
- L. Federal Bureau of Prisons Pilot Project
- M. Texas Youth Commission Update
- N. Medical Facility Update

O. Legislation Update

P. Correctional Managed Health Care Advisory Committee Chairmanship

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact the agency prior to the meeting so that appropriate arrangements can be made.

Contact: Meredith Johnson, P.O. Box 13084, Austin, Texas 78711, (512) 475-3250.

Filed: December 2, 1996, 10:09 a.m.

TRD-9617371

**State Board for Educator Certification**

Friday, December 6, 1996, 9:00 a.m.

1001 Trinity, Board Room

Austin

Board

AGENDA:

1. Call to Order.
2. Presentation by Kenneth Ashworth, Commissioner of Higher Education
3. Executive Session to Review the Texas Oral Proficiency Test (TOPT-Spanish).
4. Discussion of the Texas Oral Proficiency Test (TOPT-Spanish) Passing Standard.
5. Approve October and November Minutes.
6. Approve Legislative Clean-Up Items and Adopt Legislative Recommendations.
7. Executive Director's Update: a) Update on Amendments to Chapter 230, b) Staff Report, c) Budget Report, d) Planning Report, e) Centers for Professional Development and Technology, f) Other.
8. Discussion of Advisory Committee Procedures.
9. Discussion of "What Matters Most: Teaching for America's Future." The Report by the National Committee on Teaching and America's Future.
10. Adoption of Procedure to Evaluate the Executive Director.
11. Adoption of Assessment Instrument, Examinee Fees, and Passing Standards for Examinations for the Certification of Educators in Texas (ExCET).
12. Discussion of American Sign Language (ASL) Certificate.
13. Adoption of Amendments to the Legislative Appropriations Request (LAR).
14. Approve Administrator Alternative Certification Program at Education Service Center IV.
15. Approve Mid-Management Certificate at Schreiner College.

16. Propose the Creation of Advisory committees for Reading Specialists, Principal, and Superintendent Certificates.

Contact: State Board of Educator Certification, 1001 Trinity, Board Room, Austin, Texas 78701, (512) 469-3005.

Filed: November 25, 1996, 4:15 p.m.

TRD-9617169

**Advisory Commission on State Emergency Communications**

Thursday, December 5, 1996, 11:00 a.m.

333 Guadalupe Street, Room 1264

Austin

Poison Center Coordinating Committee

AGENDA:

The Committee will Call the Meeting to Order and Recognize Guests; Hear Public Comment; Hear Reports, Discuss and take Committee Action, as Necessary: Approval of September 5, 1996 Meeting Minutes; Roundtable; Subcommittee Reports: A) Report of the Medical Directors Subcommittee, B) Report of the Education Subcommittee, C) Report of the Operations Subcommittee; Diverted Call Policy; Strategic Plan; Report on Comptroller's Review; Network Conference; Other Business; Set Next Meeting Date. Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6933.

Filed: November 25, 1996, 3:56 p.m.

TRD-9617123

Friday, December 6, 1996, 9:30 a.m.

John H. Reagan Building, Room 101

Austin

Planning and Implementation Committee

AGENDA:

The Committee will Call the Meeting to Order and Recognize Guests; Hear Public Comment; Hear Reports, Discuss and take Committee Action, as Necessary: Review and Consider Strategic Plan as Submitted by the Capital Area Planning Council; Approval of November 12, 1996 Committee Meeting Minutes; Adjourn.

Persons requesting interpreter services for the hearing- and speech-impaired should contact Velia Williams at (512) 305-6933 at least two working days prior to the meeting.

Contact: Velia Williams, 333 Guadalupe Street, Austin, Texas 78701, (512) 305-6933.

Filed: November 27 1996, 1:03 p.m.

TRD-9617298

## Office of the Governor-Criminal Justice Division

Monday, December 9, 1996, 9:00 a.m.

Capitol Extension Building, Room E1.024, 1400 North Congress Avenue

Austin

Texas Crime Stoppers Advisory Council Regular Meeting

### AGENDA:

I. Call to Order

II. Approval of minutes

III. Report from Mary Garrett and Associates re: Specialized Topics Training Conference, Laredo, Texas; 1997 Annual conference; Specialized Topics Training Conference, Tyler, Texas; bid requirements for future sites; booths.

IV. Report from Education Steering Committee chair re: Training for Campus Conference, March 1997; Annual Conference, April 1997

V. Report from Director, Texas Crime Stoppers re: Decertification of crime stoppers programs

VI. Hearing for decertified crime stoppers program(s) that desire to present appeal(s) in person to Council.

VII. Possible action on appeal(s) from decertified programs.

VIII. Executive Session- Personnel matters

IX. Requirements for Awards; Campus and Annual Conferences

X. Schedule Next Advisory Council Meeting

XI. Adjourn

Contact: Patricia J. McDaniel, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: November 25, 1996, 4:06 p.m.

TRD-9617139

Monday, December 9, 1996, 9:00 a.m.

Capitol Extension Building, Room E1.024, 1400 North Congress Avenue

Austin

Texas Crime Stoppers Advisory Council Regular Meeting

### REVISED AGENDA:

Add to agenda after Approval of Minutes: Election of Officers

Contact: Patricia J. McDaniel, P.O. Box 12428, Austin, Texas 78711, (512) 463-1784.

Filed: November 26, 1996, 12:54 p.m.

TRD-9617191

## General Land Office

Tuesday, December 3, 1996, 10:00 a.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

School Land Board

### AGENDA:

Approval of previous board meeting minutes; pooling applications, Giddings (Austin Chalk-3), Fayette Co.; Wildcat Field, Lavaca Co.; pooling and/or lease suspension, Guadalupe River, Victoria Co.; royalty incentive application, Hawk Eye (Adams Branch), Eastland Co.; Consideration of additional tracts, terms and conditions for a January 7, 1997 special oil and gas lease sale; Consideration of a general coastal easement; coastal public lands — commercial easement renewals and amendments, Clear Lake, Harris Co.; and Neches River, Jefferson Co., easement renewal, Galveston Bay, Chambers Co.; structure (cabin) permit renewals, amendments, terminations and requests; Laguna Madre, Kenedy Co., Espiritu Santo Bay, Calhoun Co.; Laguna Madre, Cameron Co.; Corpus Christi Bay, Nueces co.; Laguna Madre, Kenedy Co. Executive and Open Session- consideration of the final approval of the acquisition and closing of 3.059 acres (132,233 square feet) of land along Riverwalk, San Antonio, Bexar Co. Executive and Open Session- consideration and approval of acquisition of approximately 273 acres in Houston, Texas, Harris Co., Executive Session and Open Session- consideration of direct sale of 85.258 acres more or less, El Paso County; Executive Session and Open session: Consideration of sale of approximately 35,000 square feet of permanent school fund land, Austin, Texas, Travis Co.; Executive Session-pending or contemplated litigation.

Contact: Linda K. Fisher, 1700 North Congress, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: November 25, 1996, 4:21 p.m.

TRD-9617172

Tuesday, December 3, 1996, 3:00 p.m.

Stephen F. Austin Building, 1700 North Congress Avenue, Room 831

Austin

Veterans Land Board

### AGENDA:

Approval of previous board meeting minutes; consideration and approval for reinstating land program eligibility for Benny Price (Account Number 3831-143741); consideration and selection of new credit life insurance carrier; Resolution of the Veterans' Land Board of the State of Texas Authorizing the issuance and sale of State of Texas Veteran Land Bonds, Taxable Series 1996A in the aggregate principal amount not to exceed \$50,000,000 and providing for other matters related to the subject; Resolution of the Veterans' Land Board of the State of Texas authorizing preliminary, matters in connection with the proposed issuance and sale of State of Texas Veterans Land Refunding Bonds, Taxable Series 1997A and authorizing Authorized Representatives to enter into a swap agreement or swaption agreement with respect to the State of Texas Veterans' Land Refunding Bonds, Series 1985 and other matters in connection therewith; Resolution of the Veterans' Land Board of the State of Texas authorizing the issuance and sale of State of Texas Veterans Land Refunding Bonds, Taxable Series 1997A in the aggregate principal amount not to exceed \$35,085,000 and providing for other matters related to the subject;

Resolution of the Veterans' Land Board of State of Texas authorizing preliminary matters in connection with the proposed issuance and sale of State of Texas Veterans Land Refunding Bonds, Taxable Series 1997B and authorizing Representatives to enter into a swap agreement or swaption agreement with respect to the State of Texas Veterans' Land Refunding bonds, Series 1986 and other matters in connection therewith; Resolution of the Veterans' Land Board of the State of Texas authorizing the issuance and sale of State of Texas Veterans Land Refunding Bonds, Taxable Series 1997B in the aggregate principal amount not to exceed \$286,410,000 and providing for other matters related to the subject; Resolution ratifying option redemptions of December 1, 1996; Discussion of Quarterly Investment Report of September 30, 1996.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.  
Filed: November 25, 1996, 4:21 p.m.

TRD-9617173

## Texas Department of Health

Wednesday, December 4, 1996, 9:00 a.m.

Exchange Building, Room N-218, 8407 Wall Street

Austin

Home and Community Support Services Advisory Committee

### AGENDA:

The committee will introduce guests and staff and discuss and possibly act on: election of officers; approval of minutes of December 18, 1995, meeting; report of the Informal Home and Community Support Services Task Force meetings, and public comments.

To request ADA accommodation, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Julia Maldonado, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6647.

Filed: November 25, 1996, 4:07

TRD-9617141

Wednesday, December 4, 1996, 9:30 a.m.

Main Building, Texas Department of Health, Room G107, 1100 West 49th Street

Austin

Toxic Substances Coordinating Committee

### AGENDA:

The committee will discuss and possibly act on: approval of minutes of September 1996, meeting; Food Quality Protection Act of 1996; use of internet for addressing issues related to toxic substances; set next meeting date.

To request ADA accommodation, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Jean Brender, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7222.

Filed: November 26, 1996, 4:07

TRD-9617140

Monday, December 9, 1996, 9:30 a.m.

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

Austin

Midwifery Board

### AGENDA:

The board will discuss and possibly act on: approval of minutes of September 9, 1996, meeting; comments by chair; slide presentation by Cathy Merritt ("Innovative Validation Mechanism", regarding certified midwife accreditation); committee reports: Education committee (flexibility regarding the 30 continuing education hours needed for 1997 redocumentation; request for exception to the education requirements; complaint regarding an educational program; North American Registry of Midwives (NARM) Certification vs approving education courses; waiving first year documentation for NARM Certification; Midwifery Education Accreditation Council (MEAC) approval of education courses; approval/disapproval Texas Mandatory Midwifery Education Course and informing midwives of comment period for education rules); Grievance committee (report on complaints 96-05, 96-06, 96-07, 96-09 96-10, 96-11 and 96-12); and Legislative Committee (status of legislation for 1997); new business (reports on new Midwifery board member and reappointment of board members; and report on letters and applications mailed for Pediatrician/Family Practitioner position); and will have an open forum.

To request ADA accommodation, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD at (512) 458-7708 at least two days prior to the meeting.

Contact: Belva Alexander, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

Filed: November 27, 1996, 3:42 p.m.

TRD-9617306

## Texas Higher Education Coordinating Board

Thursday, December 5, 1996, 9:30 a.m.

University Texas at Austin, Belmont Hall, 9th Floor Centennial Room, 2100 San Jacinto

Austin

Campus Planning Committee

### AGENDA:

Discussion of the following projects: The University of Texas-Pan American-International Trade and Technology Building Library addition; The University of Texas at Austin-Darrel K. Royal Texas Memorial Stadium East Grandstand renovation and addition; Neuhaus-Royal Athletic Center renovation and addition; Purchase 253.28 acres of land in Jeff Davis County for expansion of the McDonald Observatory; The University of Texas at Dallas- McDermott

Library renovation-Phase I; The University of Texas southwestern Medical Center at Dallas- Purchase 58.3 acres of land owned by the MacArthur Foundation adjacent to the north campus; The University of Texas M.D. Anderson Cancer Center- Nellie Connally Breast Center renovation; and Texas Tech University- Central Heating and Cooling Plant I expansion; Voice and Data Network for Residence Halls; Reapprove Engineering Research renovation (Charles A. Bassett II); and Naval Reserve Building renovation.

Contact: Don Brown, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: November 25, 1996, 4:14 p.m.

TRD-9617166

Monday, December 16, 1996, 9:30 a.m.

Chevy Chase Office Complex, Building 4, Room 4.100, 7715 Chevy Chase Drive

Austin

Campus Planning Committee

AGENDA:

Discussion of the following projects: Texas A&M University- Olsen Road completion; Athletics Facilities renovations/additions- Phase II; Easterwood-Airport improvements; TTI Research Building renovation; and Relocate Stadium Utilities- Phase III; Texas A&M University Health Science Center- Education and Research Building; University of North Texas- Recreational Sports Complex; Sam Houston State University-Recreational Gold facility; and Sam Houston Administration Building renovation; and Midwestern State University-McCullough-Trigg Hall addition; Purchase a lot at 2517 Hampstead including a 2,536 square foot residence.

Contact: Don Brown, P.O. Box 12788, Capitol Station, Austin, Texas 78711, (512) 483-6101.

Filed: November 25, 1996, 4:14 p.m.

TRD-9617167

## Texas Historical Commission

Wednesday, December 4, 1996, 3:00 p.m.

1304 Colorado

Austin

Governor's Task Force on Los Caminos del Rio Heritage Project

AGENDA:

1. Briefing on Los Caminos del Rio Heritage Project
2. Discussion of proposed cooperative actions by Task Force for 1997

Contact: Mario Sanchez, 1511 North Colorado, Austin, Texas 78711, (512) 463-5754

Filed: November 26, 1996, 12:54 p.m.

TRD-9617192

## Texas Commission on Human Rights

Thursday, December 5, 1996, 10:00 a.m.

6330 Hwy. 290 East, Third Floor Conference Room

Austin

AGENDA:

Executive Session/Commissioner Panels Pursuant Texas Government Code §551.071; Discussion and Vote on Agenda Item(s) Covered in Executive Session as Necessary or Required; Welcoming of Guests; Minutes; Ratify Actions from Meetings of September 17, 1996 and October 10, 1996; Administrative Reports; final Draft Report on Current Administrative Enforcement Project: EEOC Funding for State and Local Commissions for Fiscal 1997; Time Management Study for Processing Complaints and Update on Implementation of Remedial Actions and Time Frames; Memorandum of Understanding Between the Commission and the O.A.G. on Litigation of Employment Cases; Potential Legislation Affecting the Commission during the 75th Legislative Session; EEO Compliance Training; EEO Riders in the Appropriations Act; Legislative Appropriations Request; Annual Report; Fair Housing Issues Related to Older Citizens Exemption and Occupancy Standards under Fair Housing Law; ADR Unit; Executive Director's Annual Evaluation; Policy and Arrangements for Commission Travel; Commission's Participation in IAOHRA: Annual Financial Statement; Commissioner Issues; Unfinished Business. All Items on the Agenda May be Subject to a Vote, if Appropriate.

Contact: William M. Hale, P.O. Box 13493, Austin, Texas 78711, (512) 437-3450.

Filed: November 26, 1996, 2:40 p.m.

TRD-9617207

## Texas Lottery Commission

Wednesday, December 4, 1996, 10:00 a.m.

6937 North IH35, American Founder's Building, 1st Floor Auditorium

Austin

Bingo Advisory Committee

AGENDA:

The Bingo Advisory Committee will call the meeting to order; consideration and possible approval of the minutes of the August 23, 1996 Bingo Advisory Committee meeting; report by the Bingo Advisory Committee Chair and possible discussion on the November 26, 1996 Texas Lottery commission meeting on matters discussed at the commission meeting relating to charitable bingo; consideration of and possible action, including recommendations to the Texas Lottery commission, on delinquent payments for bingo licensees; consideration and possible action, including recommendations to the Texas Lottery Commission, relating to the commission's proposal to amendments to 16 TAC §402.567; consideration of and possible action, including recommendations to the Texas Lottery Commission, on a bingo organization's umbrella 501(c) status; consideration of, public comment and possible action, including recommendations to the Texas Lottery Commission, on possible charitable bingo legislative issues; report, public comment, and discussion on the current status of carminding devices and ull-tab dispensers; discussion

of the background of statutes related to prohibition of sale of lottery tickets at licensed bingo premises and the enhancement of income sources of bingo conductors; discussion of any observed presence of eight-liners at bingo premises; consideration, public comment, and possible action on agenda items for future Bingo Advisory Committee meetings; and adjournment.

For ADA assistance, call Worlanda Neal at 371-4713 at least two days prior to meeting.

Contact: Kimberly L. Kiplin, P.O. Box 116630, Austin, Texas 78761-6630, (512) 323-3791.

Filed: November 26, 1996, 3:53 p.m.

TRD-9617228

## Texas State Board of Medical Examiners

Tuesday, December 10, 1996, 2:00 p.m.

333 Guadalupe, Tower 3, Suite 610

Austin

Hearings Division

### AGENDA:

Probation Appearance, 2:00 p.m. — John g. Steele, MD, Irving, Texas

Probation Appearance, 2:00 p.m. — Jaime Ramirez, MD, Plano, Texas

Probation Appearance, 3:00 p.m. — Nicholas M. Jackson, MD, Kerrville, Texas

Probation Appearance, 3:00 p.m. — John A. Luker, MD, Austin, Texas

Probation Appearance, 3:00 p.m. — Rany I. Cherian, MD, College Station, Texas

Probation Appearance, 3:00 p.m. — Michael G. Hummer, MD, Austin, Texas

Termination Request, 2:45 p.m. — Daniel K. Leong, DO, Plano, Texas

Termination Request, 2:45 p.m. — Doyle F. Gallman, DO, Mansfield, Texas

Termination Request, 3:45 p.m. — Mark R. Rose, MD, Grapeland, Texas

Executive session under authority of the Open Meetings Act, §551.071 of the Government Code, and Article 4495b, §2.97(b) and 2.09(o), Texas Revised Civil Statutes, regarding pending or contemplated litigation.

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

Filed: December 2, 1996, 10:01 a.m.

TRD-9617368

## Texas Municipal Retirement System

Saturday, December 14, 1996, 9:00 a.m.

1299 North IH35

Austin

Board of Trustees, Regular Meeting

### AGENDA:

To hear and approve Minutes of the September 21, 1996 regular meeting and November 1, 1996, special meeting; review and approve Service Retirements, Disability Retirements; review and approve Supplemental Death Benefits Payments; Consider Extended Supplemental Death Benefits coverage; review and act on Financial Statements; Transfer of Inactive Accounts and Unclaimed Refunds; Consideration of changes in benefit structure by member cities; Consider and act on proposed new rule §127.4 conformity with Internal Revenue Code Preservation of Benefits; Consider and act upon request from Pension Review Board for voluntary contributions pursuant to §801.113, Government Code; Consider and act on amendments to 1996 budget; Consider and act on Proposed Budget for 1997; Consider and act on Resolution Transferring Monies from Interest Reserve fund to Expense Fund; Consider and act on resolution granting Distributive Benefits to annuitants and supplemental interest to certain funds and accounts; Consider and act on resolution adopting Restricted prior Service Credit; Report on comprehensive review and analysis of benefit structure; Consider and act on proposed amendments to the TMRS Act in the 1997 Legislature; Report by Legal Counsel; Reports by Director and Staff; Election of 1997 Board officers; Set dates for 1997 regular Board meetings; consider any other business to come before the Board.

Contact: Gary W. Anderson, P.O. Box 149153, Austin, Texas 78714-9153, (512) 476-7577.

Filed: November 26, 1996, 9:21 a.m.

TRD-9617176

## Texas Natural Resource Conservation Commission

Wednesday, December 4, 1996, 9:30 a.m. and 1:00 p.m.

Room 201S, Building E, 12118 N. Interstate 35

Austin

### AGENDA:

The Commission will consider approving the following matters on the agenda: Hearing Request; Authorization to Construct; Temporary Order; Agreed Air Enforcement; Agreed Petroleum Storage Tank Enforcements; Petroleum Storage Tank Enforcement Orders; Agreed Public Water Supply Enforcement Order; Rules; State Implementation Plan; Executive Session; Motion for Reconsideration; Contract; the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the Commission may take various actions, including but not limited to rescheduling an item in its entirety or for particular action at a future date or time. (Registration for 9:30 agenda starts 8:45 until 9:25). The commission will consider the Administrative Law Judge's Proposal for Decision at 1:00 p.m.

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

Filed: November 26, 1996, 2:38 p.m.



TRD-9617206

Thursday, December 12, 1996, 9:30 a.m.

Natural Resources Center, Room 1003, Texas A&M University, 6300 Ocean Drive  
Corpus Christi

**AGENDA:**

- I. Call to Order/Introductions/Approval of Minutes
- II. Program Update
- III. Discussion/approval of FY98 Program Element Budget
- IV. Action Planning Task Force Briefings: Public Outreach; Maritime Issues; Water/Sediment Quality; Agricultural Runoff
- V. Additional Items/Adjourn

Contact: Richard Volk, Suite 3300, 6300 Ocean Drive, Corpus Christi, Texas 78412, (512) 980-3420.  
Filed: December 2, 1996, 9:54 a.m.

TRD-9617364

Monday, December 16, 1996, 9:00 a.m.

12100 Park 35 Circle, Building B, Room 201A  
Austin

**AGENDA:**

The Texas Natural Resource Conservation Commission has referred the enforcement case on OSCAR LEE MARTIN to the State Office of Administrative Hearings (SOAH). SOAH has scheduled a public hearing on the assessment of administrative penalties and requiring certain actions of Oscar Lee Martin, SOAH Docket Number 582-96-2207.

Contact: Pablo Carrasquillo, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-3445.  
Filed: December 16, 1996, 9:55 a.m.

TRD-9617366

Monday, December 17, 1996, 9:00 a.m.

12100 Park 35 Circle, Building B, Room 201A  
Austin

**AGENDA:**

The Texas Natural Resource Conservation Commission has referred the enforcement case of ROBERT S. HOUGH, d/b/a TIRE DISPOSAL OF EL PASO to the State Office of Administrative Hearings (SOAH). SOAH has scheduled a public hearing on the assessment of administrative penalties and requiring certain actions of Robert S. Hough, d/b/a Tire Disposal of El Paso, SOAH Docket Number 582-96-2208.

Contact: Pablo Carrasquillo, P.O. Box 13087, Austin, Texas 78711-3087, (512) 475-3445.  
Filed: December 16, 1996, 9:55 a.m.

TRD-9617367

**Board of Nurse Examiners**

Tuesday, December 10, 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 October 8, 1996 Minutes.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on: the eligibility requests from: Leslie Ann Ruben, Applicant; Ling Harris, Applicant/Endorsement; and Gerald Alan Percival, Applicant/Endorsement.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on: The Declaratory Order requests from: Rachel Elizabeth Bowdoin, Petitioner; Monica Lee Brockett; Petitioner; Sharolyn Sue Crow, Petitioner; Kimberly Alison Edwards; Petitioner; Debra Ann Hickok, Petitioner; Marisa Elizabeth Sinayi, Petitioner; and Nancy Ann Tedrowe, Petitioner.

The Eligibility and Disciplinary Committee of the Board will meet to consider and take action on the Agreed Orders on: Bonnie Jean Corbett, 600704; Clifford Newton Crawford, 571475; Denise Elaine Erbes, 567634; Fannie M. Hearne, 612396; Lanore Kocian, 256807; Bertha A. Meza, 251551; Cynthia Newsome, 583789; Connie Lee Ollive, 584841; Donna Jean Ruth-Reece, 559323; Christine Y. Robinson, 256173; Tamara Lynn Robinson, 601946; India B. Burke, Thompson, 619938; and Marydean Woolridge, 251264.

Contact: Cheryl Sepulveda, Box 140466, Austin, Texas 78714, (512) 305-6824.  
Filed: November 27, 1996, 11:56 a.m.

TRD-9617296

**Texas Board of Nursing Facility Administrators**

Wednesday, December 4, 1996, 10:00 a.m.

Crowne Plaza, St. Anthony Hotel, The Georgian Room, 300 East Travis Street

San Antonio, Texas

**AGENDA:**

The board will introduce guests and discuss and possibly act on: approval of minutes of October 18, 1996 board meeting; Complaints Committee report; comments received on proposed rules as published in the October 29, 1996 issue, 21 Tex Reg 10653 (22 TAC §241.19 and §241.20); adoption of final rules (22 TAC §241.19 and §241.20); board chair report; interim executive secretary report; and set next meeting date.

To request an accommodation under the ADA, please contact Lonzo Kerr, ADA Coordinator in the Office of Civil Rights at (512) 458-7627 or TDD (512) 458-7708 at least two days prior to the meeting.

Contact: Bobby Lane, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6787.

Filed: November 26, 1996, 4:00 p.m.

TRD-9617230

## Texas Board of Occupational Therapy Examiners

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

Columbia Rehabilitation Hospital, Conference Room 300, 300 Waymore

El Paso

Application Committee

AGENDA:

I. Call to Order

II. Discussion and possible action regarding the following applicants: Joyce Elaine Butler, Chandramouli L. Mettapalli, Sariat Adebowale Adeniji-Adele, Nola L. Campbell, B. Steven Terry.

III. Adjournment

Contact: Alicia Dimmick Essary, 333 Guadalupe, Suite 2-510, Austin, Texas 78701-3942, (512) 305-6900.

Filed: November 26, 1996, 4:05 p.m.

TRD-9617239

## Texas Board of Pardons and Paroles

Tuesday — Wednesday, December 10 — 11, 1996, 8:00 a.m.

Texas Department of Human Resources, 7901 Cameron Road, Building 2, Room 353

Austin

AGENDA:

I Regular Session — A) Recognition of Guests, B) Presentation by TDCJ-Parole Division, C) Presentation by TDCJ, D) Consent Items, E) Board Committee Reports/Staff Reports, F) Final Adoption of Proposed Rules as Published in the October 22, 1996, Texas Register (21 TexReg 10419-10421). G) Adoption of Proposed Amendments to 37 TAC §141 et seq. H) Adoption of BPP Policy 96-12.01. Denial of Releasee to Mandatory Supervision.

II. Executive Session — A) Litigation

III. Workshop- A) Use of Parole Guidelines, B) Update on Parole Guidelines

Persons with disabilities who plan to attend this meeting and who need auxiliary aids or services as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are required to contact the agency prior to the meeting so that appropriate arrangements can be made.

Contact: Aline Guillot, P.O. Box 13401, Austin, Texas 78711, (512) 463-1702.

Filed: November 27, 1996, 8:37 a.m.

TRD-9617247

## Public Utility Commission of Texas

Monday, December 16, 1996, 9:00 a.m.

1701 North Congress Avenue

Austin

AGENDA:

A Hearing on the Merits will be held by the State Office of Administrative Hearings in Docket Number 16673- Application of Paging Express, Inc., doing business as Express Telecommunications, Inc. for a Service Provider Certificate of Operating Authority. Applicant plans to resell local exchange service including tone dialing, custom calling, caller ID, toll restriction, bill number screening and any other services which are available on a resale basis from the underlying incumbent exchange carrier or other certified carrier within applicant's service area. Applicant plans to provide local exchange service in a geographic area which exactly follows the local exchange boundaries of the following underlying local exchange companies within the state of Texas: southwestern Bell Telephone, GTE Southwest, Inc. Persons who wish to intervene or otherwise participate in these proceedings should make appropriate filings or comments to the Commission by December 11, 1996.

Contact: Paula Mueller, 1701 North Congress Avenue, Austin, Texas 78701, (512) 936-7145.

Filed: November 25, 1996, 3:56 p.m.

TRD-9617121

## Railroad Commission of Texas

Tuesday, December 3, 1996, 9:30 a.m.

1701 North Congress Avenue, 1st Floor Conference Room, 1-111

Austin

REVISED AGENDA:

Discussion and action on issues relating to EPA General Permit and Effluent Limitation Guidelines for Coastal Produced Water Discharges.

Contact: Terri Eaton, P.O. Box 12967, Austin, Texas 78711-2967, (512) 463-6794.

Filed: November 25, 1996, 3:57 p.m.

TRD-9617124

## State Securities Board

Friday, January 31, 1996, 9:00 a.m.

William P. Clements Building, 300 West 15th Street, Fifth Floor, Room 502

Austin

Administrative Hearing

AGENDA:

A hearing will be held for the purpose of determining whether the application of Norman Howard Scher for registration with the State Securities Board as a securities agent should be denied.

Contact: David Grauer, 200 East 10th Street, Fifth Floor, Austin, Texas 78701, (512) 305-8392

Filed: November 27, 1996, 11:32 a.m.

TRD-9617282

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**Texas Senate**

Wednesday, December 4, 1996, 1:00 p.m.

Capitol Extension Committee Room E1.028

Austin

Senate Administration Committee

AGENDA:

To consider: STC Written Status Report on Technology

Recommendations and Demonstration TLIS; Recommendations from Subcommittees #1 and #2.

Contact: Myra Schmitt, P.O. Box 12068, Austin, Texas 78711, (512) 463-0350.

Filed: November 26, 1996, 9:20 a.m.

TRD-9617175

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**Texas Skill Standards Board**

December 9 — 10, 1996, 2:30 p.m. and 8:30 a.m. respectively

December 9 — Sheraton Four Points Hotel, 7800 North IH35, December 10, 1996, Texas Higher Education Coordinating Board, 7745 Chevy Chase Drive, Building 1, Room 100A

Austin

Full Board

AGENDA:

Monday, December 9, 2:30 p.m. Discussion with Skill Standards Representatives from Illinois, Canada, and Mexico.

Tuesday, December 10, 8:30 a.m. — Welcome/Workshop Purpose; Developing Strategic Plan including creating a vision, defining the Texas Skill Standards board's mission and roles, defining goals and objectives, identifying initial major decisions/action items, establishing first-year priorities, and developing first year meeting schedule and timeline; Wrap-up/Board Business; Adjourn.

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services should contact Val Blaschke, (512) 912-7158 or Relay Texas 800-735-2988, at least two days before this meeting so that appropriate arrangements can be made.

Contact: Val Blaschke, P.O. Box 2241, Austin, Texas 78768, (512) 912-7168.

Filed: November 27, 1996, 1:05 p.m.

TRD-9617301

**Texas Guaranteed Student Loan Corporation**

Friday, December 6, 1996, Noon

13809 North Highway 183, Suite 301

Austin

Board of Directors

AGENDA:

1. Call to Order
2. Approval of Board Minutes for September 20, 1996
3. Discussion of Direct Lending Servicing Bid
4. Discussion and Action Concerning System 97
5. Report on Reauthorization
6. Review and Action on School And Lender Advisory Committee Candidate
7. Discussion and Action Regarding Resolution for Appointment to TG's Money Purchase Pension Plan Committee
8. President's Report
9. Adjourn

Contact: Pat Boulton, 13809 North Highway 183, Austin, Texas 78750, (512) 219-4550.

Filed: November 27, 1996, 10:44 a.m.

TRD-9617279

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**Teacher Retirement System of Texas**

Friday, December 6, 1996, 8:30 a.m.

1000 Red River, Room 229E

Austin

Board of Trustees Benefits Committee

AGENDA:

1. Approval of Minutes of November 21, 1996 Meeting
2. Overview of Benefits Reengineering Proposals and Interview Process- Mrs. Koontz
3. Interview of Benefits Reengineering Proposal Companies
4. Discussion of Recommendation for Awarding contract on the Benefits Reengineering Project- Mr. Whittenburg

For ADA assistance, contact John Mercer, (512) 397-6418 or T.D.D. (512) 397-6444 or (800) 841-4497 at least two days prior to the meeting.

Contact: John R. Mercer, 1000 Red River, Austin, Texas 78701-2698, (512) 397-6418

Filed: November 26, 1996, 2:54 p.m.

TRD-9617210

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**Telecommunications Infrastructure Fund Board**

Friday, December 6, 1996, 8:30 a.m.

1400 Congress Avenue, Capitol Extension, Room E2.036

Austin

Finance And Audit Committee

AGENDA:

I. Call Committee Meeting to Order Open Meeting/Quorum Call-Chairman Roger Benavides.

II. Approve Minutes from Emergency Committee Meeting held on November 22, 1996.

III. Further review of Methods, Timing and Documentation Requirements for Distribution of Funds on RFPs.

IV. Review contracts and Related Handbook for Grant Recipients

V. Other Items, as Necessary

VI. Future Agenda Items

VII. Adjourn Committee Meeting

Contact: Dawn Efaw, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: November 27, 1996, 11:36 a.m.

TRD-9617284



Friday, December 6, 1996, 9:30 a.m.

1400 Congress Avenue, Capitol Extension, Room E2.036

Austin

Libraries and Telemedicine Committee

AGENDA:

I. Call Committee Meeting to Order Open Meeting/Quorum Call-Chairman John Collins.

II. Approve Minutes from Prior Meeting.

III. Follow-up Meeting to Organizational Issues.

IV. Further Discussion on a possible Advisory Panel

V. Other Items, as Necessary

VI. Future Agenda Items

VII. Adjourn Committee Meeting

Contact: Dawn Efaw, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: November 26, 1996, 3:52 p.m.

TRD-9617225



Friday, December 6, 1996, 10:45 a.m.

1400 Congress Avenue, Capitol Extension, Room E2.036

Austin

AGENDA:

I. Call Committee Meeting to Order Open Meeting/Quorum Call-Chairman Carolyn Bacon.

II. Approve Minutes from prior meetings.

III. Executive Director's Report.

IV. Report on response to the first RFP.

V. Invited Testimony: "Current and Future Networking Technologies" John Lewis- IBM Presentation.

VI. Discussion on policy matters relating to the Master Plan- A) Summary of comments received, B) Next phase of Master Plan completion.

VII. Finance and Audit Committee Report and possible action.

VIII. Education Evaluation Committee report and possible action.

IX. Libraries and Telemedicine committee Report and possible action.

X. Discussion of future RFPs.

XI. Future Agenda Item.

XII. Adjourn Open Meeting.

Contact: Dawn Efaw, P.O. Box 12428, Austin, Texas 78701, (512) 936-8432.

Filed: November 27, 1996, 11:35 a.m.

TRD-9617283



## Texas Tech University and Texas Tech University Health Sciences Center

Thursday, December 5, 1996, 12:00 p.m.

Board of Regents Suite, Admin. Building, Campus Lubbock

Board of Regents Pricing Committee

AGENDA:

The Pricing Committee will consider and act upon the following: a resolution authorizing the execution of a bond purchase agreement relating to one or more series of the Board of Regents of Texas Tech University Revenue Financing System revenue bonds, Third Series (1996) and Fourth Series (Taxable 1996); consider authorizing the execution of documents to effect the sale of such bonds including, without limitation, an Official Statement, as Escrow Agreement, and other related documents; and to take additional actions relating to the previous items. In order to obtain the most favorable terms relative to the bonds to be sold, the Committee may recess from time to time to reconvene at dates and times certain to be announced at the time of recess. Upon reconvening the meeting, the Pricing Committee shall consider the finalization of the terms and sale of one or more series of the bonds.

Note: It is necessary to meet immediately in order to obtain the most favorable terms relative to the bonds to be sold and execute the necessary documents relative thereto and it was impossible to convene a quorum of the Board members at one location. Therefore, in order to properly exercise its duty of governance of the Universities, a meeting by conference call was initiated. The telephone conference call will be hosted in the Board of Regents meeting room, main campus, Lubbock, Texas.

Contact: James Crowson, Box 42011, Lubbock, Texas 79409, (806) 742-2161.

Filed: November 27, 1996, 11:54 a.m.

TRD-9617288

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**The Texas A&M University System**

Wednesday, December 4, 1996, 6:00 p.m.

Board of Regents Meeting Room, MSC, Clark Street

College Station

Board of Regents

**AGENDA:**

Open house forum for discussion of faculty related issues.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: November 27, 1996, 3:27 p.m.

TRD-9617323

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Thursday, December 5, 1996, 9:00 a.m.

MSC Room 292, Joe Routt Boulevard

College Station

Board of Regents

**AGENDA:**

Consider, Act and vote on the following Additional Matter for the Components of TAMUS: Appropriations; PORs, A/Es, Construction Bids; Endowments; Contracts; Estate Income; Revise Bylaws and Policies; Bank Depositories; Participants and Fin Ofcrs in RFS; Gifts, Grants, Loans and Bequests; Institutes and Centers; Land Conveyance, Easements, Sale and Purchase; Amend MO 97-96; Logos and Colors; Reorganize Acad Units; THECB approval to Expand Programs; Appoint VP/Health Affairs and Dean/College of Medicine; Appoint Dir/PERC; Fac.Dev. Leave; Tenure; Appointments and Promotions; Namings; Emeritus; Seek Legislation;

Closed Session Discussion: Consult with Sys Attorneys on Pending and Proposed Lit. and Matters Rec. as Attorney-Client Confidential and Privileged; Matters Involving the Appt, Employ, Evaluation, Reassign, Duties, Discipline or Dismissal or to Hear Complaints or Charges Against an Ofcr. or Employee; Appoint VP/Health Affairs and Dean/College of Medicine; Reports: Update on Corps. Enroll. and Strength, Presentation by Panama Canal Cmsn., Update on System Activities.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: November 27, 1996, 4:16 p.m.

TRD-9617328

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Thursday, December 5, 1996, 10:00 a.m.

Texas A&M University, MSC Room 292, Joe Routt Boulevard

College Station

Facilities Planning and Building Committee

**AGENDA:**

Consider, Act and Vote on the Following Construction Matter for the Various Components of Texas A&M University System: Approve POR, Appropriation for Design and Selection of Project A/E for Aikin Building Expansion, TAMU-T; Act on Bids for Good Laboratory Practices Facility, TEES; Approve POR, Appropriation for Preliminary Design and Selection of Project A/E for Athletic Facilities Renovations/Additions, Phase E TAMU; Action on Rebidding the West Campus Thermal Loop Completion, Phase 2, TAMU; Action on Bids for TTI Hangar Rehab, TAMU; Easterwood Airport Master Plan Update; Status of System Construction Projects Authorized by the BOR, Status of Projects Under Construction.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1996, 8:25 a.m.

TRD-9617356

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Thursday, December 5, 1996, 11:15 a.m.

Texas A&M University, MSC Room 292, Joe Routt Boulevard

College Station

Finance and Audit Committee

**AGENDA:**

Consider, Act and Vote on the Following Matters for the Components of TAMUS: Appropriation for Equip for Bush Pres Lib Ctr and Reed Arena, TAMU; Establish Quasi-Endowments, TAMU; Approve Suite Contract, TAMU; Distribute Income from Helm Estate, TAMUS; Adopt Rev System Investment Pol, TAMUS; Approve Bank Depositories for TAMU and TAMU; Designation of TAMU-C, TAMU-T and BCD as Participants in RFS, TAMUS; Designate Financial Officers as Defined in RFS Master Res and Authorized Reps as Defined in PRF Res. TAMUS; Accept Gifts, Grants, Loans and Bequests, TAMUS; Update on PUF.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1996, 8:25 a.m.

TRD-9617357

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Thursday, December 5, 1996, 1:30 p.m., or upon adjournment or recess of the meeting of the Finance and Audit Committee

Texas A&M University, MSC Room 292, Joe Routt Boulevard.

College Station

Committee for Service Units

**AGENDA:**

Establishment of the Global Petroleum Research Institute, Texas Engineering Experiment Station; Proposal to Establish the Center for Rural Transportation, Texas Transportation Institute.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1996, 8:25 a.m.

TRD-9617355

Thursday, December 5, 1996, 1:45 p.m. (or upon adjournment or recess of meeting of Committee for Service Units)

MSC Room 292, Joe Routt Boulevard

College Station

Committee for Land and Mineral Resources

**AGENDA:**

Consider, Act and Vote on the Following: Conveyance of Land to the City of Lufkin, Angelina County, to be Used as a Road Right-of-Way, TAMUS; Sale of 4.16 Acres of Land with Improvements in Laredo, Webb County, TAMUS; Purchase of Land to be Used as the Site for the New Forest Service Headquarters in Kountze, Hardin County, TAMUS; Renew Right-of-Way Easement to Texas Utilities Electric Company, Erath County, TAMUS.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: November 27, 1996, 4:17 p.m.

TRD-9617330

Friday, December 6, 1996, 8:30 a.m. (or upon adjournment or recess of meeting of Committee for Land and Mineral Resources)

MSC Room 292, Joe Routt Boulevard

College Station

Committee for Academic Campuses

**AGENDA:**

Consider, Act and Vote on the Following Academic Matters for the Components of TAMUS: Create Ctr for Alcohol and Drug Edc Studies, TAMU; Amend MO 97-96, TAMU; Authorize Logos and Colors, TAMU-C; Request approval from THECB to Reorganize Academic Units, TAMU-CC; Request Approval from THECB to Expand Tables of Programs, TAMU-K; Request Approval from THECB to Initiate new Program, TAMU-K; Report on TAMU's College of Medicine Admission Policy and Graduation.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1996, 8:24 a.m.

TRD-9617354

Friday, December 6, 1996, 9:15 a.m. (or upon adjournment or recess of meeting of Committee for Academic Campuses)

MSC Room 292, Joe Routt Boulevard

College Station

Executive Committee

**REVISED AGENDA:**

Consider, Act and Vote on the Following Academic Matters for the Components of TAMUS: Appoint VT for Health Affairs and Dean of the College of Medicine, TAMU; Appoint Director of the Private Enterprise Res. Ctr, TAMU; Authorize Faculty Development Leave, TAMU; Grant Tenure, TAMUS; Confirm Appointments and

Promotions, TAMUS; Name Facilities TAMUS; Grant Emeritus Titles, TAMUS; Authorization to Seek Legislation During the 75th Texas Legislative Session, TAMUS; Update on the Organization of TAMUS Statewide Health Science Center.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: December 2, 1996, 8:24 a.m.

TRD-9617353

Friday, December 6, 1996, 11:16 a.m. (or upon adjournment or recess of Meeting of Board of Regents)

Texas A&M University, MSC Room 292, Joe Routt Boulevard

College Station

Stiles Farm Foundation Board of Trustees

**AGENDA:**

Consider, Act and vote on the Following: Approval of the 1997 Annual Budget.

Contact: Vicki Running, The Texas A&M University System, College Station, Texas 77843, (409) 845-9600

Filed: November 27, 1996, 4:16 p.m.

TRD-9617329

## **Texas Turnpike Authority**

Wednesday, December 4, 1996, 10:00 a.m.

Dallas Marriott Quorum, 14901 Dallas Parkway

Dallas

Board of Directors

**AGENDA:**

The agenda includes: approval of minutes of Board of Directors meeting of October 16, 1996; consider resolution(s) honoring past TTA Directors; Austin area turnpike matters; Southwest Parkway (Tarrant and Johnson Counties) matters; consider final approval of Proposed Operating Budgets for Calendar/Fiscal year 1997 on the Dallas North Tollway, Mountain Creek Lake Bridge and of the Feasibility Study Fund Schedule of Potential Expenditures; Executive session; consideration of TTA legislative proposals; a.) presentation by north Texas metropolitan counties, the Regional Transportation Council, the Dallas Regional Mobility Coalition, and/or other local governments related to the TTA legislative proposals. b.) discussion of legislative proposals that may be recommended by the TTA Directors, c.) consideration of actions relative to legislative proposals, positions, or directives; consider award of engineering design and service contracts and supplemental agreements for the Dallas North Tollway System, the 183A Turnpike, and the Southwest Parkway; consider approval of interlocal/interagency agreements involving engineering, procurement and construction matters related to the Dallas North Tollway System, the 183A Turnpike, the Southwest Parkway, the Trinity Parkway and the SH 130 Route Turnpike; consider amendment(s) to DNT Phase 2 improvements and construction fund allocation; consider acceptance of ROW Appraisal/Offer/Purchase List Number 70 related to the Dallas North Tollway

System, the 183A Turnpike and the Southwest Parkway; consider payment by the TTA of expenses incurred by formed TTA Director, pursuant to §51.33 of the TTA Bylaws; and public discussions. The complete agenda is attached.

Contact: Jimmie G. Newton, 3015 Raleigh Street, Dallas, Texas 75219m (214) 522-6200

Filed: November 25, 1996, 4:00 p.m.

TRD-9617128

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Wednesday, December 4, 1996, 10:00 a.m.

Dallas Marriott Quorum, 14901 Dallas Parkway

Dallas

Board of Directors

REVISED AGENDA:

The agenda includes: approval of minutes of board of Directors meeting of October 16, 1996; consider resolution(s) honoring past TTA Directors; Austin area turnpike matters; Southwest Parkway (Tarrant and Johnson Counties) matters; consider final approval of Proposed Operating Budgets for Calendar/Fiscal year 1997 on the Dallas North Tollway, Mountain Creek Lake Bridge and of the Feasibility Study Fund Schedule of Potential Expenditures; Executive session; consideration of TTA legislative proposals: a.) presentation by north Texas metropolitan counties, the Regional Transportation Council, the Dallas Regional Mobility Coalition, and/or other local governments related to the TTA legislative proposals. b) discussion of legislative proposals that may be recommended by the TTA Directors, c) consideration of actions relative to legislative proposals, positions, or directives; consider award of engineering design and service contracts and supplemental agreements for the Dallas North Tollway System, the 183A Turnpike, and the Southwest Parkway; consider approval of interlocal/interagency agreements involving engineering, procurement and construction matters related to the Dallas North Tollway System, the 183A Turnpike, the Southwest Parkway, the Trinity Parkway and the SH 130 Route Turnpike; consider amendment(s) to DNT Phase 2 improvements and construction fund allocation; consider acceptance of ROW Appraisal/Offer/Purchase List Number 70 related to the Dallas North Tollway System, the 183A turnpike and the Southwest Parkway; consider payment by the TTA of expenses incurred by formed TTA Director, pursuant to §51.33 of the TTA Bylaws; consider hosting IBTTA Annual meeting and public discussion. The complete agenda is attached.

Contact: Jimmie G. Newton, 3015 Raleigh Street, Dallas, Texas 75219, (214) 522-6200

Filed: November 26, 1996, 9:22 a.m.

TRD-9617177

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**University of Houston System**

Monday, December 2, 1996, 11:00 a.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices  
Houston

Facilities Planning and Physical Plant Subcommittee Special Called Meeting

AGENDA:

To discuss the following:

Status Reports on the Development of a Project Planning Guide and Negotiations with Victoria College

Appointment of Architect

Status Report on the Center for Public Broadcasting Project

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: November 26, 1996, 3:28 p.m.

TRD-9617214

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Monday, December 2, 1996, 12:00 noon

1600 Smith, Suite 3400, Conference Room One, UH System Offices  
Houston

Executive Committee Special Called Meeting

AGENDA:

To discuss and/or approve the following:

Executive Session

Approval of Additional University of Houston Trademark Graphics  
Faculty Emeritus Appointment

Appointment of Architect

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: November 26, 1996, 3:28 p.m.

TRD-9617215

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Thursday, December 5, 1996, 8:00 a.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices  
Houston

Academic and Student Affairs Committee Special Called Meeting

AGENDA:

To discuss the following:

Gulf Coast Knowledge Utility (GCKU)

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: November 26, 1996, 3:29 p.m.

TRD-9617216

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Thursday, December 5, 1996, 10:00 a.m.

1600 Smith, Suite 3400, Conference Room One, UH System Offices  
Houston

Governmental Relations Subcommittee Special Called Meeting

**AGENDA:**

To discuss the following:

Special Items for the 75th Legislative Session

Higher Education Coalition "The Competitive Edge"

Public Universities Issues during 75th Legislative Session

University of Houston System Legislative Position Papers

Contact: Peggy Cervenka, 1600 Smith, Suite 3400, Houston, Texas 77002, (713) 754-7440.

Filed: November 26, 1996, 3:29 p.m.

TRD-9617217

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**University Interscholastic League**

Monday, December 2, 1996, 10:00 a.m.

Thompson Conference Center, 26th Street and Red River

Austin

Waiver Review Board

**AGENDA:**

AA. Request for waiver of the Parent-Residence Rule by Steven Ryan Cope representing Prairieland High School in Pattonville, Texas.

BB. Request for waiver of the Parent-Residence Rule by Richard Rodriguez representing Madison High School in San Antonio, Texas.

CC. Request for waiver of the Parent-Residence Rule by Robert Rodriguez representing Madison High School in San Antonio, Texas.

DD. Request for waiver of the Parent-Residence Rule by Kristy Rogers representing Hillcrest High School in Dallas, Texas.

EE. Request for waiver of the Four-Year Rule by Edwin J. Elam representing Silsbee High School in Silsbee, Texas.

Contact: Sam Harper, 23001 Lake Austin Boulevard, Austin, Texas 78713, (512) 471-5883.

Filed: November 25, 1996, 3:59 p.m.

TRD-9617126

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**Texas Workers' Compensation Commission**

Thursday, December 5, 1996, 9:30 a.m.

4000 South IH35, Room 910-911, Southfield Building

Austin

Public Meeting

**AGENDA:**

1. Call to Order

2. Approval of Minutes for the Public Meeting and Public Hearing of November 14, 1996

3. Discussion and Possible Action on Adoption of Amendment: Rule 133.206.

4. Discussion and Possible Action on Proposal of Amendment: Rule 134.1002.

5. Discussion and Possible Action on Proposal of New Rules: Rules 154.1, 154.2, 154.3, 154.4, 154.5, 154.6.

6. Discussion and Possible Action on rule Making Petition Concerning Chapter 166- Accident Prevention Services Rules.

7. Discussion and Possible Action on Proposal of Amendment Concerning Baseline Diagnostic Studies and Laboratory Testing: Rule 134.600.

8. Executive Session.

9. Action on Matters considered in Executive Session.

10. General Reports and Discussion of Issues Relating to Commission Activities.

11. Confirmation of Future Public Meeting Dates for 1997.

12. Adjournment.

Contact: Todd K. Brown, 4000 South IH35, Austin, Texas 78704, (512) 440-5690.

Filed: November 27, 1996, 2:43 p.m.

TRD-9617310

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**Texas Workforce Commission**

Thursday, December 5, 1996, 2:00 p.m.

Room 644, TWC Building, 101 East 15th Street

Austin

**AGENDA:**

Prior meeting notes; Public Comment; Staff reports, update on activities relating to Skills Development Fund and other activities as determined by the Acting Executive Director; Consideration and action on tax liability cases listed on Texas Workforce Commission Docket 49; Discussion, consideration and possible action regarding potential and pending applications for certification and recommendations to the Governor of local workforce development boards for certification; Discussion, consideration and possible action on proposed publication in the Texas Register of Amendments to TWC rule relating to waiver requirements (40 TAC §801.2); Executive session pursuant to Texas Government Code 551.074 to discuss personnel matters with executive staff; Actions, if any, resulting from executive session; Consideration and possible action regarding United Steelworkers of America, Local 1157 v. TWC; Consideration and action on whether to assume continuing jurisdiction on Unemployment Compensation cases and reconsideration of Unemployment Compensation cases, if any; Consideration and action on higher level appeals in Unemployment Compensation cases listed on Texas Workforce commission Docket 49; and Set date of next meeting.

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: November 26, 1996, 4:16 p.m.

TRD-9617240

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Thursday, December 5, 1996, 2:00 p.m.

Room 644, TWC Building, 101 East 15th Street

Austin



## REVISED AGENDA:

Prior meeting notes; Public Comment; Staff reports, update on activities relating to Skills Development Fund and other activities as determined by the Acting Executive Director; Consideration and action on tax liability cases listed on Texas Workforce commission Docket 49; Discussion, consideration and possible action regarding potential and pending applications for certification and recommendations to the Governor of local workforce development boards for certification; Discussion, consideration and possible action on proposed publication in the Texas Register of Amendments to TWC rule relating to waiver requirements (40 TAC §801.2); Executive session pursuant to Texas Government Code §§551.071 and 551.074 to discuss personnel matters with executive staff and to confer with legal counsel; Actions, if any, resulting from executive session; Discussion, consideration and possible action regarding United Steelworkers of America, Local 1157 v. TWC; Consideration and action on whether to assume continuing jurisdiction on Unemployment Compensation cases and reconsideration of Unemployment Compensation cases, if any; Consideration and action on higher level appeals in Unemployment Compensation cases listed on Texas Workforce Commission Docket 49; and Set date of next meeting.

Contact: Esther Hajdar, 101 East 15th Street, Austin, Texas 78778, (512) 463-7833.

Filed: November 27, 1996, 1:03 p.m.

TRD-9617299

## Regional Meetings

Meetings filed November 25, 1996:

Aqua Water Supply Corporation, Board of Directors, met at 305 Eskew, Bastrop, December 2, 1996 at 7:30 p.m. Information may be obtained from Adlinie Rathman, 305 Eskew, Bastrop, Texas 78602, (512) 303-3943. TRD-9617127.

Education Service Center, Board of Directors, will meet at 2811 LaForce Boulevard, Midland, December 12, 1996, at 6:00 p.m. Information may be obtained from Bryan LaBeff, P.O. Box 60580, Midland, Texas 79711, (915) 563-2380. TRD-9617122.

24th Judicial District Community Supervision and Corrections Department, Victoria Area Board of District Judges, will meet December 6, 1996, at 1:30 p.m. Information may be obtained from Janet Simmons Duge, 108 East Forrest Street, Victoria, Texas 77902, (512) 575-0201. TRD-9617138.

Meetings filed November 26, 1996:

Bell-Milam-Falls Water Supply Corporation, Board, met at Corporation Office, FM485 West, Cameron, December 5, 1996 at 8:30 a.m. Information may be obtained from Dwayne Jeke, P.O. Box 150, Cameron, Texas 76520, (817) 697-4016. TRD-9617246.

Dallas Central Appraisal District, Board of Directors, met at 2949 Stemmons Freeway, Second Floor Community Room, Dallas, December 4, 1996 at 7:30 a.m. Information may be obtained from Rick Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9617218.

Dawson County Central Appraisal District, Board of Directors, met at 1806 Lubbock Highway, Lamesa, December 4, 1996, at 7:00 a.m.

Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9617245.

Fiftieth Judicial District, Juvenile Board, met at District Courtroom, King County Courthouse, Guthrie, December 5, 1996, 12:00 noon. Information may be obtained from David W. Hajek, Guthrie, Texas, (817) 888-2852. TRD-9617188.

Gillespie Central Appraisal District, Board of Directors will meet at 101 West Main, Basement Suite 104C, Gillespie County Courthouse, Fredericksburg, December 9, 1996 at 9:00 a.m. Information may be obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (210) 997-9807. TRD-9617226.

Mason County Appraisal District, Board of Directors, met at 210 Westmoreland, Mason, December 2, 1996, 12:00 noon. Information may be obtained from Deborah Geistweidt, P.O. Box 1119, Mason, Texas, 76856, (915) 347-5989. TRD-9617178.

Shackelford Water Supply Corporation, Director's met at Fort Griffin Restaurant, Albany, Directors, December 4, 1996, at noon. Information may be Gaynell Perkins, Box 11, Albany, Texas 76430, (817) 345-6868. TRD-9617211.

South Central Texas Water Advisory Committee met at 1615 North St. Marys, San Antonio, December 2, 1996 at 4:00 p.m. Information may be obtained from David Davenport, SCTWAC Secretary, New Braunfels, Texas (210) 609-0543. TRD-9617182.

Texas Municipal Power Agency ("TMPA"), Board of Directors, met at Holiday Inn Select, LBJ Northeast, Azalea room, Dallas, December 2, 1996 at 10:30 a.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Dallas, Texas 77805, (409) 873-1131, TRD-9617208.

Texas Municipal Power Agency ("TMPA"), Board of Directors, met at Holiday Inn Select, LBJ Northeast, Azalea room, Dallas, December 2, 1996 at 1:30 p.m. Information may be obtained from Carl Shahady, P.O. Box 7000, Dallas, Texas 77805, (409) 873-1131, TRD-9617209.

Trinity River Authority of Texas, Board of Directors, met at 5300 South Collins Street, Arlington, December 4, 1996 at 10:30 a.m. Information may be obtained from James L. Murphy, P.O. Box 60, Arlington, Texas 76004, (817) 467-4343. TRD-9617219.

Meetings filed November 27, 1996

Bastrop Central Appraisal District, Appraisal Review Board, met at 1200 Cedar Street, Bastrop, December 5, 1996 at 8:30 a.m. Information may be obtained from Dana Ripley, 1200 Cedar Street, Bastrop, Texas 78602, (512) 303-3536. TRD-9617295.

Central Texas MHMR Center, Board of Trustees, met at 408 Mulberry, Brownwood, December 4, 1996 at 5:00 p.m. Information may be obtained from Saul Pullman, P.O. Box 250, Brownwood, Texas 76804, (915) 646-9574, TRD-9617324.

Community Action Committee of Victoria, Texas, Board of Directors, met at 1501 North DeLeon, Suite A, Victoria, December 5, 1996 at 7:00 p.m. Information may be obtained from Vicki Smith, 1501 North DeLeon, Suite A, Victoria, Texas 77902-2142, (512) 578-2989. TRD-9617300.

Dallas Area Rapid Transit, President's Luncheon, met in Conference Room "C", First Floor, 1401 Pacific Avenue, Dallas, December 3, 1996 at 12:00 noon. Information may be obtained from Paula J.

Bailey, P.O. Box 660163, Dallas, Texas 75266-0163, (214) 749-3256. TRD-9617280.

East Texas Council of Governments, CEO Board of Directors, met at 3800 Stone Road, Kilgore, December 4, 1996 at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9617249.

Golden Crescent Private Industry Council, met at 2401 Houston Highway, Victoria, December 4, 1996, at 6:30 p.m. Information may be obtained from Sandy Heiermann, 2401 Houston Highway, Victoria, Texas 77901, (512) 576-5872. TRD-9617297.

Heart of Texas MHMR Center, Board of Trustees, met at 110 South 12th Street, Waco, December 5, 1996 at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9617315.

Palo Pinto Appraisal District, Board of Directors, will meet at the Court House, Highway 180, Palo Pinto, December 11, 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-9617261.

Pecan Valley MHMR Region, Board of Trustees, Revised Agenda, met at 108 Pirate Drive, Granbury, December 4, 1996 at 8:15 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9617287.

Riceland Regional Mental Health Authority, Board of Trustees, met at 3027 North Richmond Road, Wharton, December 5, 1996 at 9:00 a.m. Information may be obtained from Marjorie Dornak, P.O. Box 869, Wharton, Texas 77488, (409) 532-3098. TRD-9617316.

Stephens County Rural WSC, Board, met at 301 West Elm Street, Breckenridge, December 5, 1996 at 6:00 p.m. Information may be obtained from Mary Barton, P.O. Box 1621, Breckenridge, Texas 76424, (817) 559-6180. TRD-9617281.

Texas Association of Regional Councils, Board, will meet at Austin North Hilton and Towers, 6000 Middle Fiskville Road, Austin, December 6, 1996 at 9:00 a.m. Information may be obtained from Sheila Jennings or Jim Ray, 1305 San Antonio Street, Austin, Texas 78701, (512) 478-4715. TRD-9617278.

Wood County Appraisal District, Appraisal Review Board, will meet at 210 Clark Street, Quitman, December 6, 1996 at 9:00 a.m.

Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 518, Quitman, Texas 75783-0518, (903) 763-4891. TRD-9617308.

Meetings filed December 2, 1996

Brazos Valley Development Council, Regional 911 Advisory Committee Emergency Meeting, met at 1706 East 29th Street, Suite A, Bryan, December 2, 1996 at 11:00 a.m. Information may be obtained from Anita Pitt, P.O. Drawer 4128, Bryan, Texas 77805-4128, (409) 775-4244. TRD-9617363.

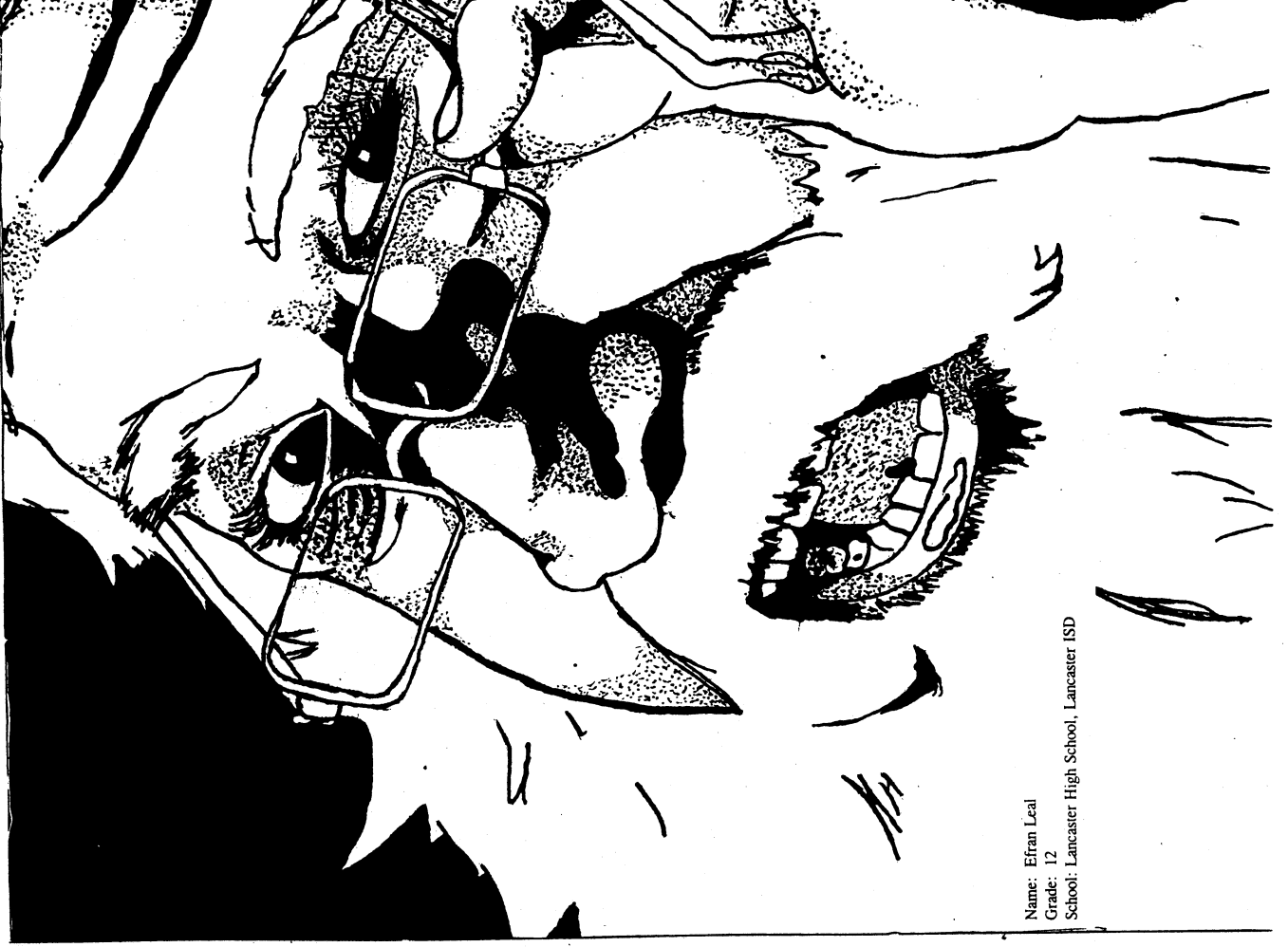
Millersview-Doole Water Supply Corporation, Board of Directors, will meet at Corporation Office, 1 Block West of FM 765 and FM 2134, Millersview, December 9, 1996 at 7:00 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box 130, Millersview, Texas 76862-0130, (915) 483-5438. TRD-9617362.

Lake Livingstone Water Supply and Sewer Service Corporation, Board of Directors, met at Big Thicket Lake Estates, Armadillo Drive, Liberty County Texas, December 5, 1996 at 6:30 p.m. Information may be obtained from John O. Houchins, 13738 Kingsride, Houston, Texas 77079, (713) 464-3205. TRD-9617370.

Lake Livingstone Water Supply and Sewer Service Corporation, Board of Directors, will meet at Trinity Pines Baptist Church, 4 1/2 miles northeast of Trinity on FM Road 356, Trinity County, Texas, December 12, 1996 at 6:30 p.m. Information may be obtained from John Houchins, 13738 Kingsride, Houston, Texas 77079, (713) 464-3205. TRD-9617369.

Northeast Texas Rural Rail Transportation District, Board, met at Texas A&M University, Commerce Memorial Student Center, Board Room, Commerce, December 4, 1996 at 5:00 p.m. Information may be obtained from Sue Ann Harting, 2821 Washington Street, Greenville, Texas 75401, (903) 450-0140. TRD-9617359.

South Plains Regional Workforce Development Board, met at 1625 13th Street, Lubbock, December 3, 1996 at 3:00 p.m. Information may be obtained from Linda Chamales, 1625 13th Street, Lubbock, Texas 79457, (806) 762-1946. TRD-9617360.



Name: Efran Leal  
Grade: 12  
School: Lancaster High School, Lancaster ISD

Name: Kris Taylor  
Grade: 12  
School: Lancaster High School, Lancaster ISD



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# IN ADDITION

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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.

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## Texas Alternative Fuels Council

### Notice of Contract Award

In accordance with the Government Code, Chapter 2254, Subchapter B, the Texas Alternative Fuels Council publishes this notice of a consultant contract award. The request for proposals appeared in the August 30, 1996, issue of the *Texas Register* (21 TexReg 8326). The contract consists of the development and implementation of an alternative fueled vehicle strategic plans for Texas Clean Cities and the development and implementation of a private loan fund to be used by both public and private fleets.

The contractor selected to perform this service is Ruby Mountain, Inc., 2373 East 1300 South, Salt Lake City, Utah 84108-1942. The contract period began October 1, 1996 and will end on August 31, 1997. The total maximum value of the contract is \$198,400. The strategic plans will be developed and the marketing program implemented in a manner that will result in the completion of strategic alternative fuel plans for each city no later than April 1, 1997 and an initial implementation stage ending August 31, 1997. Quarterly reports will be required on or before November 30, 1996, February 2, 1997, and May 31, 1997. A final report will be required on or before August 31, 1997.

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

TRD-9617157

R. Craig Davis

Administrator

Texas Alternative Fuels Council

Filed: November 25, 1996

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### Notice of Contract Award

In accordance with the Government Code, Chapter 2254, Subchapter B, the Texas Alternative Fuels Council publishes this notice of a consultant contract award. The request for proposals appeared in the August 30, 1996, issue of the *Texas Register* (21 TexReg 8326). The contract consists of the development of fueling systems to be certified to the United States Environmental Protection Agency Clean Fuel

Vehicle Certification of vehicle fueling systems. These systems will be fueled by propane and fueled by natural gas. These certifications will result in at least low emission vehicle standard and possibly ultra low emission standard.

The contractor selected to perform this service is Southwest Environmental Consultants, Inc., 7748 Maya Avenue, El Paso, Texas 79912-1206. The total maximum value of the contract is \$515,750. The contract period began September 24, 1996 and will end on August 31, 1997. Quarterly reports will be required on or before November 30, 1996, February 28, 1997, and May 31, 1997. A final report will be required on or before August 31, 1997.

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

TRD-9617158

R. Craig Davis

Administrator

Texas Alternative Fuels Council

Filed: November 25, 1996

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## Comptroller of Public Accounts

### Notice of Delay of Issuance of Request for Proposals

The Comptroller has determined that the issuance of the Request for Proposals for Investment Management and Related Services for the Texas Local Government Investment Pool (TEXPOOL), will be delayed until December 6, 1996, at 12:00 p.m.

Notice published in the November 26, 1996, issue of the *Texas Register* (21 TexReg 11537), is reissued and superceded by notice issued by the Comptroller of Public Accounts on December 2, 1996.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617220

Arthur F. Lorton

Senior Legal Counsel

Comptroller of Public Accounts

Filed: November 26, 1996

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**Office of the Consumer Credit Commissioner**  
**Notice of Rate Ceiling**

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Title 79, Texas Civil Statutes, Article 1.04, as amended (Texas Civil Statutes, Article 5069-1.04).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer <sup>(3)</sup>/Agricultural/ Commercial <sup>(4)</sup> thru \$250,000</u>	<u>Commercial<sup>(4)</sup> over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	12/02/96-12/08/96	18.00%	18.00%
Monthly Rate - Art. 1.04 (c) <sup>(1)</sup>	12/01/96-12/31/96	18.00%	18.00%
Standard Quarterly Rate - Art. 1.04(a)(2)	01/01/97-03/31/97	18.00%	18.00%
Retail Credit Card Quarterly Rate - Art. 1.11 <sup>(3)</sup>	01/01/97-03/31/97	18.00%	N.A.
Lender Credit Card Quarterly Rate - Art. 15.02(d) <sup>(3)</sup>	01/01/97-03/31/97	14.00%	N.A.
Standard Annual Rate - Art. 1.04(a)(2) <sup>(2)</sup>	01/01/97-03/31/97	18.00%	18.00%
Retail Credit Card Annual Rate - Art. 1.11 <sup>(3)</sup>	01/01/97-03/31/97	18.00%	N.A.
Judgment Rate - Art. 1.05, Section 2	12/01/96-12/31/96	10.00%	10.00%

<sup>(1)</sup>For variable rate commercial transactions only. <sup>(2)</sup>Only for open-end credit as defined in Art. 5069-1.01(f) V.T.C.S. <sup>(3)</sup>Credit for personal, family or household use. <sup>(4)</sup>Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617306  
 Leslie L. Pettijohn  
 Commissioner  
 Office of Consumer Credit Commissioner  
 Filed: November 27, 1996

TRD-9617174  
 Criss Cloudt  
 Associate Commissioner for Policy Planning and Research  
 Texas Education Agency  
 Filed: November 25, 1996

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**Texas Education Agency**

The Texas Education Agency (TEA) files this notice of consultant contract award under the Texas Government Code, Chapter 2254, Subchapter B.

The TEA published the Request for Proposals (RFP) #701-96-034 in the September 13, 1996, issue of the *Texas Register* (21 TexReg 8865).

The consultant will provide advisement to TEA, regional education service center, and independent school district staff in regards to beginning reading research and instruction. The consultant will provide the services outlined in the RFP concerning beginning reading research and instruction.

The consultant selected to perform these tasks is Jean Osborn, University of Illinois at Urbana-Champaign, Center for the Study of Reading, 174 Children's Research Center, 51 Gerty Drive, Champaign, Illinois 61820. The maximum amount of this contract is \$40,000. The contract was executed on November 22, 1996, and ends no later than August 29, 1997.

The consultant will provide advisement to TEA staff regarding beginning reading instruction through August 29, 1997.

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

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**State Board for Educator Certification**

**Notice of Contract Renewal**

Filing Authority. This Notice of Contract Renewal is filed under Texas Government Code, Chapter 2254, Subchapter B.

Description. The State Board for Educator Certification (SBEC) intends to renew the contract to continue services previously performed by a private consultant unless a better offer is received. The consultant who performed the services previously is C. T. Maddox, Ph.D., 12212 Brigadoon Lane, Austin, Texas 78727.

A contractor is needed to review requests and make recommendations for testing modifications for examinees on the Texas Academic Skills Program (TASP) Test, required of students who enter an approved teacher education program or enroll in a public university in Texas. Each time the TASP Test is given, examinees who request testing modifications submit appropriate educational, psychological, or medical documentation supporting their request. The contractor must review this documentation and make recommendations for appropriate testing modifications. Testing modifications must be consistent with federal and state regulations, EEOC guidelines, court decisions, and other appropriate and equitable policies. Activities under this contract will be conducted in Austin, Texas.

Dates of Project. All services and activities related to this proposal will be conducted from January 8, 1997 through August 31, 1997. Contract may be extended on an annual basis beyond August 1997 by mutual agreement of SBEC and contractor.

**Project Amount.** The contract will be renewed for an additional \$8,760.00.

**Selection Criteria.** The previous contract will be renewed unless a better offer is received. If another offer is received, the contract will be awarded based on the ability of the proposer to carry out all requirements contained in the project specifications and the proposed cost. The SBEC will base its selection on, among other things, the demonstrated competence, qualifications, and experience of the proposer and the cost.

The SBEC is not obligated to execute a resulting contract, provide funds, or endorse any proposal submitted in response to this notice of contract extension. This notice does not commit SBEC to pay any costs incurred before a contract is executed. The issuance of this notice does not obligate SBEC to award a contract or pay any costs incurred in preparing a response.

**Requesting the Specifications.** A copy of the project specifications (specifications #703-720-01) may be obtained by writing the State Board for Educator Certification, 1001 Trinity Street, Austin, Texas 78701, or by calling (512) 469-3000. Please refer to the specifications number in your request.

**Further Information.** For clarifying information, contact Pamela Tackett, Director of Assessment, SBEC, at (512) 469-3000.

**Deadline for Receipt of Offers.** Offers must be received at the State Board for Educator Certification by 5:00 p.m. (Central Standard Time), Monday, January 6, 1997, to be considered.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617302

Mark Littleton

Executive Director

State Board for Educator Certification

Filed: November 27, 1996



**Request for Proposals Concerning Activities Relating to the Development and Administration of the Texas Assessment of Sign Communication (TASC) and Texas Assessment of Sign Communication-American Sign Language (TASC-ASL)**

**Filing Authority.** Request for Proposals (RFP) #703-97-001 is filed under Texas Government Code, Chapter 2254, Subchapter B.

**Eligible Proposers.** The State Board for Educator Certification (SBEC) is requesting proposals from nonprofit organizations, institutions of higher education, private companies, individuals, regional education service centers, and others. Historically underutilized businesses (HUBs) are encouraged to submit a proposal.

**Description.** A contractor is needed to study and provide advice during the development and implementation of the TASC and TASC-ASL, assessments of proficiency in sign communication that will be required of individuals seeking certification as a teacher of students who are deaf or hard-of-hearing or American Sign Language. The TASC assesses proficiency in one or a combination of five different sign communication systems, whereas the TASC-ASL assesses only ASL communication skills. The tests use an oral proficiency interview format, whereby a one-on-one interview is conducted which is videotaped. Trained raters view the videotape and rate the examinee's communication proficiency.

Preliminary development activities have already occurred. However, prior to September 1, 1997, both assessments must undergo further development through research and pilot testing, and preparation materials and administration procedures must be developed. Educators in the field must be convened to review the tests and formulate recommended passing standards for the tests. From September 1, 1997, through August 31, 2002, Contractor must also administer the tests several times per year statewide and continue to conduct research to ensure the validity and equity of the instruments. It is anticipated that approximately 140 examinees will take the tests each year. Contractor will pay all expenses for activities conducted under this RFP.

**Dates of Project.** All services and activities related to this proposal will be conducted within specified dates. Proposers should plan for a starting date of no earlier than January 13, 1997, and an ending date of no later than August 31, 2002. Contract may be extended on an annual basis beyond August 2002 by mutual consent of the SBEC and contractor.

**Project Amount.** One contractor will be selected to receive a maximum of \$125,000 for activities to be completed no later than August 31, 1997. Costs for activities to occur during September 1997 through August 2002 will be recovered by contractor through fees collected by contractor from examinees and from sales of preparation materials. Continuance of the contract past August 31, 1997, is contingent upon available funding and legislative and SBEC actions.

**Selection Criteria.** A proposal will be selected based on the ability of the proposer to carry out all requirements contained in the RFP. The SBEC will base its selection on, among other things, the demonstrated competence and qualifications of the proposer. The proposer should have substantial experience in the large-scale customized development and administration of assessments for educator certification, in addition to meeting other criteria. Proposer must mostly manage and conduct day-to-day activities under this contract from an office located in Austin, Texas. The SBEC reserves the right to select from the highest ranking proposals those that address all requirements in the RFP.

The SBEC is not obligated to execute a resulting contract, provide funds, or endorse any proposal submitted in response to this RFP. This RFP does not commit SBEC to pay any costs incurred before a contract is executed. The issuance of this RFP does not obligate SBEC to award a contract or pay any costs incurred in preparing a response.

**Requesting the Proposal.** A copy of RFP #703-97-001 may be obtained by writing the State Board for Educator Certification, 1001 Trinity Street, Austin, Texas 78701, or by calling (512) 469-3000. Please refer to the RFP number in your request.

**Further Information.** For clarifying information about the RFP, contact Pamela Tackett, Director of Assessment, SBEC, at (512) 469-3000.

**Deadline for Receipt of Proposals.** Proposals must be received at the State Board for Educator Certification by 5:00 p.m. (Central Standard Time), Monday, January 6, 1997, to be considered.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617303

Mark Littleton

Executive Director

State Board for Educator Certification

Filed: November 27, 1996

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**Texas Department of Health**

**Public Hearing - Ryan White CARE Act/Title II Activities in Texas**

The Texas Department of Health (TDH) will hold a public hearing to receive comments on the proposed 1997 plan for funding the seventh-year of the Ryan White CARE Act/Title II Activities in Texas.

The hearing will be held on Wednesday, December 18, 1996, at 10:00-12:00 a.m., Room M-739, 1100 West 49th Street, Austin, Texas. To request an accommodation under the Americans with Disabilities Act, please contact Suzzanna Currier, ADA Coordinator in the Office of Civil Rights, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7627, or TDD at (512) 458-7708, at least two days prior to the meeting.

Copies of the proposed plan will be mailed to all TDH Ryan White Title II contractors prior to the public hearing. Interested persons can obtain a copy of the plan by contacting Ms. Laura Ramos at (512) 490-2525 or by E-mail at LRAMOS@STD.TDH.STATE.TX.US.

Written comments should be addressed to Mr. Casey S. Blass, Director, HIV/STD Health Resources Division, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Comments will be accepted through December 31, 1996.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617194  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: November 26, 1996

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**Request for Funding Proposal for the Bureau of Clinical and Nutrition Services for Comprehensive Family Planning Services**

**Purpose:** The Texas Department of Health (TDH) Bureau of Clinical and Nutrition Services requests proposals for the provision of comprehensive family planning services to assist low-income Texans with their family planning goals, improve their health, and reduce poor pregnancy outcomes. The targeted areas for this Title X contract include the following Public Health Regions (PHR):

- PHR 1) Amarillo, Lubbock, and surrounding counties;
- PHR 2) Abilene, Wichita Falls, and surrounding counties.
- PHR 3) Arlington, Dallas/Fort Worth, and surrounding counties;
- PHR 4) Tyler, Sulphur Springs, and surrounding counties;
- PHR 5) Beaumont, Nacogdoches, and surrounding counties;
- PHR 6) Houston and surrounding counties;
- PHR 7) Austin, Temple, and surrounding counties;
- PHR 8) San Antonio, Uvalde, and surrounding counties;
- PHR 9) Midland/Odessa and surrounding counties;
- PHR 10) El Paso and surrounding counties; and

PHR 11) Corpus Christi, Harlingen, and surrounding counties.

Comprehensive family planning services include medical history, physical assessment and laboratory testing, client education and counseling, provision of contraceptives, pregnancy testing, counseling and referral, screening and treatment and/or referral for treatment of sexually transmitted diseases, treatment and/or referral of other medical or genetic problems, client outreach, community education, and basic infertility services, as defined in the request for funding proposal. Public and private nonprofit agencies and organizations providing family planning services are eligible to apply for funds under section 1001 of the Public Health Service Act (42 U.S.C. 300) for Fiscal Year 1998 (Title X: April 1, 1997-March 31, 1998). Programs must be directed by a physician currently licensed to practice in Texas (M.D. or D.O.).

**Contact:** Parties interested in obtaining a copy of the Request for Proposal (RFP) application kit and who plan to submit an application should contact Jeannette McGowan, Family Planning, Bureau of Clinical and Nutrition Services, Texas Department of Health, 1100 W. 49th Street, Austin, Texas 78756-3101, (512) 458-7444 (Internet address: jmcgowan@wcl.tdh.state.tx.us).

**Due Date and Submittal Location:** Request for Proposal application kits will be available on December 16, 1996. Completed applications must be received by 5:00 p.m. C.S.T., on January 27, 1997. An original and three copies of the application must be submitted to Jeanette McGowan and three copies of the application to the appropriate Public Health Regional Director(s) in the applicant's target area(s) by the due date. The names and addresses of the Public Health Regional Directors are listed in the RFP. Faxes will not be accepted and late applications will not be considered.

**Award Procedure:** All entities that submit proposals by the due date and which are reviewed will receive written notification of the results of the proposal review process on March 12, 1997, or as soon as possible thereafter.

TDH reserves the right to accept or reject any of the proposals received. TDH is under no legal obligation to execute a resulting contract on the basis of this notice or distribution of the RFP. Neither this notice nor the RFP commits TDH to pay for any costs incurred prior to the execution of a contract.

**Anticipated Schedule of Events:** The anticipated schedule of events is as follows: RFP available for request on December 16, 1996; deadline for proposals to be received by TDH regional director(s) and central office is 5:00 p.m. C.S.T. on January 27, 1997; review of proposals beginning January 28, 1997, through March 10, 1997; and notice of award(s) on March 12, 1997, or as soon as possible thereafter.

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

TRD-9617195  
Susan K. Steeg  
General Counsel  
Texas Department of Health  
Filed: November 26, 1996

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**Texas Department of Insurance**

**Notice of Application by Amil International (Texas), Inc.,  
Austin, Texas for Issuance of a Certificate of Authority to  
Establish and Operate an HMO in the State of Texas**

Notice is given to the public of the application of, Amil International (Texas), Inc., Austin, Texas for the issuance of a certificate of authority to establish and operate a health maintenance organization (HMO) offering basic health care services in the State of Texas in compliance with the Texas HMO Act and rules and regulations for HMOs. The application is subject to public inspection at the offices of the Texas Department of Insurance, HMO Unit, 333 Guadalupe, Hobby Tower I, 6th Floor, Austin, Texas.

Upon consideration of the application, if the Commissioner is satisfied that all requirements of law have been met, the Commissioner or his designee may take action to issue a certificate of authority to Amil International (Texas), Inc., Austin, Texas, without a public hearing.

**Issued in Austin, Texas, on November 27, 1996.**

TRD-9617294  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 27, 1996

**Third Party Administrator Applications**

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for incorporation in Texas of Maxor National Pharmacy Services Corporation, (doing business under the assumed name of Cordesys Healthcare Management), a domestic third party administrator. The home office is Amarillo, 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 November 27, 1996.**

TRD-9617292  
Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 27, 1996

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application for incorporation in Texas of FM Benefit Plans Agency, Inc., a domestic third party administrator. The home office is Houston, 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 November 27, 1996.**

TRD-9617293

Caroline Scott  
General Counsel and Chief Clerk  
Texas Department of Insurance  
Filed: November 27, 1996

**Texas Juvenile Probation Commission**

**Substance Abuse Training Request**

The Texas Juvenile Probation Commission invites bids to provide training services regarding substance abuse issues to juvenile probation, detention and parole officers statewide.

**Description of Purpose.** To contract with a service provider(s) to schedule and book 10 regional, 40-hour training events to 350 juvenile probation, detention and parole officers statewide.

**Person to be Contacted.** Detailed specifications are contained in the invitation for bids available December 6, 1996 from the Director of Federal Programs, 4900 North Lamar, Fifth Floor East, Austin, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. For additional information, contact Deborah Garza at (512) 424-6678.

**Closing Date.** Responses will be accepted only if actually received in writing in the Director of Federal Programs office no later than 4:30 p.m. January 15, 1997. Bids should be submitted with an original and two copies. FAX submissions will not be accepted. The Texas Juvenile Probation Commission reserves the right to reject any or all bids.

**Procedures for Selection.** Bids will be reviewed and selected according to the services described in the training plan, the ability to complete within the time frame and the ability to meet the requirements of the "Good Faith Effort" program.

**Issued in Austin, Texas, on November 26, 1996.**

TRD-9617204  
Vicki Wright  
Executive Director  
Texas Juvenile Probation Commission  
Filed: November 26, 1996

**Texas Natural Resource Conservation Commission**

**Notification of Availability of Grants for Construction of  
Scrap Tire Recycling Facilities**

The Texas Natural Resource Conservation Commission (TNRCC) announces the availability of \$2,000,000 in assistance grants for the purpose of promoting recycling of scrap tires. The TNRCC is requesting submission of proposals from entities that recently constructed or will soon construct facilities that recycle the rubber from scrap tires into useful and marketable products.

For this grant program, shredded tire chips are not considered as a "recycled" product; however, crumb rubber (small particles of rubber, with all the fibers and wire removed) is among those products considered as a recycled and marketable product. Also, tire incineration for energy recovery is not considered as "recycling".



Grants will be in the form of reimbursement for construction costs for recycling plants, as specified in the Request for Proposals (RFP). To be eligible for reimbursement, the eligible construction must have occurred after January 1, 1994; and the facility must be in production of a useful and marketable product for a period of at least 6 months before reimbursement can occur.

TNRCC anticipates that there will be more than \$2,000,000 requested by eligible applicants; therefore, applicants should not expect to receive the complete amount requested. Lowest scoring applicants might not receive any funding.

In order to be considered for funding, proposals (applications plus required information) must be prepared and submitted in accordance with the RFP and other printed guidelines available from TNRCC as part of Grant Application Packet "97-Tire-R". Entities or individuals desiring to receive this particular packet are encouraged to write, call, or FAX: Waste Tire Recycling Program - MC 223, Office of Compliance and Enforcement, P.O. Box 13087, Austin, Texas 78711-3087, Phone: (512) 239-6001, or (512) 239-4127, FAX: (512) 239-6015

#### Request Grant Application Packet "97-Tire-R".

Note that the completed proposals must be sent to the individual and address named in the RFP. The deadline for applying for a grant under this RFP is 3:00 p.m., January 31, 1997.

Issued in Austin, Texas, on November 27, 1996.

TRD-9617307  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation Commission  
Filed: November 27, 1996

#### Notice of Public Hearing (Chapter 101)

Notice is hereby given that under the requirements of Texas Health and Safety Code, §382.017 and Texas Government Code, Subchapter B, Chapter 2001, the Texas Natural Resource Conservation Commission (commission) will conduct a public hearing to receive testimony concerning revisions to Chapter 101.

The commission proposes new §101.12, concerning Temporary Exemptions During Drought Conditions. The new section is proposed to allow the agency flexibility regarding air quality requirements when emergency drought conditions dictate the need for conservation of the state's water resources. The proposed new section would allow owners and operators of sources which are required to suppress emissions, such as dust, through the application of water to receive a temporary exemption from air quality requirements upon written request.

A public hearing on the proposal will be held January 6, 1997, at 11:30 a.m. in Room 2210 of Texas Natural Resource Conservation Commission (TNRCC) Building F, located at 12100 Park 35 Circle, 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 order of registration. Open discussion within the audience will not occur during the hearing; however, an agency staff member will be available to discuss the proposal 30 minutes prior to the hearing and answer questions before and after the hearing.

Written comments may be mailed to Lisa Martin, TNRCC Office of Policy and Regulatory Development, MC 205, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-4808. All comments should reference Rule Log Number 96155-101-AI. Comments must be received by 5:00 p.m., January 6, 1997. For further information, please contact John Gillen, Air Policy and Regulations Division, (512) 239-1415.

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.

Issued in Austin, Texas, on November 20, 1996.

TRD-9617159  
Kevin McCalla  
Director, Legal Division  
Texas Natural Resource Conservation Commission  
Filed: November 25, 1996

### Public Utility Commission of Texas

#### Notice of Applications for Approval of Certain Depreciation Rates

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 4, 1996, for approval of certain depreciation rates pursuant to the Public Utility Regulatory Act (PURA), Texas Revised Civil Statutes Annotated, article 1446c-0, § to 3.051(b) and §3.151(a) (Vernon Supp. 1996). The following is a summary of the application.

Docket Title and Number. Application of Brazos Telephone Cooperative, Inc. for an Increase in Certain Depreciation Rates. Docket Number 16612.

The Application. In Docket Number 16612, Community Telephone Company, Inc. requests approval to increase certain depreciation rates to receive full capital recovery of the following equipment accounts: digital switching, buried cable-metallic, and buried cable-nonmetallic.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120. Hearing- and speech- impaired individuals with text telephone (TTY) may contact the Commission at (512) 936-7136 on or before December 30, 1996.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617203  
Paula Mueller  
Secretary of the Commission  
Public Utility Commission of Texas  
Filed: November 26, 1996

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 18, 1996, for approval of certain depreciation rates pursuant to the Public Utility Regulatory Act (PURA), Texas Revised Civil Statutes Annotated,

article 1446c-0, §3.051(b) and §3.151(a) (Vernon Supp. 1996). The following is a summary of the application.

**Docket Title and Number.** Application of Eastex Telephone Cooperative, Inc. for an Increase in Certain Depreciation Rates. Docket Number 16652.

**The Application.** In Docket Number 16652, Eastex Telephone Cooperative, Inc. requests approval to increase certain depreciation rates to receive full capital recovery of the following equipment accounts: computers, digital switching systems, underground cable-nonmetallic, buried cable-nonmetallic, buried cable-metallic, and buried wire.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120. Hearing- and speech-impaired individuals with text telephone (TTY) may contact the Commission at (512) 936-7136 on or before January 3, 1997.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617201

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996



Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 18, 1996, for approval of certain depreciation rates pursuant to the Public Utility Regulatory Act (PURA), Texas Revised Civil Statutes Annotated, article 1446c-0, §3.051(b) and §3.151(a) (Vernon Supp. 1996). The following is a summary of the application.

**Docket Title and Number.** Application of Brazos Telecommunications, Inc. for Approval of Special Amortization for Step-by-Step and Digital Switching Equipment. Docket Number 16654.

**The Application.** In Docket Number 16654, Brazos Telecommunications, Inc. requests approval for a special amortization of depreciation reserves for the retirement of step-by-step switching equipment in three exchanges and the retirement of digital switching equipment in two exchanges.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120. Hearing- and speech-impaired individuals with text telephone (TTY) may contact the Commission at (512) 936-7136 on or before January 3, 1997.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617199

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 18, 1996, for approval of certain depreciation rates pursuant to the Public Utility Regulatory Act (PURA), Texas Revised Civil Statutes Annotated,

article 1446c-0, §3.051(b) and §3.151(a) (Vernon Supp. 1996). The following is a summary of the application.

**Docket Title and Number.** Application of Etex Telephone Cooperative, Inc. for an Increase in Certain Depreciation Rates. Docket Number 16653.

**The Application.** In Docket Number 16653, Etex Telephone Cooperative, Inc. requests approval to increase certain depreciation rates to receive full capital recovery of the following equipment accounts: computers, digital switching, buried cable- nonmetallic.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120. Hearing- and speech- impaired individuals with text telephone (TTY) may contact the Commission at (512) 936-7136 on or before January 3, 1997.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617202

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996



Notice is given to the public of the filing with the Public Utility Commission of Texas an application on November 19, 1996, for approval of certain depreciation rates pursuant to the Public Utility Regulatory Act (PURA), Texas Revised Civil Statutes Annotated, article 1446c-0, §3.051(b), and §3.151(a) (Vernon Supp. 1996). The following is a summary of the application.

**Docket Title and Number.** Application of Fort Bend Telephone Company for an Increase in Certain Depreciation Rates. Docket Number 16663.

**The Application.** In Docket Number 16663, Fort Bend Telephone Company requests approval to increase certain depreciation rates to receive full capital recovery of the following equipment accounts: garage work equipment, other work equipment, digital switching, underground cable-metallic, underground cable-fiber, buried cable-metallic, buried cable-mapping, and buried cable-fiber.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas, at P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Consumer Affairs at (512) 936-7120. Hearing- and speech-impaired individuals with text telephone (TTY) may contact the Commission at (512) 936-7136 on or before January 6, 1997.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617200

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996



#### Public Notices

On November 20, 1996, Southwestern Bell Telephone Company (SWB) and NTS Communications (NTS) collectively referred to as

Applicants filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated, article 1446c-0 Vernons Supp. 1996). The joint application has been designated Docket Number 16668. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16668. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 7, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-

impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. All correspondence should refer to Docket Number 16668.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617197

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996

On November 20, 1996, Southwestern Bell Telephone Company (SWB) and Sterling International Funding d/b/a Reconex collectively referred to as Applicants filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated, article 1446c-0 Vernons Supp. 1996). The joint application has been designated Docket Number 16669. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16669. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 7, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. All correspondence should refer to Docket Number 16669.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617198

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to conduct a fully integrated analysis of all modes of transportation to include and iterative travel demand modeling process to examine a regional High Occupancy Vehicle and Light Rail system.

A copy of the Request for Proposals (RFP) may be requested by calling Betsy Boyd, Transportation Planner, at (210) 227-8651. Anyone wishing to submit a proposal must do so by 12:00 p.m., Friday January 3, 1997, at the MPO office: South Texas Building, 603 Navarro, Suite 904, San Antonio, Texas 78205.

A pre-proposal meeting is scheduled for 11:00 a.m., Friday, December 13, 1996 in the City of San Antonio's Municipal Plaza 'B' Room, 114 West Commerce Street, San Antonio, Texas.

The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the Study Oversight Committee. The Study Oversight Committee and Technical Group will review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$300,000 is contingent upon the availability of Federal transportation planning funds.

Issued in San Antonio, Texas, on November 27, 1996.

TRD-9617327

Janet A. Kennison

Administrator

San Antonio-Bexar County Metropolitan Planning Organization

Filed: November 27, 1996

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to conduct a Regional Transportation Attitude Study (RTAS).

A copy of the Request for Proposals (RFP) may be requested by calling Scott Ericksen, Public Involvement Coordinator, at (210) 227-8651. Anyone wishing to submit a proposal must do so by 12:00 p.m. January 3, 1997, at the MPO office, South Texas Building, 603 Navarro, Suite 904, San Antonio, Texas 78205.

A non-mandatory, pre-proposal meeting is scheduled for 10:00 a.m., Friday, December 13, 1996 in the City of San Antonio's Municipal Plaza B-Room at Main and Commerce Streets. The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the RTAS Selection Committee. The Selection Committee will review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$50,000, is contingent upon the availability of Federal transportation planning funds.

Issued in San Antonio, Texas, on November 27, 1996.

TRD-9617325

Janet A. Kennison

Administrator

San Antonio-Bexar County Metropolitan Planning Organization

Filed: November 27, 1996

## Texas Department of Transportation

### Rate Schedule

The Texas Department of Transportation is authorized by Texas Civil Statutes, Article 6144e, to publish literature for the purpose of advertising the highways of this state and enhance travel, and to include paid advertising in such literature. 43 TAC §23.10 describes the policies governing advertising in department travel literature, lists acceptable and unacceptable subjects for advertising in department travel literature, and describes the procedures by which the department will solicit advertising.

As required by 43 TAC §23.10(e)(4)(A), the department invites any entity or individual interested in advertising in department travel literature to request to be added to the department's mailing list. Written requests may be made through the department's contracted agent by writing to Texas State Travel Guide, Recognition Communication, 9794 Forest Lane, Suite 634, Dallas, Texas 75243. Requests may also be made by telephone to 1-800-969-9896 or faxed to 1-800-839 (TEX)-7344.

The department is now accepting advertising for publication in the February 1998 edition of the Texas State Travel Guide. Information about advertising in the Texas State Travel Guide will be mailed January 2, 1997 to all individuals and entities on the mailing list and will continue to be sent to individuals and entities added to the mailing list until the deadline for accepting advertising space. This notice will include rate card information along with a description of the Texas State Travel Guide. On and after February 3, 1997, the department will accept all insertion orders (orders for paid advertising) received prior to the publication deadline on a first-come, first-served basis or until all advertising space is filled. The publication deadline for accepting advertising space is November 10, 1997. Materials are due

Requests for Proposals

December 2, 1997. Insertion orders postmarked or received prior to February 3, 1997 will not be accepted.

The Texas State Travel Guide is designed to encourage readers to explore and travel in Texas. The guide lists Texas cities and towns, and features recreational travel sites and population figures for each, along with maps and four-color photography. Separate sections list Texas lakes; state parks; state and national forests; and information on hunting and fishing.

This invaluable vacation guide is provided to people nationwide responding to the Texas Tourism multi-media advertising campaign and to in-bound travelers at Texas' Travel Information Centers.

The rate card information for the Texas State Travel Guide is included in this publication as Figures 1-4, 43 TAC §23.10.

101 - Rate Schedule  
Figure 1  
**Texas State Travel Guide**

**Order Form**

Ad Cost (Gross): \$ \_\_\_\_\_ Ad Cost (Net): \$ \_\_\_\_\_

Ad Size: Full Page  One/Fourth Page   
Half Page  One/Sixth Page

Premium Position: \_\_\_\_\_

Note: All Rates Based on Four-Color (No Black & White)

<u>Advertiser (Company):</u>	<u>Advertising Agent:</u>
Company Name: _____	_____
Contact: _____	_____
Address: _____	_____
City, State, Zip: _____	_____
Phone: _____	_____
Fax: _____	_____

Send invoice to: Advertiser  Agency

**General Policies:**

- Payment shall be made in full by due date (see date, December 2, 1997).
  - It is understood and agreed that all terms and conditions are subject to acceptance by the publisher.
  - Unacceptable items include, but are not limited to, use of race based criteria, location, destination, handicap, or services, unless improving Texas travel or tourism; alcoholic beverages; tobacco products; sexually oriented products and services; advertising considered misleading or a misrepresentation of facts; advertising that discriminates against consumers on the basis of race, color, creed, religion, sex, or national origin; or other subjects not related to travel and tourism.
- I have read the general policies above and I agree to the terms and conditions stated herein.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Please mail completed order form to:

Texas State Travel Guide, 9794 Forest Lane, Suite 634, Dallas, Texas 75243  
Phone: (800) 949-9896 Fax: (800) TEX-7344

101 - Rate Schedule  
Figure 2

**Texas State Travel Guide Distribution**

RECIPIENT	1990	1994	1993
East North Central U.S.	146,323	126,385	132,467
East South Central U.S.	69,330	49,202	45,168
Middle Atlantic U.S.	197,438	87,204	81,490
U.S. Mountain Region	69,871	49,771	43,584
U.S. New England Region	35,452	31,873	29,118
U.S. Pacific Region	117,332	93,908	80,545
South Atlantic U.S.	165,072	123,754	110,889
West North Central U.S.	117,687	86,420	89,068
West South Central U.S.	435,745	331,722	273,158
U.S. Territories	1,356	1,313	1,077
International	42,012	30,982	34,041
Tourist Information Centers (TIC's) <sup>a</sup> and Other Distribution Points	452,680	330,130	336,780
Other State Agencies	28,106	20,740	21,940
Bulk Sales	4,040	4,440	5,020
TOTAL DISTRIBUTION	1,787,898	1,420,444	1,276,345

<sup>a</sup>There are eleven TIC's at points of entry around the state and one in Austin.

101 - Rate Schedule  
Figure 3

## Texas State Travel Guide

1998 Run Rate: 1,500,000  
Space Closing: November 15, 1997  
Materials Due: December 2, 1997  
First Distribution: February, 1998

### Advertising Rates

ADP:	\$12,941
Full Page	\$19,765
Half (1/2) Page	\$11,529
One/Fourth (1/4) Page	\$6,824
One/Sixth (1/6) Page	\$4,882
Premium Positions:	
Cover 2 (Inside Front Cover)	\$41,177
Cover 3 (Inside Back Cover)	\$50,118
Cover 4 (Back Cover)	\$36,823
Spread	

Commission: 15% to recognized agencies

Note: All Rates Based on Four-Color (No Black and White)  
Payments in cash with order or Net 30 from invoice date.  
All orders must be paid in full by December 2, 1997.

### Display Advertising Assistance

#### In Texas:

Texas State Travel Guide  
9794 Forest Lane, Ste. 634  
Dallas, TX 75243  
Phone: (800) 969-9896  
Fax: (800) TEX-7344  
E-mail: [ctrvtr@tdfw.net](mailto:ctrvtr@tdfw.net)

#### Outside Texas:

Texas State Travel Guide  
9534 Marshall Drive  
Shawnee Mission, KS 66215  
Phone: (903) 783-2160  
Fax: (913) 888-8761  
E-mail: [ctrvtr@tdfw.net](mailto:ctrvtr@tdfw.net)

101 - Rate Schedule  
Figure 4

## Texas State Travel Guide

### Mechanical Specifications

#### Advertising Sizes:

Full Page	7 3/8" X 10 3/8"
Full Page/Trim	8 3/8" X 10 3/8"
Full Page/Block	8 7/8" X 11 5/8"
One/Half (1/2) Page	7 3/8" X 5 1/8"
One/Fourth (1/4) Page	3 3/8" X 5 1/8"
One/Sixth (1/6) Page	2 1/4" X 4 1/2"

#### Mechanical Requirements:

General: All live copy and non-bleed elements should be at least one-half (1/2) inch from final trim size.

Binding Method: Perfect  
Inside gutter should be split by 1/4" for spread

Printing Material: Composite fibre, offset negative, right reading  
amateur side down.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617184

Robert E. Shaddock

General Counsel

Texas Department of Transportation

Filed: November 26, 1996

◆ ◆ ◆  
IN ADDITION December 6, 1996 21 TexReg 11881

Applicants filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated, article 1446c-0 Vernons Supp. 1996). The joint application has been designated Docket Number 16668. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16668. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 7, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing.

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-

impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. All correspondence should refer to Docket Number 16668.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617197

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996



On November 20, 1996, Southwestern Bell Telephone Company (SWB) and Sterling International Funding d/b/a Reconex collectively referred to as Applicants filed a joint application for approval of an interconnection agreement under the Federal Telecommunications Act of 1996 (FTA) (Pub. L. No. 104-104, 110 Stat. 56 (1996), (to be codified at 47 U.S.C. §§151 et. seq.) and the Public Utility Regulatory Act of 1995 (PURA95) (Texas Revised Civil Statutes Annotated, article 1446c-0 Vernons Supp. 1996). The joint application has been designated Docket Number 16669. The joint application and the underlying interconnection agreement are available for public inspection at the commission's offices in Austin, Texas.

The FTA authorizes the commission to review and approve any interconnection agreement adopted by negotiation of the parties. Pursuant to FTA §252(e)(2) the commission may reject any agreement if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement, or that implementation of the agreement, or any portion thereof, is not consistent with the public interest, convenience, and necessity. Additionally, under FTA §252(e)(3), the commission may establish or enforce other requirements of state law in its review of the agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements. The commission must act to approve the agreement within 90 days after it is submitted by the parties.

The commission finds that additional public comment should be allowed before the commission issues a final decision approving or rejecting the interconnection agreement. Any interested person may file written comments on the joint application by filing 18 copies of the comments with the commission's filing clerk. Additionally, a copy of the comments should be served on each of the Applicants. The comments should specifically refer to Docket Number 16669. As a part of the comments, an interested person may request that a public hearing be conducted. The comments, including any request for public hearing, shall be filed by January 7, 1997, and shall include:

- 1) a detailed statement of the person's interests in the agreement, including a description of how approval of the agreement may adversely affect those interests;
- 2) specific allegations that the agreement, or some portion thereof:
  - a) discriminates against a telecommunications carrier that is not a party to the agreement; or
  - b) is not consistent with the public interest, convenience, and necessity; or
  - c) is not consistent with other requirements of state law; and
- 3) the specific facts upon which the allegations are based.

After reviewing any comments, an Administrative Law Judge (ALJ) of the commission will determine whether to conduct further proceedings concerning the joint application. The ALJ shall have the authority given to a presiding officer pursuant to P.U.C. Procedural Rule §22.202. The ALJ may identify issues raised by the joint application and comments and establish a schedule for addressing those issues, including the submission of evidence by the Applicants, if necessary, and briefing and oral argument. The ALJ may conduct a public hearing. Interested persons who file comments are not entitled to participate as intervenors in the public hearing

Persons with questions about this docket or who wish to comment on the application should contact the Public Utility Commission of Texas, 1701 North Congress Avenue, P. O. Box 13326, Austin, Texas 78711-3326. You may call the Public Utility Commission Office of Consumer Affairs at (512) 936-7120. Hearing and speech-impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136. All correspondence should refer to Docket Number 16669.

Issued in Austin, Texas, on November 26, 1996.

TRD-9617198

Paula Mueller

Secretary of the Commission

Public Utility Commission of Texas

Filed: November 26, 1996



The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to conduct a fully integrated analysis of all modes of transportation to include and iterative travel demand modeling process to examine a regional High Occupancy Vehicle and Light Rail system.

A copy of the Request for Proposals (RFP) may be requested by calling Betsy Boyd, Transportation Planner, at (210) 227-8651. Anyone wishing to submit a proposal must do so by 12:00 p.m., Friday January 3, 1997, at the MPO office: South Texas Building, 603 Navarro, Suite 904, San Antonio, Texas 78205.

A pre-proposal meeting is scheduled for 11:00 a.m., Friday, December 13, 1996 in the City of San Antonio's Municipal Plaza 'B' Room, 114 West Commerce Street, San Antonio, Texas.

The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the Study Oversight Committee. The Study Oversight Committee and Technical Group will review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$300,000 is contingent upon the availability of Federal transportation planning funds.

Issued in San Antonio, Texas, on November 27, 1996.

TRD-9617327

Janet A. Kennison

Administrator

San Antonio-Bexar County Metropolitan Planning Organization

Filed: November 27, 1996



Requests for Proposals

The San Antonio-Bexar County Metropolitan Planning Organization (MPO) is seeking proposals from qualified firms to conduct a Regional Transportation Attitude Study (RTAS).

A copy of the Request for Proposals (RFP) may be requested by calling Scott Ericksen, Public Involvement Coordinator, at (210) 227-8651. Anyone wishing to submit a proposal must do so by 12:00 p.m. January 3, 1997, at the MPO office, South Texas Building, 603 Navarro, Suite 904, San Antonio, Texas 78205.

A non-mandatory, pre-proposal meeting is scheduled for 10:00 a.m., Friday, December 13, 1996 in the City of San Antonio's Municipal Plaza B-Room at Main and Commerce Streets. The contract award will be made by the MPO's Transportation Steering Committee based on the recommendation of the RTAS Selection Committee. The Selection Committee will review the proposals based on the evaluation criteria listed in the RFP.

Funding for this study, in the amount of \$50,000, is contingent upon the availability of Federal transportation planning funds.

Issued in San Antonio, Texas, on November 27, 1996.

TRD-9617325

Janet A. Kennison

Administrator

San Antonio-Bexar County Metropolitan Planning Organization

Filed: November 27, 1996



## Texas Department of Transportation

### Rate Schedule

The Texas Department of Transportation is authorized by Texas Civil Statutes, Article 6144e, to publish literature for the purpose of advertising the highways of this state and enhance travel, and to include paid advertising in such literature. 43 TAC §23.10 describes the policies governing advertising in department travel literature, lists acceptable and unacceptable subjects for advertising in department travel literature, and describes the procedures by which the department will solicit advertising.

As required by 43 TAC §23.10(e)(4)(A), the department invites any entity or individual interested in advertising in department travel literature to request to be added to the department's mailing list. Written requests may be made through the department's contracted agent by writing to Texas State Travel Guide, Recognition Communication, 9794 Forest Lane, Suite 634, Dallas, Texas 75243. Requests may also be made by telephone to 1-800-969-9896 or faxed to 1-800-839 (TEX)-7344.

The department is now accepting advertising for publication in the February 1998 edition of the Texas State Travel Guide. Information about advertising in the Texas State Travel Guide will be mailed January 2, 1997 to all individuals and entities on the mailing list and will continue to be sent to individuals and entities added to the mailing list until the deadline for accepting advertising space. This notice will include rate card information along with a description of the Texas State Travel Guide. On and after February 3, 1997, the department will accept all insertion orders (orders for paid advertising) received prior to the publication deadline on a first-come, first-served basis or until all advertising space is filled. The publication deadline for accepting advertising space is November 10, 1997. Materials are due



## January - December 1997 Publication Schedule

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The following is the January-December 1997 Publication Schedule for the *Texas Register*. Listed below are the deadline dates for these issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. No issues will be published on May 30, November 14, December 2, and December 30. An asterisk beside a publication date indicates that the deadlines are early due to state holidays.

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FOR ISSUE PUBLISHED ON:	DEADLINES FOR RULES BY 10 A.M.	DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.	DEADLINES FOR OPEN MEETINGS BY 10 A.M.
1 Friday, January 3	*Monday, December 23	Monday, December 30	Monday, December 30
2 Tuesday, January 7	Monday, December 30	*Tuesday, December 31	*Tuesday, December 31
3 Friday, January 10	*Tuesday, December 31	Monday, January 6	Monday, January 6
4 Tuesday, January 14	Monday, January 6	Wednesday, January 8	Wednesday, January 8
5 Friday, January 17	Wednesday, January 8	Monday, January 13	Monday, January 13
6 Tuesday, January 21	Monday, January 13	Wednesday, January 15	Wednesday, January 15
7 Friday, January 24	Wednesday, January 15	*Friday, January 17	*Friday, January 17
Tuesday, January 28	<i>1996 Annual Index</i>		
8 Friday, January 31	Wednesday, January 22	Monday, January 27	Monday, January 27
9 Tuesday, February 4	Monday, January 27	Wednesday, January 29	Wednesday, January 29
10 Friday, February 7	Wednesday, January 29	Monday, February 3	Monday, February 3
11 Tuesday, February 11	Monday, February 3	Wednesday, February 5	Wednesday, February 5
12 Friday, February 14	Wednesday, February 5	Monday, February 10	Monday, February 10
13 Tuesday, February 18	Monday, February 10	Wednesday, February 12	Wednesday, February 12
14 Friday, February 21	Wednesday, February 12	*Friday, February 14	*Friday, February 14
15 Tuesday, February 25	*Friday, February 14	Wednesday, February 19	Wednesday, February 19

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
16 Friday, February 28	Wednesday, February 19	Monday, February 24	Monday, February 24
17 Tuesday, March 4	Monday, February 24	Wednesday, February 26	Wednesday, February 26
18 Friday, March 7	Wednesday, February 26	Monday, March 3	Monday, March 3
19 Tuesday, March 11	Monday, March 3	Wednesday, March 5	Wednesday, March 5
20 Friday, March 14	Wednesday, March 5	Monday, March 10	Monday, March 10
21 Tuesday, March 18	Monday, March 10	Wednesday, March 12	Wednesday, March 12
22 Friday, March 21	Wednesday, March 12	Monday, March 17	Monday, March 17
23 Tuesday, March 25	Monday, March 17	Wednesday, March 19	Wednesday, March 19
24 Friday, March 28	Wednesday, March 19	Monday, March 24	Monday, March 24
25 Tuesday, April 1	Monday, March 24	Wednesday, March 26	Wednesday, March 26
26 Friday, April 4	Wednesday, March 26	Monday, March 31	Monday, March 31
Tuesday, April 8	<i>First Quarterly Index</i>		
27 Friday, April 11	Wednesday, April 2	Monday, April 7	Monday, April 7
28 Tuesday, April 15	Monday, April 7	Wednesday, April 9	Wednesday, April 9
29 Friday, April 18	Wednesday, April 9	Monday, April 14	Monday, April 14
30 Tuesday, April 22	Monday, April 14	Wednesday, April 16	Wednesday, April 16
31 Friday, April 25	Wednesday, April 16	Monday, April 21	Monday, April 21
32 Tuesday, April 29	Monday, April 21	Wednesday, April 23	Wednesday, April 23
33 Friday, May 2	Wednesday, April 23	Monday, April 28	Monday, April 28
34 Tuesday, May 6	Monday, April 28	Wednesday, April 30	Wednesday, April 30
35 Friday, May 9	Wednesday, April 30	Monday, May 5	Monday, May 5
36 Tuesday, May 13	Monday, May 5	Wednesday, May 7	Wednesday, May 7
37 Friday, May 16	Wednesday, May 7	Monday, May 12	Monday, May 12
38 Tuesday, May 20	Monday, May 12	Wednesday, May 14	Wednesday, May 14

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39 Friday, May 23	Wednesday, May 14	Monday, May 19	Monday, May 19
40 Tuesday, May 27	Monday, May 19	Wednesday, May 21	Wednesday, May 21
Friday, May 30	<i>No Issue Published</i>		
41 Tuesday, June 3	*Friday, May 23	Wednesday, May 28	Wednesday, May 28
42 Friday, June 6	Wednesday, May 28	Monday, June 2	Monday, June 2
43 Tuesday, June 10	Monday, June 2	Wednesday, June 4	Wednesday, June 4
44 Friday, June 13	Wednesday, June 4	Monday, June 9	Monday, June 9
45 Tuesday, June 17	Monday, June 9	Wednesday, June 11	Wednesday, June 11
46 Friday, June 20	Wednesday, June 11	Monday, June 16	Monday, June 16
47 Tuesday, June 24	Monday, June 16	Wednesday, June 18	Wednesday, June 18
48 Friday, June 27	Wednesday, June 18	Monday, June 23	Monday, June 23
49 Tuesday, July 1	Monday, June 23	Wednesday, June 25	Wednesday, June 25
50 Friday, July 4	Wednesday, June 25	Monday, June 30	Monday, June 30
51 Tuesday, July 8	Monday, June 30	Wednesday, July 2	Wednesday, July 2
Friday, July 11	<i>Second Quarterly Index</i>		
52 Tuesday, July 15	Monday, July 7	Wednesday, July 9	Wednesday, July 9
53 Friday, July 18	Wednesday, July 9	Monday, July 14	Monday, July 14
54 Tuesday, July 22	Monday, July 14	Wednesday, July 16	Wednesday, July 16
55 Friday, July 25	Wednesday, July 16	Monday, July 21	Monday, July 21
56 Tuesday, July 29	Monday, July 21	Wednesday, July 23	Wednesday, July 23
57 Friday, August 1	Wednesday, July 23	Monday, July 28	Monday, July 28
58 Tuesday, August 5	Monday, July 28	Wednesday, July 30	Wednesday, July 30
59 Friday, August 8	Wednesday, July 30	Monday, August 4	Monday, August 4
60 Tuesday, August 12	Monday, August 4	Wednesday, August 6	Wednesday, August 6

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61 Friday, August 15	Wednesday, August 6	Monday, August 11	Monday, August 11
62 Tuesday, August 19	Monday, August 11	Wednesday, August 13	Wednesday, August 13
63 Friday, August 22	Wednesday, August 13	Monday, August 18	Monday, August 18
64 Tuesday, August 26	Monday, August 18	Wednesday, August 20	Wednesday, August 20
65 Friday, August 29	Wednesday, August 20	Monday, August 25	Monday, August 25
66 Tuesday, September 2	Monday, August 25	Wednesday, August 27	Wednesday, August 27
67 Friday, September 5	Wednesday, August 27	*Friday, August 29	*Friday, August 29
68 Tuesday, September 9	*Friday, August 29	Wednesday, September 3	Wednesday, September 3
69 Friday, September 12	Wednesday, September 3	Monday, September 8	Monday, September 8
70 Tuesday, September 16	Monday, September 8	Wednesday, September 10	Wednesday, September 10
71 Friday, September 19	Wednesday, September 10	Monday, September 15	Monday, September 15
72 Tuesday, September 23	Monday, September 15	Wednesday, September 17	Wednesday, September 17
73 Friday, September 26	Wednesday, September 17	Monday, September 22	Monday, September 22
74 Tuesday, September 30	Monday, September 22	Wednesday, September 24	Wednesday, September 24
75 Friday, October 3	Wednesday, September 24	Monday, September 29	Monday, September 29
Tuesday, October 7	<i>Third Quarterly Index</i>		
76 Friday, October 10	Wednesday, October 1	Monday, October 6	Monday, October 6
77 Tuesday, October 14	Monday, October 6	Wednesday, October 8	Wednesday, October 8
78 Friday, October 17	Wednesday, October 8	Monday, October 13	Monday, October 13
79 Tuesday, October 21	Monday, October 13	Wednesday, October 15	Wednesday, October 15
80 Friday, October 24	Wednesday, October 15	Monday, October 20	Monday, October 20
81 Tuesday, October 28	Monday, October 20	Wednesday, October 22	Wednesday, October 22
82 Friday, October 31	Wednesday, October 22	Monday, October 27	Monday, October 27
83 Tuesday, November 4	Monday, October 27	Wednesday, October 29	Wednesday, October 29

<b>FOR ISSUE PUBLISHED ON:</b>	<b>DEADLINES FOR RULES BY 10 A.M.</b>	<b>DEADLINES FOR MISCELLANEOUS DOCUMENTS BY 10 A.M.</b>	<b>DEADLINES FOR OPEN MEETINGS BY 10 A.M.</b>
84 Friday, November 7	Wednesday, October 29	Monday, November 3	Monday, November 3
85 Tuesday, November 11	Monday, November 3	Wednesday, November 5	Wednesday, November 5
Friday, November 14	<i>No Issue Published</i>		
86 Tuesday, November 18	Monday, November 10	Wednesday, November 12	Wednesday, November 12
87 Friday, November 21	Wednesday, November 12	Monday, November 17	Monday, November 17
88 Tuesday, November 25	Monday, November 17	Wednesday, November 19	Wednesday, November 19
89 Friday, November 28	Wednesday, November 19	Monday, November 24	Monday, November 24
Tuesday, December 2	<i>No Issue Published</i>		
90 Friday, December 5	Wednesday, November 26	Monday, December 1	Monday, December 1
91 Tuesday, December 9	Monday, December 1	Wednesday, December 3	Wednesday, December 3
92 Friday, December 12	Wednesday, December 3	Monday, December 8	Monday, December 8
93 Tuesday, December 16	Monday, December 8	Wednesday, December 10	Wednesday, December 10
94 Friday, December 19	Wednesday, December 10	Monday, December 15	Monday, December 15
95 Tuesday, December 23	Monday, December 15	Wednesday, December 17	Wednesday, December 17
96 Friday, December 26	Wednesday, December 17	Monday, December 22	Monday, December 22
Tuesday, December 30	<i>No Issue Published</i>		

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