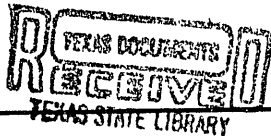


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Texas Register

Volume 17, Number 6, January 21, 1992

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The *Texas Register* (ISSN 362-4781) is published semi-weekly 100 times a year except February 28, November 6, December 1, December 29, 1992. Issues will be published by the Office of the Secretary of State, 1019 Brazos, Austin, Texas 78711.

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Governor - Appointments, executive orders, and proclamations

Attorney General - summaries of requests for opinions, opinions, and open records decisions

Secretary of State - opinions based on the election laws

Emergency Sections - sections adopted by state agencies on an emergency basis

Proposed Sections - sections proposed for adoption

Withdrawn Sections - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date

Adopted Sections - sections adopted following a 30-day public comment period

Open Meetings - notices of open meetings

In Addition - miscellaneous information required to be published by statute or provided as a public service

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes accumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which a document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 17 (1992) is cited as follows: 17 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower left-hand corner of the page, would be written: "14 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 14 TexReg 3"

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, Austin. Material can be found using *Texas Register* indexes, the *Texas Administration Code*, section numbers, or TRD number.

Texas Administrative Code

The *Texas Administrative Code* (TAC) is the approved, collected volumes of Texas administrative rules.

How to Cite: Under the TAC scheme, each agency section is designated by a TAC number. For example in the citation 1 TAC §27.15:

1 indicates the title under which the agency appears in the *Texas Administrative Code*; TAC stands for the *Texas Administrative Code*; §27.15 is the section number of rule (27 indicates that the section is under Chapter 27, of Title 1; 15 represents the individual section within the chapter).

Texas Register Art Project

This program is sponsored by the *Texas Register* to promote the artistic abilities of Texas students, grades K - 12, and to help students gain an insight into Texas government. The artwork is used to fill otherwise blank pages in the *Texas Register*. The blank pages are a result of the production process used to create the *Texas Register*. The artwork does not add additional pages and does not increase the cost of the *Texas Register*.

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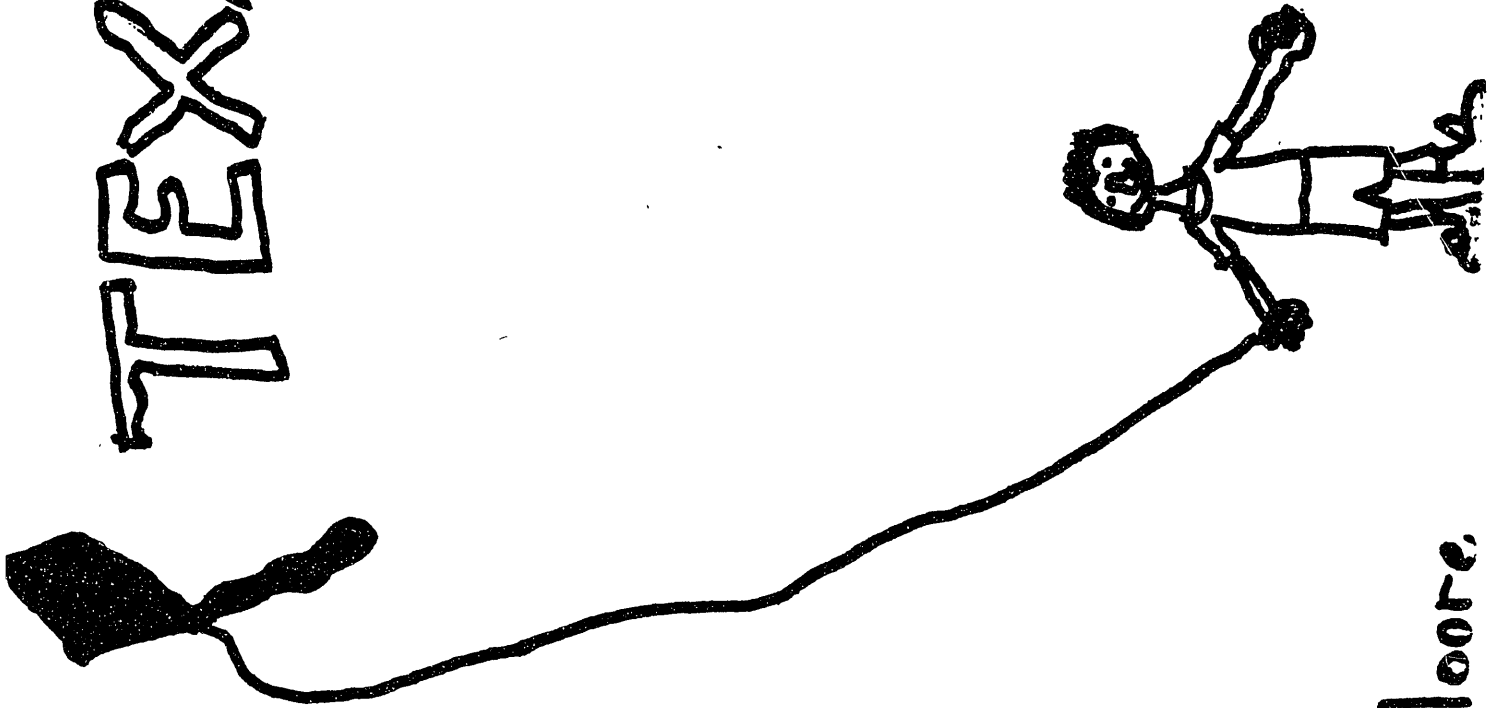
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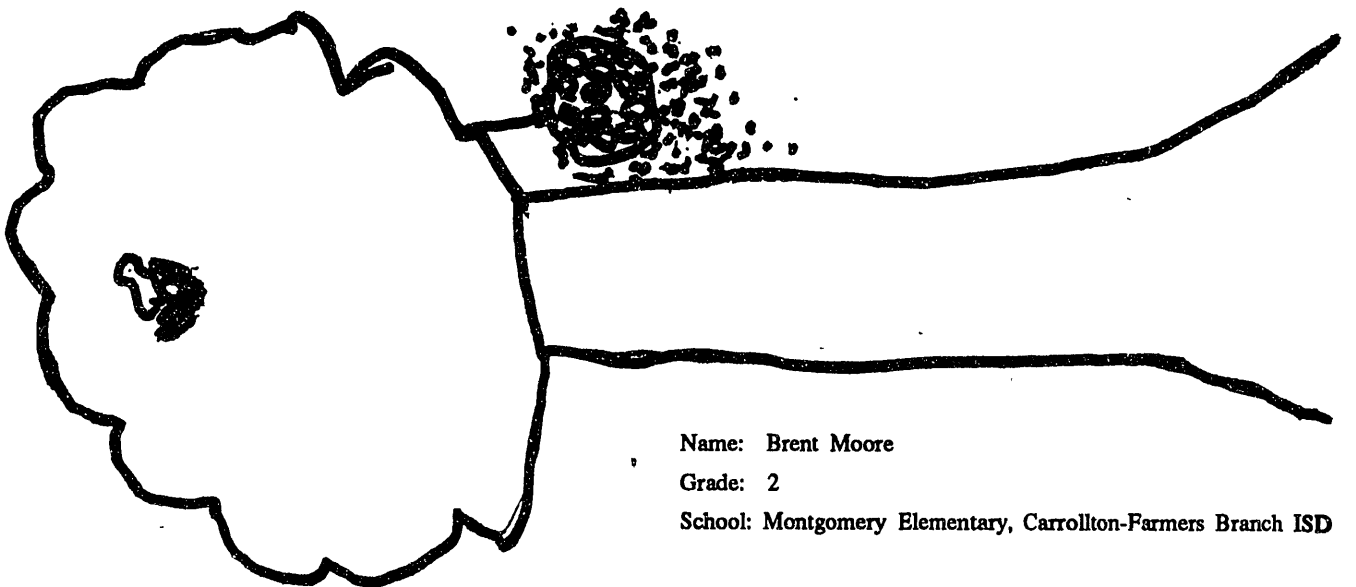
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TEXAS



Brent Moore



Name: Brent Moore

Grade: 2

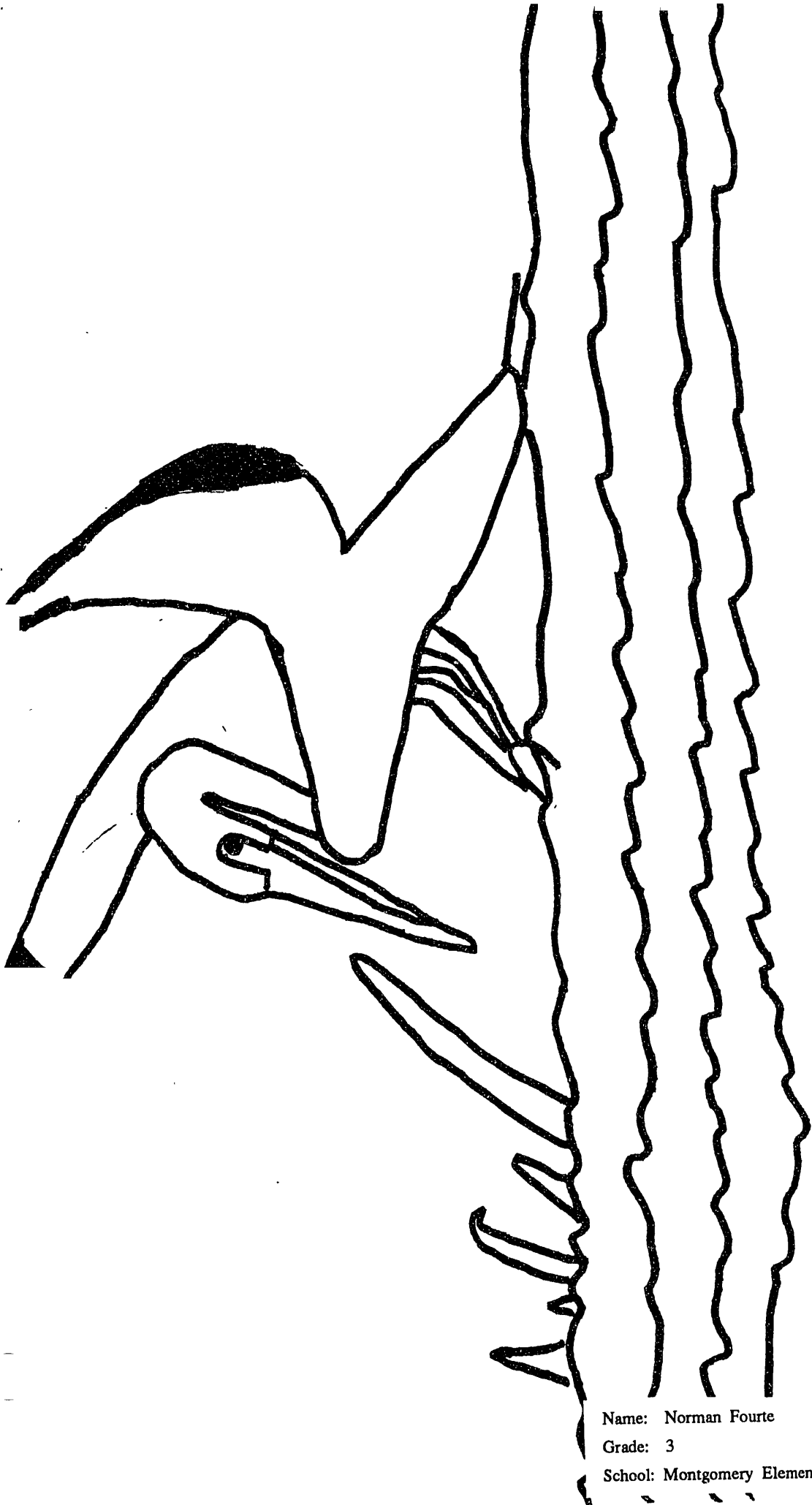
School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Karen Salerno

Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Norman Fourte

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Norman Fourte



Neale

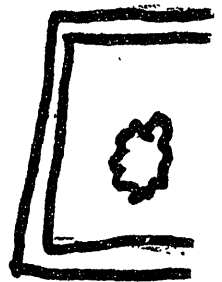
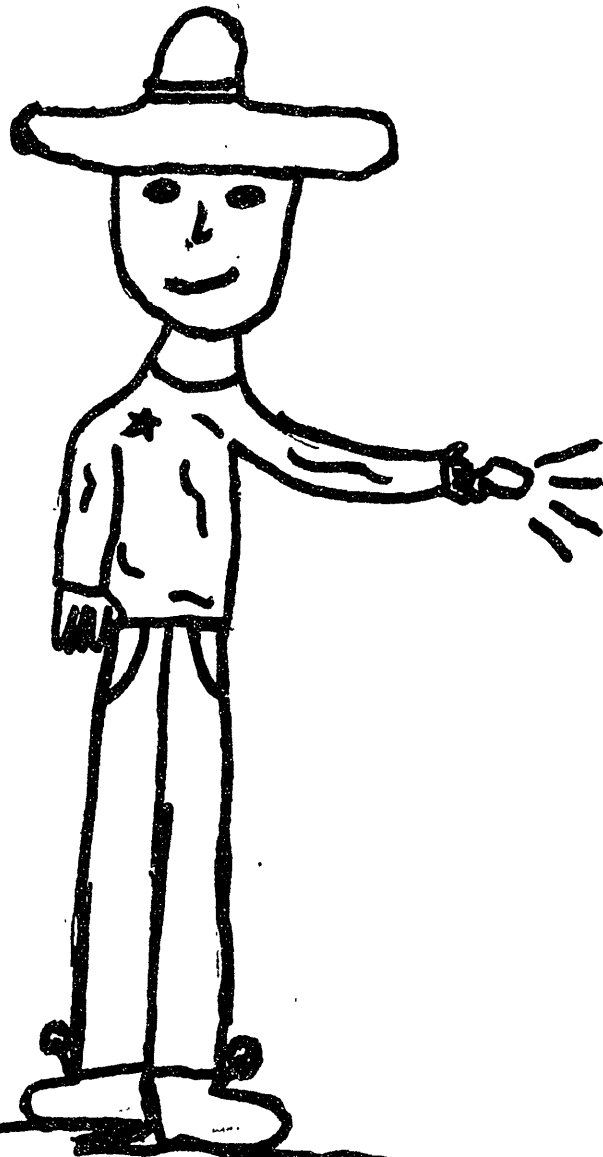
O'B

Name: Neale O'Bannion

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

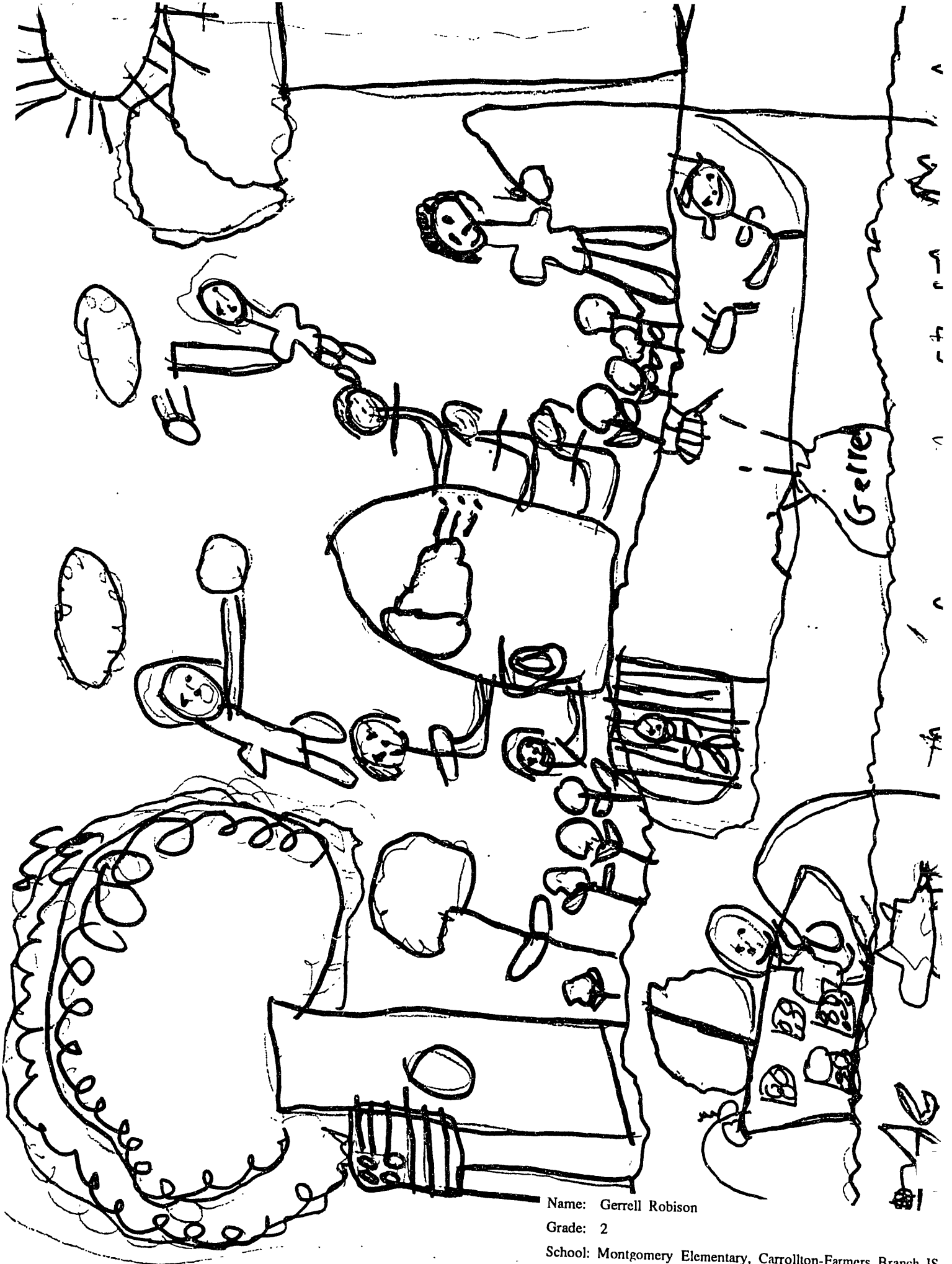
Cow boy



Name: Amanoa Deleon

Grade: 3

School: Montgomery Elementary, Carrollton-Farmers Branch ISD



Name: Gerrell Robison

Grade: 2

School: Montgomery Elementary, Carrollton-Farmers Branch IS

Attorney General

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

Opinions

DM-63 (RQ-210). Request from Jeannene Fox, Acting Administrator, Texas Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127, concerning rate of interest on delinquent tax payments under the Bingo Enabling Act, Texas Civil Statutes, Article 179d, §32(b).

Summary of Opinion. House Bill 11, Acts 1991, 72nd Legislature, 1st Called Session, Chapter 5, at 134 did not amend the Bingo Enabling Act, §32(b). Accordingly, the interest rate on jeopardy determinations under the Act, §32(b) remains at 10% a year.

TRD-9200568

DM-64 (RQ-68). Request from Joe E. Milner, Director, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78773-0001, concerning whether the Texas Krishnas may distribute religious literature on Department of Public Safety property.

Summary of Opinion. Distributing literature and charitable solicitation of funds are expressive activities protected by the first amendment of the United States Constitution. Balancing the Department of Public Safety's interest in limiting the use of its property against the interests of those who wish to use the property for expressive activity requires findings of fact and is not amenable to the opinion process. If the department has not opened its property as a public forum, it may restrict access to the area as long as the restriction is reasonable and not an effort to suppress the views of a certain group. On the other hand, if it wishes to do so, the department may designate its property as a public forum. In that case, the department may enact reasonable time, place, and manner restrictions regulating the use of its property for expressive activity. The Appropriations Act, Article V, §83, does not prohibit the department from permitting groups to engage in such activities on its property.

TRD-9200567

DM-65 (RQ-225). Request from Bill Sims, Chairman, Natural Resources Committee, Texas State Senate, Capitol Building, Room

421, Austin, Texas 78711-2068, concerning whether the commissioner of education has the authority to create a new county education district or to reassign a school district to another county education district.

Summary of Opinion. The commissioner of education is not authorized to create, for inclusion of the Mason Independent School District, a new county education district in addition to those provided for in the Education Code, §20.941. Nor is the commissioner authorized under the Code, §20.949 to reassign Mason Independent School District to a different county education district from that to which the district is assigned under §20.941.

TRD-9200566

DM-66 (RQ-122). Request from Carmen Rivera-Worley, Val Verde County Attorney, 207 East Losoya, Del Rio, Texas 78840, concerning whether a hospital district may construct a building a least to a private physician and whether it may use excess monies in its interest and sinking fund account to finance construction of the building.

Summary of Opinion. The Val Verde Hospital District has express authority pursuant to its enabling statute to construct buildings and to lease all or part of its buildings. Leasing of a hospital district building to a dialysis clinic for the purpose of providing cost-effective renal services adjacent to the Val Verde Memorial Hospital would serve a "hospital purpose." Under these circumstances, the hospital district is authorized to construct the proposed facility to lease to a private physician. The hospital district is not authorized to use excess monies in its interest and sinking fund account to finance construction of the building.

TRD-9200565

DM-67 (RQ-148). Request from Travis S. Ware, Criminal District Attorney, Lubbock County, P.O. Box 10536, Lubbock, Texas 79408-3536, concerning operation of a jail commissary under the Local Government Code, §351.0415.

Summary of Opinion. The county commissioners court may not interfere with the

sheriff's exercise of discretion in contracting for the operation of a jail commissary under the Local Government Code, §351.0415. Any funds the sheriff receives that are attributable to the operation of the commissary are to be used for the benefit of inmates in accordance with §351.0415. The county auditor is authorized to review commissary accounts, even if the accounts are maintained by the operator of the commissary.

TRD-9200564

DM-68 (RQ-96). Request from Brenda H. Collier, Chair, Texas Board of Private Investigators and Private Security Agencies, P.O. Box 13509, Austin, Texas 78711, concerning whether Texas Civil Statutes, Article 4413(29bb), authorizes the Texas Board of Private Investigators and Private Security Agencies to bring disciplinary proceedings against a licensee, registrant, or commissioned security officer indicted for or charged with but not convicted of the commission of a felony.

Summary of Opinion. Under Texas Civil Statutes, Article 4413(29bb), the Texas Board of Private Investigators and Private Security Agencies possesses neither the express nor the implied power to adopt 22 Texas Administrative Code, §423.1(f)(2) and (f)(3). Thus, the board may not pursuant to Article 4413(29bb), §11B reprimand a licensee registrant, or commissioned security officer, or revoke or suspend a license, registration, or security officer commission of a person who has been indicted for or charged with but not convicted of a felony. The board, however, is authorized by the Act, §11(a)(3) and (4) to adopt rules prohibiting specific criminal conduct, and on proof of a person's violation of such rules after notice and hearing, revoke or suspend that person's license, registration, or commission as provided by the Act, §11B.

TRD-9200563

DM-69 (RQ-99). Request from Lionel Meno, Ph.D., Commissioner of Education, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1494, concerning whether a municipality can re-

fuse to issue building permits or certificates of occupancy to a school district for failing to comply with municipal building code requirements on handicapped accessibility where the school district has obtained a waiver under the State Purchasing and General Services Act, Article 7.

Summary of Opinion. The City of El Paso may refuse to issue a building permit or certificate of occupancy to the El Paso Independent School District for failing to comply with municipal building code requirements on handicapped accessibility, notwithstanding the fact that the school district is in compliance with the accessibility standards and specifications adopted pursuant to the State Purchasing and General Services Act, Article 7, Texas Civil Statutes, Article 601b, or has obtained a waiver from such compliance under that Act, §7.02(c).

TRD-9200562

Requests for Opinions

(RQ-252). Request from Gary Watkins, Chairman, Committee on Higher Education, P.O. Box 2910, Austin, Texas 78768-2910, concerning whether a city council violates the Open Meetings Act when a majority of the council signs a letter which has not been authorized in an open meeting.

(RQ-253). Request from David Motley, Kerr County Attorney, 323-B Earl Garrett, Kerville, Texas 78028, concerning construction of 37 Texas Administrative Code, §211.82(2), concerning licensing requirements for constables, where constable originally elected before September 1, 1985, seeks election to precinct newly created upon elimination of original precinct through redistricting.

(RQ-255). Request from Doyle Willis, Chairman, General Investigating Committee, P.O. Box 2910, Austin, Texas 78768-2910, concerning application of the Texas Constitution, Article III, §47(b), which requires that bingo games be conducted, promoted, and administered by a church or other non-profit organizations.

(RQ-256). Request from George Pierce, Chairman, Committee on Urban Affairs, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concern-

ing whether Texas Civil Statutes, Article 601f, pertaining to payments for goods and services contracted for by state or political subdivisions, applies to payments by construction contractors to construction subcontractors.

(RQ-257). Request from Luis V. Saenz, Cameron County District Attorney, 974 East Harrison Street, Brownsville, Texas 78520, concerning effect of House Bill 66 on the salaries of statutory county court judges.

(RQ-258). Request from Major General William C. Wilson, Adjutant General, Texas Army National Guard, P.O. Box 5218, Austin, Texas 78763-5218, concerning questions regarding the residence status for tuition purposes of members of the Texas National Guard.

(RQ-259). Request from Terry D. McEachern, Hale County District Attorney, Hale County Courthouse, Plainview, Texas 79072, concerning whether a county auditor's salary is considered part of the "amount budgeted for expenses of the county auditor's office" for the purposes of the Local Government Code, §111.013, limiting increases in the budget of the county auditor's office.

(RQ-260). Request from James F. Hury, Texas House of Representatives, P.O. Box 2910, Austin, Texas 78768-2910, concerning constitutionality of City of League City's proposed drug testing policy.

(RQ-261). Request from Martha C. Agee, Assistant City Attorney, P.O. Box 2570, Waco, Texas 76702-2570, concerning whether the subject of an HIV-antibody test has a right to a copy of a laboratory report issued under a fictitious name.

(RQ-262). Request from Yvonne Kohutek, Chairperson, Board of Examiners of Professional Counselors, 1100 West 49th Street, Austin, Texas 78756-3183, concerning whether licensed professional counselors may use "projective techniques" in certain circumstances.

(RQ-263). Request from Merrill L. Hartman, Chairman, Court Reporters Certification Board, P.O. Box 13131, Austin, Texas 78711-3131, concerning whether a certified shorthand reporter in the State of Texas may contract with a company or organization for exclusive services wherein

the company instructs its attorneys to use only the court reporter(s) under contract.

(RQ-264). Request from Jeannene Fox, Acting Administrator, Alcoholic Beverage Commission, P.O. Box 13127, Austin, Texas 78711-3127, concerning authority of the Alcoholic Beverage Commission to adopt a rule regarding the sale of alcohol to minors.

(RQ-265). Request from Patricia S. Tweedy, M.P.A., Executive Director, Texas State Board of Examiners of Psychologists, 9101 Burnet Road, Suite 212, Austin, Texas 78758, concerning whether a licensed psychologist may be required to obtain a certificate of authority to own or operate a career counseling service.

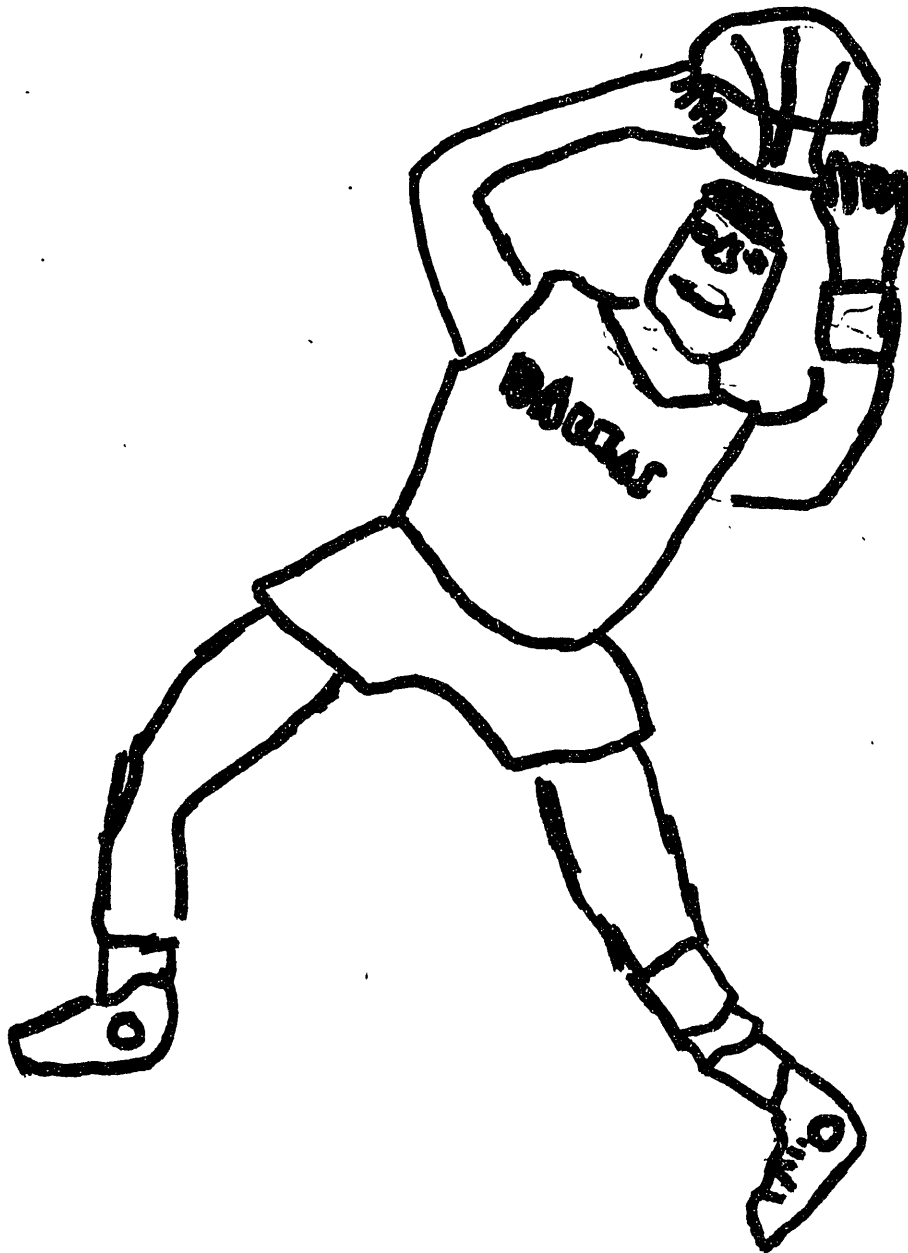
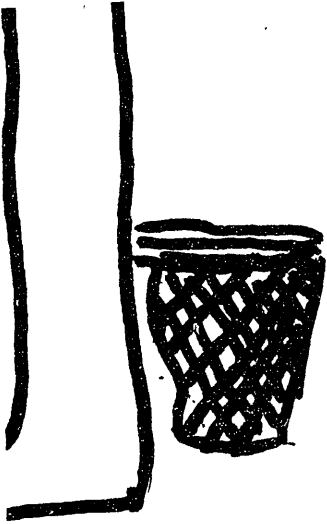
(RQ-266). Request from C. Thomas Camp, Executive Director, State Board of Dental Examiners, 327 Congress Avenue, Suite 500, Austin, Texas 78701-4037, concerning whether the State Board of Dental Examiners has the authority to establish a committee to review the duties of dental health care workers infected with the AIDS or HIV virus and, if so, whether such a committee would have the authority to require such workers to report on the status of their health for purposes of determining their eligibility to perform invasive procedures.

(RQ-267). Request from Lawrence R. Jacobi, Jr., P.E., General Manager, Low-Level Radioactive Waste Disposal Authority, 7701 North Lamar Boulevard, Suite 300, Austin, Texas 78752, concerning whether the board of directors of the Texas Low-Level Radioactive Waste Disposal Authority has the statutory authority to order by rule that not less than 10% planning and implementation fees assessed and deposited to the low-level waste fund pursuant to §402.272(a) be set aside or designated for impact assistance.

(RQ-268). Request from Lionel R. Meno, Commissioner, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701-1491, concerning interpretation of the prior continuous service provision of the nepotism law, and related questions.

TRD-9200561

◆ ◆ ◆



Name: Kevin English

Grade: 4

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Kevin English

Proposed Sections

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

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

TITLE 10. COMMUNITY DEVELOPMENT

Part IV. Texas Department of Housing and Community Affairs

Chapter 151. Housing Trust Fund Rules

• 10 TAC §§151.1-151.15

The Texas Department of Housing and Community Affairs proposes new §§151.1-151.15, concerning housing trust fund rules. The sections are proposed for adoption in final form to provide procedures for the allocation by the department of certain funds available under state laws to qualified public entities, non-profit organizations, and persons and families.

Richard A. Moya, acting executive director, has determined that for the first five-year period the sections are in effect there will be fiscal implications for state or local government as a result of enforcing or administering the sections. The effect on state government for the first five-year period the sections are in effect will be an estimated additional cost of \$162,354 for fy 1992; \$243,530 for fy 1993; \$250,835 for fy 1994; \$265,885 for fy 1995; and \$273,861 for fy 1996. Estimated reduction in costs or estimated losses or increases in revenue are unable to be determined, if any. Local funds will be used to administer these rules. The department is unable to determine whether the administration of these rules will have any fiscal implication on local government. The department is unable to determine whether the administration of these rules will have any fiscal implications on small businesses.

Mr. Moya also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be to permit the adoption of new rules for the allocation of housing trust funds within the State of Texas to enhance the state's ability to provide affordable housing. The department is unable to determine whether the administration of these rules will have any fiscal implications on persons.

Comments on the proposal may be submitted to Richard A. Moya, Acting Executive Director, P.O. Box 13941, Austin, Texas 78711.

The new sections are proposed under Texas Civil Statutes, Article 4413(501), which provide the Texas Department of Housing and

with the authority to adopt rules governing the administration of the department and its programs.

§151.1. Purpose. This part describes policies and procedures applicable to the Housing Trust Fund authorized under Texas Civil Statutes, Article 4413(501), as amended.

§151.2. Program Goals and Objectives.

(a) The housing trust fund shall be used by the department to provide loans, grants, or other comparable forms of assistance to local units of government, the department, public housing authorities, community housing development organizations, non-profit organizations, and income-eligible persons, families, and households to finance, acquire, rehabilitate, and develop affordable, decent, safe, and sanitary housing.

(b) The housing trust fund shall be used by the department to provide assistance for persons and families of low- and very low-income in financing, acquiring, rehabilitating, and developing affordable, decent, safe, and sanitary housing.

(c) The housing trust fund shall be used by the department to provide technical assistance and capacity building to non-profit organizations, and community housing development organizations engaged in developing affordable housing for persons and families of low- and very low-income.

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

Act-Texas Civil Statutes, Article 4413(501), as amended.

Affordable housing—Housing for which low- and very-low income families are not required to pay more than 30% of monthly adjusted income for the mortgage payment and utilities or rent and utilities, computed in accordance with the federal regulations for the §8 Existing Housing Program set forth in the Code of Federal Regulations, Title 24, Part 813.

Board—The governing board of the Department.

Capacity building—Educational and organizational support assistance to promote the ability of community housing development organizations and non-profit organizations to maintain, rehabilitate, and construct housing for low- and very low-income persons and families. This activity may include, but is not limited to:

(A) organizational support to cover expenses for training, technical, and other assistance to the board of directors, staff, and members of the non-profit organization or community housing development organization;

(B) program support including technical assistance and training related to housing development, housing management, or other subjects related to the provision of housing or housing services;

(C) studies and analyses of housing needs.

Community housing development organizations—A non-profit organization (as defined in this section), that:

(A) has among its purposes the provision of decent housing that is affordable to low-income and very low-income persons, as evidenced in its charter, articles of incorporation, resolutions, or by-laws;

(B) maintains accountability to low-income community residents by:

(i) Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or representatives elected by low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county, or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county or multi-county area (but not the entire State), provided the governing board contains low-income residents from each county of the multi-county area; and

(ii) Providing a formal process for low-income, program beneficia-

ries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

(C) has demonstrated capacity for carrying out activities to be assisted with housing trust funds. An organization may satisfy this requirement by hiring experienced accomplished key staff members who have successfully completed similar projects, or a consultant with the same type of experience and a plan to train appropriate key staff members of the organization; and

(D) has a history of serving the community within which housing to be assisted with housing trust funds is to be located. In general, an organization must be able to show one year of serving the community (from the date the state provides housing trust funds to the organization). However, a newly created organization formed by local churches, service organizations, or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

Department—The Texas Department of Housing and Community Affairs.

Eligible applicants—Local units of government, public housing authorities, community housing development organizations, non-profit organizations, the department, persons and families of low- and very low-income, and persons with special needs.

Federal government—The United States of America or any department, division, agency, or instrumentality, corporate or otherwise, of the United States of America.

Housing Development Costs—The total of all costs incurred in financing, creating, or purchasing any housing development, including, but not limited to, a single-family dwelling, which are approved by the department as reasonable and necessary. The costs may include, but are not limited to:

(A) the value of land and any buildings on the land owned by the sponsor or the cost of land acquisition and any buildings on the land, including payments for options, deposits, or contracts to purchase properties on the proposed housing sites;

(B) cost of site preparation, demolition, and development;

(C) fees paid or payable in connection with the planning, execution, and financing of the housing development, such as those to the architects, engineers, attorneys, accountants;

(D) cost of necessary studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction;

(E) cost of construction, rehabilitation, reconstruction, fixtures, furnishings, equipment, machinery, and apparatus related to the real property;

(F) cost of land improvements, including without limitation, landscaping and off-site improvements, whether or not the costs have been paid in cash or in a form other than cash;

(G) necessary expenses in connection with initial occupancy of the housing development;

(H) an allowance established by the department for contingency reserves and reserves for any anticipated operating deficits during the first two years of occupancy; and

(I) the cost of the other items, including tenant relocation, if tenant relocation costs are not otherwise being provided for, as the department shall determine to be reasonable and necessary for the development of the housing development, less any and all net rents and other net revenues received from the operation of the real and personal property on the development site during construction.

Housing development and housing project—Include both single-family dwellings and multi-family dwellings in rural and in urban areas.

Housing development or housing project—Any real or personal property, project, building, structure, facilities, work, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, which meets or is designed to meet minimum property standards consistent with those prescribed in the federal HOME program for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by persons and families of low- and very low-income and persons with special needs. The term may include buildings, structures, land equipment, facilities, or other real or personal properties which are necessary, convenient, or desirable appurtenances, such as, but not limited to, streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other non-housing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances.

Housing finance division—The division or divisions of the department responsible for programs authorized under the Act, Part 3.

Local government—A county; an incorporated municipality; a special district; any other legally constituted political subdivision of the state; a public, nonprofit housing finance corporation created under the Local Government Code, Chapter 394, Texas Civil Statutes; or a combination of any of the entities described here.

Low-income persons and families—Persons and families earning not more than 80% of the area median income as determined by the United States Department of Housing and Urban Development, with allowances for family size.

Metropolitan and metro—Areas designated by the Bureau of the Census as metropolitan statistical areas (MSA) in the most recent decennial census.

Nonmetropolitan and non-metro—Refers to all areas outside those areas designated as MSAs by the Bureau of the Census in the most recent decennial census.

Nonprofit Organization—Any public or private, nonprofit organization that:

(A) is organized under state or local laws;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A nonprofit organization may be sponsored in part by a for-profit entity, but:

(i) the for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm;

(ii) the for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for-profit entity may not appoint the remaining two thirds of the board members; and

(iii) the organization must be free to contract for goods and services from vendors of its own choosing;

(D) has a tax exemption ruling from the Internal Revenue Service under the Internal Revenue Code of 1986, §501(c), as amended;

(E) does not include a public body (including the participating jurisdiction) or an instrumentality of a public body. An organization that is state or locally chartered may qualify as a nonprofit organization, however, the state or local government may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members can be public officials;

(F) has standards of financial accountability that conform to Attachment F of the Office of Management and Budget, Circular Number A-100 (revised) "Standards for Financial Management Systems"; and

(G) has among its purposes, the provision of decent housing that is affordable to low-income and very low-income persons, as evidenced its charter, articles of incorporation, resolutions, or by-laws.

Person with special needs—A person or family of low or very low-income who:

(A) is considered disabled or handicapped under a state or federal law;

(B) is elderly;

(C) is designated by the board as experiencing a unique need for affordable, decent, safe housing that is not being met adequately by private enterprise.

Predevelopment costs—Costs related to a specific eligible housing project including:

(A) expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control, and title clearance;

(B) preconstruction housing project costs that the board determines to be customary and reasonable, including, but not limited to, the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies, and legal fees. Predevelopment costs do not include general operational or administrative costs.

Public Housing Authority—A housing authority established under the Texas Local Government Code, Chapter 392.

Real property—All land, including improvements and fixtures and property of any nature appurtenant, or used in connection therewith, and every estate, interest,

and right legal or equitable therein, including leasehold interests, terms for years, and liens by way of judgement, mortgage, or otherwise.

Recipient—Community housing development organizations, non-profit organization local units of government, and public housing authorities.

State—The State of Texas.

Total bonded indebtedness—All single family mortgage revenue bonds, (including collateralized mortgage obligations), multifamily mortgage revenue bonds, and other debt obligations issued or assumed by the department and outstanding as of August 31 of the year of calculation, excluding:

(A) all such bonds rated Aaa by Moody's Investors Service or AAA by Standard & Poor's Corporation for which the department has no direct or indirect financial liability from the department's unencumbered fund balances; and

(B) all other such bonds, whether rated or unrated, for which the department has no direct or indirect financial liability from the department's unencumbered fund balances, unless Moody's or Standard & Poors has advised the department in writing that all or a portion of the bonds excluded by this clause should be included in a determination of total bonded indebtedness.

Unencumbered fund balances—

(A) The sum of the balances resulting at the end of each department fiscal year from deducting the sum of bond indenture and credit rating restrictions and liabilities from the sum of amounts on deposit in indenture funds and other tangible and intangible assets of each department housing bond program.

(B) Uncommitted amounts on deposit in each independent or separate unrestricted fund established by the housing finance division or its administrative component units.

Very low-income persons and families—Persons and families earning not more than 60% of the area median income as determined by the United States Department of Housing and Urban Development, with allowances for family size.

§1514. Availability of Funds and Schedule.

(a) The housing trust fund consists of appropriations or transfers made to the fund, unencumbered fund balances, and public or private gifts or grants. Assets in the fund may be used only to carry out the purposes of this rule.

(b) An independent auditor shall annually conduct an audit to determine the amount of unencumbered fund balances of all housing finance division funds. The independent auditor shall submit the audit report to the board before January 1 of each year. After the report has been received by the board, copies of the auditor's determination of unencumbered fund balances shall be made available to the public at the department's offices, without cost to the public.

(c) Staff of the department's housing finance division shall, on or before January 1 of each year, compute the total bonded indebtedness of the department and shall prepare worksheets explaining the calculation of 2.0% of total bonded indebtedness. Copies of these worksheets shall be made available to the public at the department's offices, without cost to the public.

(d) Based on the audit report, the department board shall verify the computations made by housing finance division staff and, by resolution shall authorize the transfer, except as provided by subsections (e), (f), and (g) of this section, to the housing trust fund on or before January 10 of each year an amount equal to one-half of the housing finance division's unencumbered fund balances in excess of 2.0% of total bonded indebtedness.

(e) If, at the time any annual audit required by subsection (b) of this section is concluded, the housing finance division's unencumbered fund balances exceed 4.0% of its total bonded indebtedness, the amount transferred on or before the next January 10 shall consist of all amounts in excess of that 4.0%.

(f) Notwithstanding subsection (e) of this section, if, at the time any annual audit required by subsection (b) of this section is concluded, a nationally recognized rating agency has recommended the housing finance division to maintain unencumbered fund balances in excess of the amount permitted by subsection (d) of this section to be maintained as unencumbered fund balances, as a condition to achieving or maintaining a rating of at least Aa/A+ on all or a portion of the bonded indebtedness of the housing finance division that is issued under an open indenture or an open flow of funds, the amount transferred on or before each January 10 shall consist of all funds in excess of the amount required by the rating agency to be held as unencumbered fund balances.

(g) Notwithstanding subsection (e) of this section, if, at the time any annual audit required by subsection (b) of this section is concluded, a nationally recognized rating agency has recommended the housing finance division to increase the amount of its unencumbered fund balances to achieve

or maintain a financially sound condition or to prevent a decrease in the long-term debt rating maintained on all or a portion of the bonded indebtedness, the department may not make further annual transfers to the housing trust fund until all requirements and conditions of the rating agency have been met.

(h) The housing trust fund provided for by this section is not subject to the Texas Trust Code (Property Code §111.001 et seq).

§151.5. Allocation of Housing Trust Funds.

(a) Funds shall be allocated to achieve a broad geographical distribution taking into account the number and percentage of low- and very low-income persons and families in different geographical areas of the state.

(b) In allocating funds under the housing trust fund, special attention shall be paid to equitably serving the housing needs of low- and very low-income persons and families residing in rural and nonmetropolitan areas.

(c) No more than 10% of the housing trust funds allocated each fiscal year shall be distributed to community housing development organizations and non-profit organizations for capacity building.

(d) At least 35% of the housing trust funds allocated each funding cycle shall be distributed to community housing development organizations. This 35% will be based on the amount of funds remaining after funds identified in subsection (c) of this section are allocated.

(e) The department shall utilize its best efforts to apply at least 70% of the housing trust funds allocated each funding cycle to nonmetropolitan areas of the state.

(f) No more than 10% of the yearly balance of the housing trust fund may be used by the department to acquire real property as described in the Act, §3.17.

(g) The department shall utilize its best efforts to apply at least 70% of the housing trust funds allocated each fiscal year to very low-income persons and families.

(h) The board reserves the right to revise the set-aside established in subsection (d) of this section if the department does not receive a sufficient number of applications meeting criteria established in §151.10 of this title (relating to Criteria for Funding).

(i) Bond indenture requirements governing expenditure of bond proceeds deposited in the housing trust fund shall govern and prevail over all other allocation requirements established in this section. However, the department shall distribute

these funds in accordance with the requirements of this section to the extent possible.

§151.6. Basic Eligible Activities. The department shall make grants and loans from the housing trust fund to eligible applicants for purposes consistent with §151.2 of this title (relating to Program Goals and Objectives). Eligible uses of trust funds include, but are not limited to, the following:

(1) to pay housing development costs for a housing project or to provide down-payment assistance, credit enhancement, direct loans and interest rate reduction assistance to low- and very low-income persons and families, and persons with special needs;

(2) to provide predevelopment costs for eligible housing projects. Such assistance shall be provided in the form of a loan to be repaid to the housing trust fund from construction loan proceeds or other project income. The board may waive repayment of the loan, in whole or in part, if there are impediments to project development that the board determines are reasonable beyond the control of the applicant;

(3) to provide for capacity building for community housing development and non-profit organizations that show sufficient evidence of having strong community support and a strong likelihood of producing housing for low- and very low-income persons and families within two years of the date that assistance is provided. Where possible, the recipient of funds under this subsection will build in fees or other ongoing sources of income into the services that they provide so that repeated support will not be needed;

(4) to support department sponsored activities authorized under the Act, subject to the requirements of the housing trust fund and implementing regulations.

§151.7. Ineligible Activities and Restrictions. Any activity is ineligible for housing trust funds unless the activity will result in the financing, acquisition, rehabilitation, or development of affordable, decent, safe, and sanitary housing for low- and very low-income persons or families or will provide capacity building to community housing development organizations and non-profit organizations engaged in developing housing for low- and very low-income persons and families.

(1) General government expenses. Housing trust funds may not be used to carry out the regular responsibilities of the unit of general local government.

(2) Political activities. Housing trust funds may not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan po-

litical activities, such as candidate forums, voter transportation, or voter registration.

(3) Prohibition against involuntary displacement. Housing trust funds shall not be utilized on a project that has the effect of permanently and involuntarily displacing low- and very low-income persons and families.

(4) Restriction on affordability of multifamily housing. Any multifamily housing developed or rehabilitated with housing trust funds in whole or in part shall remain affordable to income-qualified households for at least 20 years.

§151.8. Maintenance of Effort.

(a) Housing trust funds shall not be used by local government to supplant or replace existing housing funds for housing for low- and very low-income persons and families.

(b) If other federal funds are available to a local government applicant for any proposed housing project, the local government applicant shall affirmatively show that it has undertaken reasonable efforts to secure such funding for the proposed housing project.

§151.9. Application Procedure and Requirements.

(a) The department shall, from time to time, solicit applications for loans and grants from eligible applicants.

(b) The applicant shall submit, in an application form and process prescribed by the department, project information including, but not limited to:

(1) a written description of the housing project including, but not limited to, the number of units, unit mix, proposed rents or mortgage payments, site location, the proposed program of services to occupants, and the availability of these services in the future, project amenities, names and addresses of all individuals with any financial interest in the proposed housing project, personal and organizational financial statements and audit reports, and any other information the board may require;

(2) a statement of the housing project purpose indicating the housing type and tenants or homeowners to be housed and the length of time the units will be committed available for low- or very low-income households;

(3) a statement describing the need for the proposed housing development given existing housing and economic conditions in the service area;

(4) a projection of housing project expenses and income;

(5) grant or loan amount requested and total housing project development costs, including a description of all committed or anticipated project funding and funding sources and a statement describing efforts to secure other sources of funding including federal funds, and funds from private sources;

(6) a narrative describing the housing project sponsor/developer/owner/manager experience in developing and operating housing projects;

(7) a description of any temporary displacement resulting from the proposed housing project, including a statement whether the housing project has the effect of permanently and involuntarily displacing persons and families of low-income;

(8) the geographical area of the state in which the project will occur;

(9) a narrative describing how the proposed project addresses each of the evaluation factors listed in §151.10 of this title (relating to Criteria for Funding);

(10) the affirmative marketing plan of the housing project sponsor on marketing to racial and ethnic minorities and person with special needs;

(11) project completion schedule; and

(12) nondiscrimination statements.

(c) An individual or family who is an eligible applicant shall submit a request for funding in an application form and process prescribed by the department to include the items listed in subsection (b) of this section that are relevant to individuals and persons applying for loans and grants.

§151.10. Criteria for Funding.

(a) The board shall review applications for funding of housing projects and approve the funding of all such projects.

(b) In considering application for funding, the department and board shall consider the following.

(1) Threshold criteria. To be considered for funding, a housing project must first demonstrate that it meets all the threshold criteria set forth as follows:

(A) the project is consistent with the requirements established in this rule;

(B) the applicant provides evidence of his or her ability to carry out the project in the areas of financing, acquiring, rehabilitating, developing, or managing affordable housing developments;

(C) the project addresses an identified housing need. This assessment will be based on statistical data, surveys, or other indicators of need as appropriate.

(2) Evaluation Factors. The board and department will consider applications for housing trust funds using the following system.

(A) Applications will be evaluated against the threshold criteria during each funding cycle. Applications not meeting the threshold criteria will be returned to the applicant without further review.

(B) Applications not meeting the threshold criteria may be revised and subsequently resubmitted for consideration.

(C) Applications will then be ranked according to the criteria hereinafter set forth:

(i) leveraging of funds: the extent to which the project will leverage state funds with other resources, including federal resources, and private sector funds;

(ii) community involvement: the extent to which the project involves a broad range of community representatives, including low- and very low-income individuals who may expect to reside in the proposed housing project, in the design and development of the proposed housing project;

(iii) very low income targeting: the extent to which the project will provide safe, decent, and affordable housing to very low-income persons and families;

(iv) long term affordability: the extent to which the project will ensure the longest possible use of assisted units as affordable housing for low- and very low-income persons and families;

(v) housing need: the geographical area of the state to be served and the extent to which there is a need for safe, decent, and affordable housing in this area;

(vi) special housing needs: the extent to which the project provides affordable housing and services for persons with special needs;

(vii) financial feasibility: the extent to which the project is financially feasible, taking into consideration the contribution of housing trust funds, as determined in accordance with generally accepted underwriting standards as promulgated by federal insurers or other similar guarantors of such projects;

(viii) need for funds: the extent to which other resources are not available in the locality to carry out the housing project;

(ix) minority participation: the extent to which the project has minorities and/or women participating in the ownership, development or management of the project;

(x) energy conservation: the extent to which the project design promotes energy and/or water conservation with the result of reducing residents' utility costs;

(xi) innovation: the extent to which the project involves a new or particularly innovative approach for meeting housing needs in the area being served;

(xii) services: the extent to which the project includes a program of services for occupants of the proposed housing including, but not limited to, programs that address home health care, mental health service, alcohol and drug treatment, job training, child care and case management, and provides for tenant involvement in the development and administration of the services;

(xiii) cost-effectiveness: the extent to which the project is cost-effective and provides the greatest number of affordable, decent, safe, and sanitary low- and very low-income housing units for the least amount of housing trust funds expended or committed;

(xiv) barriers to affordable housing: the extent to which the applicant proposes to eliminate or reduce barriers to affordable housing created by existing public policies, such as zoning regulations, building permit requirements, etc;

(xv) geographic balance: the extent to which the project will contribute to achieving a fair and equitable geographic distribution of housing trust funds.

(c) The department shall establish a system for assigning a weight to the preceding evaluation factors and giving priority to funding applications according to the weight assigned.

§151.11. Prohibition Against Discrimination.

(a) No person shall on the ground of race, color, family composition (reasonable occupancy standards are acceptable), national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with housing trust funds made available under the Act.

(b) Whenever the department determines that a recipient of housing trust funds has failed to comply with paragraph (1) of this subsection, the department shall attempt to secure compliance. If within a reasonable period of time, the department fails to secure compliance, the department may:

(1) refer the matter to the state attorney general with a recommendation that an appropriate civil action be instituted; or

(2) take such other action as may be provided by law.

§151.12. Other Program Requirements.

(a) Employment opportunities.

(1) No person shall be discriminated against on the basis of race, color, handicap, religion, sex, or national origin in all phases of employment during the performance of contracts as assisted with housing trust funds made available under the Act.

(2) Contractors and subcontractors on housing trust funds assisted contracts shall take affirmative action to ensure fair treatment in employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay off or termination, rates of pay, or other forms of compensation and selection for training or apprenticeship.

(3) In connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible opportunities for training and employment shall be given to low- and very low-income persons residing within the unit of local government or the metropolitan area or non-metropolitan county in which the project is located.

(b) Conflict of interest.

(1) Conflict prohibited. No person described in paragraph (2) of this subsection who exercises or has exercised any functions or responsibilities with respect to housing trust fund activities under the Act or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from a housing trust fund assisted activity, or have an interest in any housing trust fund contract, subcontract, or agreement or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

(2) Persons covered. The conflict of interest provisions of paragraph (1) of this subsection apply to any person who is an employee, agent, consultant, officer, elected official, or appointed official of the department or State of Texas. These provisions shall not however, restrict the depart-

ment from utilizing trust funds as authorized under §151.6(d) of this title (relating to Basic Eligible Activities).

§151.13. Citizen Participation.

(a) The department shall hold at least one public hearing annually, and additional public hearings prior to consideration if any proposed significant changes to these rules, to solicit comments from the public, eligible applicants, and recipients on the department's rules, guidelines, and procedures for the housing trust fund.

(b) The department shall consider the comments it receives at the annual public hearings. The board shall annually review the performance, administration, and implementation of the housing trust fund in light of the comments it receives. At this time the board shall also review funding goals and set-asides established in §151.5 of this title (relating to Allocation of Housing Trust Funds).

(c) Applications for housing trust funds are public information and the department shall afford the public an opportunity to comment on proposed housing projects prior to making awards.

(d) The department shall establish appropriate written procedures to handle complaints from persons or community housing development organizations, local governments, or nonprofit organizations related to the housing trust fund. The department will provide a reasoned response to every written complaint in writing within 30 days of receipt of the complaint.

§151.14. Record to be Maintained.

(a) The department shall maintain the following records on projects assisted with housing trust funds:

(1) a copy of all applications submitted in response to a request for funding proposals;

(2) a copy of a written agreement with each recipient of housing trust funds indicating the total number of dwelling units which will be financed, rehabilitated, acquired, constructed, or assisted with housing trust funds;

(3) the total cost of the project, including both housing trust funds and other funds;

(4) the agreement with the recipient on the affordability of the dwelling unit;

(5) the size and income of the household for each unit occupied by a low- or very low-income person or family;

(6) data on the extent to which each racial and ethnic group and single-

headed households (by gender of household head) have applied for and benefitted from any project or activity funded in whole or in part with housing trust funds made available under the Act. These data shall be updated annually.

(b) The department shall also require, at least on an annual basis, a report from recipients of housing trust funds. This report shall provide information including, but not limited to:

(1) such information as may be necessary to determine whether a project funded with housing trust is benefiting low- and very low-income persons and families;

(2) the monthly rent or mortgage payment for each dwelling unit in each structure assisted with housing trust funds; and

(3) such information as may be necessary to determine whether recipients have carried out their housing activities in accordance with the requirements and primary objectives of the housing trust fund and implementing regulations.

§151.15. Public Access to Program Records.

(a) The department shall provide citizens with reasonable access to all records on use of housing trust funds made available under the Act, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

(b) Notwithstanding privacy and confidentiality laws, the department shall provide citizens with access to all records necessary to determine whether dwelling units assisted with housing trust funds are in fact occupied by low- and very low-income persons and families.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200619

Mario Aguilar
Attorney
Texas Department of
Housing and
Community Affairs

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 474-2974

TITLE 16. ECONOMIC REGULATION

Part I. Railroad Commission of Texas

Chapter 3. Oil and Gas Division

Conservation Rules and Regu- lations

• 16 TAC §3.29

(Note: Commissioner Robert Krueger believes that some of the proposals do not conform with existing statutes, but wishes to solicit public comment.)

The Railroad Commission of Texas proposes new §3.29, concerning the determination of demand, allowables, and production. The Railroad Commission takes no position on the merits of this proposed new section. The proposed new section defines terms, sets demand, adjusts demand, determines and adjusts allowables, sets allowables for new and existing wells, assigns allowables, sets requirements for gas wells in fields for which an allocation formula has been adopted, sets standards for suspension and reinstatement of allocation formulas, sets standards for the carry forward of underproduction and overproduction, sets priorities, sets curtailment standards, discusses ratibility, and prior excess production.

Rita E. Percival, systems analyst for the oil and gas division, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government as a result of enforcing or administering the section. The effect on state government for the first five-year period the new section is in effect is an estimated cost of \$97,000 in fiscal year 1992 and an estimated annual savings of \$113,800 for fiscal years 1993-1996. There will be no fiscal implications for local government.

Stephen Pacey, assistant director, oil and gas section, legal division, has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be increased understanding of gas proration; elimination of nominations; greater prevention of waste of oil and gas; better protection of correlative rights; and increased prevention of discrimination in the production and purchasing of natural gas. The effect on small businesses as a result of enforcing or administering the new section will be an estimated cost of \$600 for each optional well test carried out under the provisions of the proposed new section. The net effect of the proposed new section will be a cost savings for small businesses as the optional test (\$600) will only be performed when it is in the best economic interest of the small businesses. The optional (\$600) test will replace a mandatory (\$200) test. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the entire text of the proposal may be submitted to Peggy S. Gray, Hear-

ings Examiner, Oil and Gas Section, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. The docket number for this proposal is 20-95,195. All comments must be submitted by 5 p.m. on February 20, 1992.

The new section is proposed under the Texas Natural Resources Code, §§81.052, 85.046, 85.202, 86.012, 86.041, 86.042, and 86.081, which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission; to prevent the waste of oil and gas in drilling and producing operations; to effectuate the provisions and purposes of the Natural Resources Code; Chapter 86; and to conserve and prevent waste of gas.

§3.29. Determination of Demand, Allowables, and Production.

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

(1) Administrative special allowable well—A well which has been assigned an allowable equal to its deliverability because it has demonstrated by both deliverability and production data a daily deliverability of 100 mcf or less. To avoid the assignment of an administrative special allowable, the operator must notify the commission in writing prior to the assignment of the well's allowable for the production period.

(2) Special allowable well—A nonprorated well granted a fixed allowable by the commission after notice and hearing.

(3) Commission's representative—A commission employee authorized to act for the commission. Any authority given to a commission's representative is also retained by the commission. Any action taken by the commission's representative is subject to review by the commission.

(4) Deliverability—Shall be either the highest daily average volume of gas produced in the most recent 12 months of reported production or the volume of gas reported on a G-10 test taken within the past six months that has been independently witnessed and certified by a registered petroleum engineer, and approved by the commission, whichever is higher.

(5) Exempt allowable wells—Nonprorated wells in an exempt field which are assigned an allowable on a field-wide basis which allows the wells to produce at capacity.

(6) Nonprorated well—A well for which an allowable is not determined by an allocation formula.

(7) Production period—A 12-month period beginning 7 a.m., September 1st, and ending 7 a.m., September 1st, of the following year.

(8) Production history—The volume of all gas produced during the preceding production period from a formation measured in Mcf regardless of disposition.

(9) Prorated field—A multiple well, non-associated gas field in which at least one well in the field produces over 200 mcf of gas per day and in which allowables are determined by an allocation formula.

(10) Prorated well—A well for which an allowable is determined by an allocation formula.

(11) Seller—An entity or person, whether a working interest owner, royalty interest owner, or operator of a well that markets gas from a well.

(12) Statewide prorated field—A non-associated gas field with no special field rules, where gas well allowables are based on deliverability.

(13) Total past production—Aggregate production of gas in the state for the most recent 12 months of reported production.

(b) Determination of demand.

(1) On or before September 1st of each year, the Railroad Commission will:

(A) determine the market demand for gas for the succeeding production period. In making such determination the commission will:

(i) set such demand for the state at the total past production;

(ii) increase or reduce the total past production by an amount determined by the commission based on its findings of changes in market demand from credible information received from all sources including, but not limited to, representatives of pipelines, producers, and purchasers; and

(iii) calculate the percentage which the annual demand, calculated in clause (ii) of this subparagraph, bears to the total past production, as set forth in clause (i) of this subparagraph;

(B) establish field market demand, which will be determined as follows:

(i) calculate the average of total past production as a percentage of total state prior year deliverability;

(ii) calculate the percentage of the total past production from each field as it bears to the prior year deliverability of all wells in each field. Rank fields

according to their percentage of total past production to deliverability;

(iii) establish a factor each production period for each field considering all information available affecting gas markets, demand and production including, but not limited to: the relative field rankings in clause (ii) of this subparagraph; the production history of each field; decreases and/or increases in each fields deliverability; plus, full consideration of the state policies to prevent waste, promote equity, and eliminate unreasonable discrimination. This factor shall not have the effect of raising or lowering any field percentage of production to deliverability below or above the average percentage in clause (i) of this subparagraph;

(iv) allowables which are to be set by field on a month-by-month basis to coincide with the same month's production of the prior production period modified by multiplying said monthly production of each field times the percentage for the state calculated in subparagraph (A)(iii) of this paragraph times the individual field factor established in clause (iii) of this subparagraph.

(c) Determination of allowables.

(1) The commission will establish an allowable for each producing well in each field which shall be such well's pro rata share of the field demand as determined by the allocation formula applicable to such field. Monthly well allowables for nonprorated wells will be limited by the well's current deliverability.

(2) The sum of 12 monthly allowables shall be the total allowable assigned for the production period for each well.

(3) The total allowable for a field for gas from prorated wells for a month shall be determined by subtracting the total allowable assigned to nonprorated wells for the month from the total adjusted demand for that month for gas from all wells in the field.

(d) Adjustment for changed demand. The commission shall review production reports and records in order to track demand and production on a quarterly basis. The commission may, at any time, determine a change in gas demand based upon the factors in subsection (b) of this section.

(1) In the event of a determination of changed demand, the commission may adjust allowables of each and/or any field(s), and each well within such field.

(2) In the event there is a decrease in demand, the market demand as determined in subsection (b) of this section shall not be reduced by more than 10%, unless the commission determines that an

emergency situation exists which requires further reduction. The allowable for an individual well shall not be reduced below the amount of gas which has been produced on or before the date of an allowable adjustment, provided it does not exceed the sum of the monthly allowables for the production period. In the event the commission determines there is an increase in demand, the commission will establish and publish new monthly allowables for the remainder of the production period. The amount of overproduction permitted to be carried into the subsequent production period without penalty shall not be increased beyond 5.0% of the total revised allowable amount for the production period.

(e) Changes in gas well allowables.

(1) A G-10 test may result in a change of the wells allowable not to exceed the top field allowable, effective not more than 15 days prior to the date the G-10 test is received in the appropriate commission office.

(2) When a well is recompleted as a gas well in a different field, any production in excess of the production allowed under this section which has occurred in the old field must be made up before an allowable is assigned in the new field.

(3) When a well is reassigned, by commission action, to a different field any production allowed in the previous field under this section will be charged against the allowable assigned in the newly assigned field.

(f) New wells.

(1) Each new well brought into production after the beginning of a production period shall be assigned an allowable equal to its tested deliverability, adjusted according to the allocation formula applicable to the field in which such well is located. Such well may produce at that allowable rate for the remainder of the production period in which it begins production or until adjusted by the commission. Thereafter, its allowable shall then be determined in accordance with subsection (b) of this section.

(2) With respect to a multicompleted well, the allowable of the second and succeeding zones will be made effective no earlier than the date the last report or item necessary for the assignment of an allowable is received in the appropriate commission office.

(g) Existing wells.

(1) Existing wells which have not been assigned an allowable, or which have been reentered under permit, may have their allowable set or adjusted not to exceed a top field allowable in accordance with subsection (f) of this section.

(2) Existing wells with allowables which are limited by deliverability may receive an increase in their allowable, upon commission approval of a certified form showing increased deliverability during a production period and the reasons therefore. This increase in allowable will not be effective more than 15 days prior to the date the G-10 test is received in the appropriate commission office.

(h) Assignment of allowables.

(1) Allowables of gas wells not currently assigned an allowable will not be made effective:

(A) prior to the well's completion or reclassification date; or

(B) more than 15 days prior to the date all reports or information necessary to the assignment of an allowable are received in the appropriate commission office.

(2) If a report or item of information required by the commission on an existing well is not filed on time, the allowable for the production period shall be revoked until the necessary documents are received. The commission will then reissue an allowable. There shall be a one-day allowable reduction for each day the report or information is late. The reduction in allowable will be taken from the month(s) following the assignment of the allowable.

(i) Requirements for gas wells in a field with special rules and for which an allocation formula has been adopted.

(1) Acreage factor. If acreage is a factor in the allocation formula, a certified plat showing the acreage assigned to the well for proration purposes shall be submitted. The plat must be accompanied by a statement that all of the acreage claimed can reasonably be considered productive of gas in that field, and that the distance limitations of the field rules have not been exceeded. If all of the acreage claimed is not contained in a single lease, a certificate of pooling authority must be submitted on the appropriate commission form. If the distance limitations of the field rules are shown to have been exceeded, the plat must show the number beyond the distance limitations. An operator may request an exception to the distance limitations which may be administratively approved by the commission or its authorized representative if all the acreage can be considered productive. If approval of the request is declined or protest is received, the request may be set for hearing. If all of the acreage cannot be considered productive, the plat must also show the productive limit of the acreage. If a plat shows acreage in the proration unit in excess of the maximum number of acres

permitted by the field rules, it will not be accepted.

(2) Pressure factor. If bottom-hole or field pressure is a factor in the allocation formula, it shall be submitted on the appropriate commission form, and shall be measured at, or corrected to, the proper datum plane.

(3) Other factors. If any other information, data, or parameter is a factor in the allocation formula, it shall be submitted on the appropriate commission form.

(j) Requirements for gas wells in a field operating under statewide rules.

(1) Statewide prorated fields. Daily allowable production of gas from individual wells in a statewide prorated field shall be determined by allocating the allowable production among the individual wells in the proportion that each wells deliverability bears to the summation of the deliverabilities of all wells producing from the same field. The determination of the quantity of gas to be allocated to these fields shall be determined the same as for prorated fields as described in subsection (d) of this section.

(2) Exempt fields. Wells in statewide exempt fields shall be assigned allowables equal to their deliverability. A statewide exempt field is:

(A) any non-associated gas field in which no well in the field has a current deliverability of greater than 200 mcf a day.

(B) an exempt field established by Railroad Commission order.

(k) Suspension and reinstatement of an allocation formula.

(1) The commission or its authorized representative may suspend the allocation formula for a particular gas field if:

(A) each first purchaser from that field has a market for one hundred percent of the deliverability available to that purchaser from the field;

(B) none of the operators or first purchasers from the field object to suspension of the formula; and

(C) suspension will not cause a pipeline limitation for any field.

(2) Suspension of the allocation formula may be initiated by the commission or its authorized representative, by one of the operators in the field, or by one of the first purchasers in the field.

(A) The commission or its authorized representative will determine which fields are appropriate for suspension utilizing the criteria of paragraph (1) of this subsection. The allocation formula may be suspended by the commission or its authorized representative if the applicant has given at least 21 days notice of intent to suspend the allocation formula for a particular field to each of the operators and first purchasers in the field and no protest has been made.

(B) If it is anticipated that suspension of the allocation formula will cause a pipeline limitation in a field, first purchasers in the field for which suspension of the allocation formula is requested shall notify the commission or its authorized representative within 21 days of the mailing date of the notice of the request to suspend the allocation formula.

(C) The allocation formula may be suspended by the commission or its authorized representative if the applicant has given at least 21 days' notice of their request to suspend the allocation formula for a particular field to each of the operators and first purchasers in the field and no protest has been made.

(3) Reinstatement of the allocation formula may be initiated by the commission or its authorized representative, by one of the operators in the field, or by one of the first purchasers in the field.

(A) If the market demand for gas from a field with suspended allocation drops below 100% of capacity at any time, the operators and/or first purchasers for the field shall immediately notify the commission or its authorized representative and give an explanation of the reduction in demand. The commission or its authorized representative will then make a determination of whether the allocation formula should be reinstated and may immediately reinstate the allocation formula.

(B) If a pipeline limitation occurs after suspension of the allocation formula, first purchasers in the field shall immediately notify the commission or its authorized representative. The commission or its authorized representative will then make a determination of whether the allocation formula should be reinstated and may immediately reinstate the allocation formula.

(C) An operator or first purchaser may request that the allocation formula for a field be reinstated. The request may be approved by the commission or its authorized representative if the applicant

provides to the commission written waivers of objection from all operators and first purchasers for a field. If the applicant fails to secure all necessary waivers or if the commission or its authorized representative declines to approve the request, the operator may request a hearing as provided for in paragraph (4) of this subsection. If the matter is set for hearing, the allocation formula may be reinstated by the commission or its authorized representative pending the result of the hearing. The notice of request for reinstatement shall specify the date on which allocation again becomes effective.

(4) If the commission or its authorized representative denies a request to suspend or reinstate the allocation formula in a particular field, the applicant may request a hearing. In addition to the criteria set forth in paragraph (1) of this subsection, the commission will consider whether suspension or reinstatement is necessary to prevent waste or protect correlative rights.

(5) Suspension of the allocation formula will balance the field's production status at zero, at the beginning of the next production period or adjustment period, whichever is sooner, and provide for a capacity allowable.

(1) Underproduction and overproduction.

(1) Underproduction. If during the production period a gas well does not produce its total allowable as allocated to it by the commission, the well shall be permitted to carry 5.0% underproduction of its annual allowable forward to the next production period. Such carry forward shall be for one production period and shall be a quantity of gas available for production in excess of the annual allowable.

(2) Overproduction.

(A) Each well may produce no more than the total of monthly allowables during the production period plus accrued underproduction as provided in paragraph (1) of this subsection.

(B) Any production in excess of the total of monthly allowables for the production period will be overproduction.

(C) Overproduction in an amount not to exceed 5.0% of the well's total production period allowables shall be permitted. In the event a well is overproduced by 5.0% or less during any production period, then during the following production period the well shall be allowed to produce an amount equal to the amount of the well's production allowable minus the amount of overproduction which occurred during the preceding production period.

(D) In the event a well is overproduced by more than 5.0% during any production period, then during the following production period the well shall be allowed to produce an amount equal to the amount of the well's production allowable minus the 5.0% overproduction from the preceding production year and twice the amount of overproduction exceeding 5.0% which occurred during the preceding production period.

(E) The operator of a gas well may produce the well up to twice the monthly allowable allocated to the well, without commission approval, subject to the restrictions in subparagraph (A) of this paragraph.

(F) The commission may grant an operator of a gas well permission to produce the well at a rate in excess of twice its monthly allowable for two months in any six-month production period, if:

(i) the operator applies for and obtains commission approval prior to additional overproduction;

(ii) the commission determines, based on data submitted by the operator, that a situation exists or is threatened that causes an increase in the demand for the gas from the field which cannot be otherwise satisfied from the field; and

(iii) the commission determines that such additional overproduction does not cause waste.

(G) The commission may, after notice and hearing, grant reduced production rates to producers who have overproduced their allowable during a production period.

(m) Priorities. In order to prevent wasteful production, protect correlative rights, and in order not to reduce or limit oil production, purchasers shall request and take, and operators shall produce gas according to the following priorities, in order.

(1) First, operators shall produce gas from special allowable wells granted special allowable status to prevent waste or for other reasons.

(2) Second, operators shall produce casinghead gas, including gas produced from tertiary and secondary recovery projects approved by the commission. Also, second priority shall be given to gas recovered from a landfill or sewage process.

(3) Third, operators shall produce gas from wells classified under §3.49(b) of this title (relating to Gas-Oil Ratio) (Statewide Rule 49(b)), but only to

the extent of one full allowable for multiple 49(b) wells.

(4) Fourth, operators shall produce gas from administrative special allowable wells, and to gas from special allowable wells granted that status by the commission after notice and hearing for other reasons than to prevent waste.

(5) Fifth, operators shall produce the remainder of gas well gas.

(n) Curtailments.

(1) If curtailment of any priority category is required on a particular gas system such curtailment shall be done as follows.

(A) Production from the lowest priority category wells shall be curtailed first. When production from the lowest priority category wells on a system is curtailed by 95% of the monthly allowable assigned to those wells; then the operators shall begin curtailment of the next highest priority category.

(B) When all priority category wells in subsection (m)(2), (3), (4), and (5) of this section, except first priority category in subsection (m)(1) of this section, are curtailed by 95% of assigned allowable, then priority categories in subsection (m)(2), (3), (4), and (5) will thereafter be further curtailed by the same percentage.

(2) Where an end-user has a one year or longer contractual right or obligation with a seller to purchase a specific supply from a specific well for the current production year, then the operator of such gas well shall not be required to limit such sales based upon priority demand of other gas.

(o) Ratability. All gas produced within a production year which does not exceed the total assigned allowable shall be deemed to be produced ratably, regardless of the rate of production, so long as it is in compliance with these rules. Purchasers shall be deemed to be taking ratably so long as the total annual allowable of any well is not exceeded and the purchaser is in compliance with the curtailment provisions of subsection (n) of this section.

(p) Hearings. In addition to any other provisions of this section, the commission may, upon complaint or upon its own motion, conduct a hearing and issue such orders as are necessary and reasonable to enforce ratable production, to protect correlative opportunities, to prevent waste, and to prevent unreasonable discrimination.

(q) Severability provision. If any provision of this section or its application to any person or circumstance is held invalid,

the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and the provisions of the section are declared to be severable.

(r) Prior excess production. Any gas produced in excess of a well's assigned allowable during the balancing period preceding the effective date of any new rules shall be deducted from the well's assigned allowable for the first production period after adoption of such rules. There shall be no carrying forward of underproduction or overproduction from prior periods except as by rules.

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

Issued in Austin, Texas, on January 13, 1992.

TRD-9200606

Martha Swanger
Hearings Examiner-Gas
Utilities Section
Railroad Commission of
Texas

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 463-6941

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• 16 TAC §3.50

The Railroad Commission of Texas proposes an amendment to §3.50, concerning requirements for approval and certification of expanded enhanced oil recovery (EOR) projects to receive a tax incentive pursuant to the Texas Tax Code, Title 2, Chapter 202, Subchapter B, §202.052 and §202.054. On June 15, 1991, Senate Bill Number 1105 (relating to a reduced oil production tax rate) of the 72nd Legislature, was signed into law, to become effective September 1, 1991. Senate Bill Number 1105 provides a reduced oil production tax rate for the incremental increase in oil produced from expanded EOR projects approved and certified by the Railroad Commission of Texas. The proposed amendment provides the procedure for implementing the Tax Code, §202.052 and §202.054, as amended by Senate Bill Number 1105. The amendment defines terms and sets the standard for qualification, approval and certification for the severance tax incentive. The Railroad Commission has not fully analyzed the potential severance tax implications. The existing language in this section was adopted by the Railroad Commission effective February 20, 1990, and was published in the February 6, 1990, issue of the *Texas Register* (15 TexReg 652).

Rita E. Percival, systems analyst, Oil and Gas Division, has determined that for the first five-year period the section is in effect there will be fiscal implications as a result of enforcing or administering it. The effect on state government for the first five-year period will be an estimated cost of \$540 for fiscal year 1992; there will be no fiscal implications for state government for fiscal years 1993-1996.

There will be no fiscal implications for local government. There will be no cost of compliance with the proposed rule revision for small businesses as a result of enforcing or administering the proposed rule revision.

Peggy S. Gray, hearings examiner, Legal Division, has determined for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be an increase in secondary and tertiary oil recovery projects. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Peggy Gray, Hearings Examiner, Oil and Gas Section, Legal Division, Railroad Commission of Texas, P.O. Drawer 12967, Austin, Texas 78711-2967. The docket number for this proposal is 20-96, 652. All comments must be submitted by 5 p.m. on February 20, 1992.

The amendment is proposed under the Texas Natural Resources Code, §§81.052, 85.046, 85.202 and the Texas Tax Code, §202.052 and §202.054, which provides the Railroad Commission of Texas with the authority to adopt rules for the following purposes: to govern and regulate persons and their operations under the jurisdiction of the Railroad Commission; to prevent the waste of oil in producing operations; to approve EOR projects; to designate the area to be affected by EOR projects; to certify positive production response; and to terminate EOR projects.

§3.50. Enhanced Oil Recovery Projects-Approval and Certification for Tax Incentive.

(a) Purpose. The purpose of this section is to provide a procedure by which an operator can obtain Railroad Commission approval and certification of enhanced oil recovery (EOR) projects pursuant to the Tax Code, Title 2, Chapter 202, Subchapter B, §202.052 and §202.054.

(b) Applicability.

(1) This section applies to:

(A) new EOR enhanced oil recovery (EOR) projects [;] and (B) the change from secondary EOR projects to tertiary projects which qualify as new EOR projects, and which begin active operation on or after September 1, 1989 [;], and

(B) expansions of existing EOR projects.

(2) An EOR project may not qualify as an expansion if the project has qualified as a new EOR project under this section. [This section will not apply to the following types of EOR projects unless the operator is able to demonstrate by filings or in a hearing, that the project qualifies as a new and distinct EOR project:

[(A) an expansion of a project in active operation prior to September 1, 1989;

[(B) a change from one method of secondary recovery process to a different method of secondary recovery process;

[(C) a change from one method of tertiary recovery process to a different method of tertiary recovery process; or

[(D) a pressure maintenance process.]

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

(1) Active operation—The start [commencement and continuation of a fluid injection program [programs] for a secondary or tertiary recovery project to enhance [projects for enhancing] the displacement process in the reservoir. Applying for permits and moving equipment into the field alone are not considered active operations.

(2) (No change.)

(3) Commission representative—A commission employee authorized to act for the commission. Any authority given to a commission representative is also retained by the commission. Any action taken by the commission representative is subject to review by the commission. [Director—The director of the Oil and Gas Division or the director's delegate.]

(4) Comptroller—The Comptroller of Public Accounts.

(5) [(4)] Enhanced oil recovery project (EOR)—The use of any process for the displacement of oil from the reservoir other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.

(6) [(5)] Existing enhanced recovery project—An EOR project that began active operation before September 1, 1989, or began active operation between September 1, 1989, and September 1, 1991, but was not approved as a new EOR project. [Expansion—The enlargement of an EOR project. Production from projects or areas in which active operation was started prior to September 1, 1989, will not qualify for the recovered oil tax rate unless approved pursuant to subsection (b)(2) of this section.]

(7) Expanded enhanced recovery project or expansion—The addition of

injection and producing wells, the change of injection pattern or other commission approved operating changes to an existing enhanced oil recovery project that will result in the recovery of oil that would not otherwise be recovered.

(8) [(6)] Fluid injection—Injection through an injection well of a fluid (liquid or gaseous) into a producing formation as part of an EOR project.

(9) Incremental production—The volume of oil produced by an expanded enhanced recovery project in excess of the production decline rate established under conditions before expansion of an existing enhanced recovery project.

(10) [(7)] Oil recovery from an enhanced recovery project—The oil produced from the designated area the commission certifies to be affected by the project.

(11) [(8)] Operator—The person recognized by the commission as being responsible for the actual physical operation of an EOR project and the wells associated with the EOR project.

(12) [(9)] Positive production response—Occurs when the rate of oil production from wells within the designated area affected by an EOR [enhanced recovery] project is greater than the rate that would have occurred without the project.

(13) [(10)] Pressure maintenance—The injection of fluid into the reservoir for the purpose of maintaining the reservoir pressure at or near the bubble point or other critical pressure.

(14) [(11)] Primary recovery—The displacement of oil from the reservoir into the well bore(s) [bores] by means of the natural pressure of the oil reservoir, including artificial lift.

(15) Production decline rate—The projected future oil production from a project area as extrapolated by a method approved by the commission.

(16) [(12)] Recovered oil tax rate—The tax rate provided by the Tax Code, §202.052(b).

(17) [(13)] Secondary recovery project—An enhanced recovery project that is not a tertiary recovery project.

(18) [(14)] Termination—Occurs when the approved fluid injection program associated with an EOR project stops or is discontinued.

(19) [(15)] Tertiary recovery project—An EOR [enhanced recovery] project using a tertiary recovery method (as defined in the federal June 1979 energy regulations referred to in the Internal Revenue Code of 1986, §4993, or approved by the United States secretary of the treasury for purposes

of administering the Internal Revenue Code of 1986, §4993, without regard to whether that section remains in effect) including those listed as follows.

(A) Alkaline (or caustic) flooding—An augmented waterflooding technique in which the water is made chemically basic as a result of the addition of alkali metals.

(B) Carbon dioxide augmented waterflooding—Injection of carbonated water, or water and carbon dioxide, to increase waterflood efficiency.

(C) Cyclic steam injection—The alternating injection of steam and production of oil with condensed steam from the same well or wells.

(D) Immiscible carbon dioxide displacement—Injection of carbon dioxide into an oil reservoir to effect oil displacement under conditions in which miscibility with reservoir oil is not obtained.

(E) In situ combustion—Combustion of oil in the reservoir, sustained by continuous air injection, to displace unburned oil toward producing wells.

(F) Microemulsion, or micellar/emulsion, flooding—An augmented waterflooding technique in which a surfactant system is injected in order to enhance oil displacement toward producing wells. A surfactant system normally includes a surfactant, hydrocarbon, cosurfactant, an electrolyte and water, and polymers for mobility control.

(G) Miscible fluid displacement—An oil displacement process in which gas or alcohol is injected into an oil reservoir, at pressure levels such that the injected gas or alcohol and reservoir oil are miscible. The process may include the concurrent, alternating, or subsequent injection of water. The injected gas may be natural gas, enriched natural gas, a liquefied petroleum gas slug driven by natural gas, carbon dioxide, nitrogen, or flue gas. Gas cycling, i.e., gas injection into gas condensate reservoirs, is not a miscible fluid displacement technique nor a tertiary enhanced recovery technique within the meaning of this section.

(H) Polymer augmented waterflooding—Augmented waterflooding in which organic polymers are injected with the water to improve a real and vertical sweep efficiency.

(I) Steam drive injection—The continuous injection of steam into one set of wells (injection wells) or other injection source to effect oil displacement toward and production from a second set of wells (production wells).

(d) Application requirements. To qualify for the recovered oil tax rate the operator must:

(1) for a new EOR project, submit an application for approval on the appropriate form on or after September 1, 1989, and before January 1, 1994. For an expansion of an existing EOR project, submit an application for approval on the appropriate form on or after September 1, 1991, and before January 1, 1994. An application may be filed on or after the applicable date (September 1, 1989, or September 1, 1991) in this paragraph [September 1, 1989], even if a separate application for approval of the project has already been filed prior to that date. All applications must be filed in Austin. [One copy of the form and the plats shall also be filed with the appropriate district office.] The form shall be executed and certified by a person having knowledge of the facts entered on the form. If an application is already on file under the Natural Resources Code, Chapter 101, Subchapter B, or for approval as a tertiary recovery project for purposes of the Internal Revenue Code of 1986, §4993, the operator may file a new application if the active operation of the project does not begin before the application under this section is approved by the commission;

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

(4) submit an application on the appropriate form and obtain the necessary permits to conduct fluid injection operations pursuant to §3.46 of this title (relating to Fluid Injection into Productive Reservoirs) (Statewide Rule 46), if such permits have not already been obtained.

(e) Concurrent applications. The operator may apply concurrently or separately for:

(1) approval of a new or expanded EOR [proposed enhanced oil recovery] project under this section;

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

(f) Opportunity for hearing. A commission representative [The director] may administratively approve the application. If the commission representative [director] denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(g) Approval and certification.

(1) Project approval. In order to be eligible for the recovered oil tax rate as

provided in the Tax Code, §202.052(b), the operator must apply for and be granted commission approval of a new EOR [an enhanced oil recovery] project or an expansion of an existing EOR project, prior to commencing active operation of the new project or expanded project. For a project to be approved the operator must:

(A) for a new project prove that the project will begin active operation on or after September 1, 1989, or for the expansion of an existing project prove that the project will begin active operation on or after September 1, 1991;

(B)-(D) (No change.)

(2) Positive production response certificate.

(A) The operator of an EOR project that meets the requirements of this section must demonstrate to the commission a positive oil production response before the operator can receive commission certification of such a positive production response. The certification date may be any date desired by the operator, subject to commission approval, following the date on which a positive oil production response first occurred. The operator must apply for a positive production response certificate within three years of project approval for secondary projects, and within five years of project approval for tertiary projects, to qualify for the recovered oil tax rate. The oil produced from the designated area of a new EOR project or incremental oil produced from the designated area of an expanded EOR project after the date of certification of a positive production response is eligible for the recovered oil tax rate. The operator must apply to the comptroller pursuant to the Tax Code, §202.052 and §202.054, to qualify for the recovered oil tax rate.

(B) The application for positive response certification shall include:

(i) production graphs and data illustrating a positive production response and volumes of water or other substances that have been injected on the designated area [lease or unit] since the initiation of the new EOR [enhanced recovery] project or the expanded EOR project;

(ii)-(iii) (No change.)

(C) The application for the positive production response certificate will be processed administratively. If the commission representative [director] denies administrative approval, the applicant shall have the right to a hearing upon request. After hearing, the examiner shall recommend final action by the commission.

(h) Annual reporting.

(1) The operator must file an annual report on the appropriate form, with the Oil and Gas Division, each year the project remains eligible for the reduced severance tax rate. This form must be filed within 30 days of the anniversary of the certification date of positive production response and annually thereafter. [a project report on the appropriate form, with the Oil and Gas Division each year within 30 days after the annual monitoring reports for the project's injection wells are due, except as provided herein.

[(2) If the project is carried out under a unitization/secondary recovery order, the operator may make a written declaration to the director of the Oil and Gas Division that filing of the annual report required under this subsection replaces the annual report required in the unitization/secondary recovery order. In its declaration the operator shall select one of the following due dates:

[(A) 30 days after the individual wells annual monitoring reports are due; or

[(B) the due date stated in the unitization/secondary recovery order.

[(3) The operator shall adhere to the due date selected until the recovered oil tax rate expires or the project is terminated, whichever occurs first. If the recovered oil tax rate expires prior to termination of the project, the annual report requirements of the unitization/secondary recovery order shall apply.]

[(2)][(4)] The report must contain the following:

(A) commission certification date of positive production response [date injection started];

(B) monthly volume [volume(s)] of injected fluid(s);

(C) number of well(s) used for injection [injecting];

[(D) injection pressures;]

[(D)][(E)] monthly production of oil, gas, and water;

[(E)][(F)] number of active producing wells; and

[(F)][(G)] any other relevant information requested by the Oil and Gas Division.

(i) Reduced or enlarged [expanded] areas. The operator may apply for reduced or enlarged [expanded] project area certification if:

(1) (No change.)

(2) the application for reduction or enlargement [expansion] is received no later than three years after the original approval of a secondary recovery project or five years after the original approval of a tertiary recovery project.

(j) Termination and penalty. Upon approval by the commission and the comptroller, the recovered oil tax rate continues for a maximum of 10 years, unless the project is sooner terminated. If the project is terminated prior to the 10-year period, the operator must notify the commission and the comptroller in writing within 30 days after the last day of active operations. Failure to so notify may result in civil penalties, interest, and the tax due. If the commission determines a project has been terminated or there is action that affects the tax rate, it will notify the comptroller immediately in writing.

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

Issued in Austin, Texas, on January 13, 1992.

TRD-9200590 Martha V. Swanger
Hearings Examiner-Gas
Utilities-LP Gas
Section, Legal Division
Railroad Commission of
Texas

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 463-6941

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**TITLE 22. EXAMINING
BOARDS**

**Part XXII. Texas State
Board of Public
Accountancy**

Chapter 515. Licenses

• 22 TAC §515.5

The Texas State Board of Public Accountancy proposes an amendment to §515.5, concerning reinstatement of license. The amendment will cite to the current statute and will reflect the fact that licenses are processed on a biennial basis.

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

Mr. Treacy also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be that the rule will reflect the fact that licenses are pro-

cessed on a biennial basis. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to J. Randel (Jerry) Hill, General Counsel 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

The amendment is proposed under Texas Civil Statutes, Article 41a-1, §6(a), which provides the Texas State Board of Public Accountancy with the authority to promulgate rules relating to the reinstatement of licenses.

§515.5. Reinstatement.

(a) A licensee whose biennial [annual] license has been cancelled for failure to pay the biennial [annual] renewal fee on or before December 31 may secure reinstatement of the license at any time within the next calendar year upon payment of the delinquent license fee, together with a penalty as set forth in the Public Accountancy Act of 1991, §9(c). [of \$20].

(b) After expiration of the next calendar year, a licensee whose license has been cancelled for failure to timely pay the biennial [annual] renewal fee may secure reinstatement of a [his] license only upon application and examination satisfactory to the board together with the payment of delinquent fees and a penalty to be assessed by the board. An application for reinstatement shall be made under oath and shall state that the licensee has never been charged or convicted by any court or other body of any crime, misdemeanor, or discreditable act of which the board has not been notified. The application shall also include a statement explaining why the licensee failed to timely obtain a biennial [annual] license.

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

Issued in Austin, Texas, on January 8, 1992.

TRD-9200484 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 450-7066



Part XXIV. Texas Board of Veterinary Medical Examiners

Chapter 571. Licensing

Examinations

• 22 TAC §571.3

The Texas Board of Veterinary Medical Examiners proposes an amendment to §571.3, concerning eligibility of students to sit for the state board exam. This rule revision would allow senior veterinary students to sit for the state board examination during December rather than waiting until the spring examination.

Mr. Buddy Matthijetz, executive director, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

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

Comments on the proposal may be submitted to Texas Board of Veterinary Medical Examiners, 1946 South IH-35, Suite #306, Austin, Texas 78704.

The amendment is proposed under Texas Civil Statutes, Article 8890, §7(a), which provide the Texas Board of Veterinary Medical Examiners with the authority to "... make, alter, or amend such rules and regulations as may be necessary or desirable to carry into effect the provisions of this Act."

§571.3. Licensing Examinations Eligibility.

(a) To be eligible to participate in the state board licensing examination, applicants must be certified by the dean of the college from which they are expected to graduate that they are in the final year [last 60 days] of their veterinary college education and are expected to graduate. In the absence of a diploma or transcript certifying award of the DVM degree, the dean must submit a letter stating the applicant did in fact graduate before the applicant is eligible to obtain a license, providing all other requirements have been met.

(b) (No change.)

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200479

Buddy Matthijetz
Executive Director
Texas Board of Veterinary
Medical Examiners

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 447-1183

TITLE 28. INSURANCE

Part I. Texas Department of Insurance

Chapter 1. General Administration

Subchapter K. Equivalent Coverage

Definition

• 28 TAC §1.2002

The State Board of Insurance of the Texas Department of Insurance proposes new §1.2002, concerning the adoption of rules to define equivalent coverage as provided in the Insurance Code, Article 5.13-2, §8(e), for policy forms filed by individual insurers for commercial property and general liability insurance and as provided in 28 TAC §5.9101,(g)(5) for policy forms filed by individual insurers for commercial multi-peril insurance. This rule is necessary in order to establish the acceptable coverage that must be provided in policy forms filed by an individual insurer.

Lyndon Anderson, deputy commissioner, property division, has determined that for the first five-year period the new section is in effect there will be no fiscal implications to state or local government as a result of enforcing or administering the section.

Mr. Anderson, also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be the provision of insurance coverage similar to the coverage currently in effect under promulgated policy forms, for any new policy form or endorsement filed by an insurer pursuant to new Article 5.13-2, for commercial property, general liability, and commercial multi-peril insurance.

Comments on the proposal may be submitted to Lyndon Anderson, Deputy Commissioner, Property Division, 333 Guadalupe, P.O. Box 149104, Austin, Texas 78714-9104.

The new section is proposed under the Insurance Code, Article 1.04(b), which authorizes the State Board of Insurance to adopt rules; Article 5.13-2, which requires that policy forms submitted by insurers for approval in general liability lines and commercial property lines must provide coverage equivalent to that provided in the policy forms used for those lines on the effective date of Article 5.13-2; Article 5.81, which authorizes the State Board of Insurance to approve forms for multi-peril policies of insurance and to adopt rules to carry out the purposes of that article; and Article 5.98, which authorizes the State Board of Insurance to adopt rules to ac-

complish the purposes of the Insurance Code, Chapter 5, Subchapter L.

§1.2002. Equivalent Coverage.

(a) The term "equivalent coverage" as provided in the Insurance Code, Article 5.13-2, §8(e), for policy forms filed by individual insurers for commercial property and general liability insurance and as provided in §5.9101, (g)(5) of this title (relating to Multi-Peril Policies) for commercial multi-peril policy forms for commercial property, general liability, boiler and machinery, commercial crime, commercial glass, and commercial inland marine insurance shall be subject to the standards set forth in subsections (b)-(h) of this section.

(b) The term "policy form(s)" in these rules shall include printed endorsements and other related forms as set forth in the Insurance Code, Article 5.13-2.

(c) Whether coverage is deemed to be equivalent by the Texas Department of Insurance shall be based on comparisons of like or similar policy forms that were approved by the State Board of Insurance prior to and in effect on October 1, 1991, to those policy forms filed by individual companies under this rule. For example, named peril policy will be compared to named peril policy, all risk policy will be compared to all risk policy, commercial liability policy will be compared to commercial liability policy.

(d) All filings of policy forms submitted to the State Board of Insurance must contain a statement signed by an officer of the company attesting in a good faith belief that the filed policy forms provide equivalent coverage, as defined in subsection (e) of this section, to those policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991.

(e) Equivalent coverage shall mean the following.

(1) Policy forms filed for approval must, taken as a whole, provide coverage that is at least equal in value to coverage provided under policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991. The insurer submitting such policy forms for approval shall submit:

(A) a comparative evaluation of the filed policy forms to like or similar policy forms that were approved by the State Board of Insurance prior to and in effect on October 1, 1991; and

(B) an expressed disclosure form to be signed by the policyholder and attached to the initial policy if a designated limit applying to a specific type of property

or to a specific coverage within the filed policy form is less than the limit for the same or similar coverage in the comparable policy form approved by the State Board of Insurance prior to and in effect on October 1, 1991.

(2) Policy forms filed for approval must include all provisions and conditions required by the Texas Insurance Code, including any specific notices to a policyholder.

(3) Except as provided in subsections (f) and (g) of this section, policy forms filed for approval must contain substantially the same coverage provided under policy forms approved by the State Board of Insurance prior to and in effect on October 1, 1991 for:

- (A) debris removal;
- (B) pollution (all lines of insurance);
- (C) defense costs;
- (D) punitive damages;
- (E) liquor liability;
- (F) collapse of building peril;
- (G) any other coverage the State Board of Insurance, by rule, may determine to be necessary as a matter of public policy.

(f) Policy forms filed for approval may contain exclusions and/or limitations which have previously been approved by the State Board of Insurance for use on an individual basis, and must be accompanied by:

(1) an explanatory memorandum setting forth the proposed application of and reasons for the exclusion and/or limitation;

(2) a disclosure and election form to be signed by the policyholder and attached to a policy indicating the policyholder and the insurer have negotiated and agreed to the coverage to be provided in the policy.

(g) Policy forms filed for approval and designated as policy forms for use with "large risks" shall not be subject to the requirements for equivalent coverage set out in this rule except subsections (e)(2) and (h) of this section. Such filed policy forms shall be considered to provide equivalent coverage if the coverage is negotiated between the insurer and policyholder. The filing of policy forms for "large risks" must be accompanied by:

(1) an explanatory memorandum;

(2) a disclosure and election form to be signed by the policyholder and attached to a policy indicating the policyholder and the insurer have negotiated and agreed to the coverage to be provided in the policy.

(h) The term "large risk" means any of the following:

(1) an insured that has total insured property values of \$10 million or more;

(2) an insured that has been provided an engineering and/or inspection service that meets standards approved by the Texas Department of Insurance;

(3) an insured that has total annual gross revenues of \$20 million or more; or

(4) an insured that has a total premium of \$50,000 or more for property insurance or \$50,000 or more for general liability insurance, or \$100,000 or more for multi-peril insurance.

(i) The negotiation of the coverage to be provided a policyholder, including the consenting of a policyholder to exclusions of coverage shall be fair and reasonable and subject to the applicable provisions of the Texas Insurance Code.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200610 Linda K. von Quintus-Dorn
Chief Clerk
Texas Department of
Insurance

Earliest possible date of adoption: February 21, 1992

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

Part II. Texas Workers' Compensation Commission

Chapter 126. Benefits-General Provisions Applicable to All Benefits

• 28 TAC §126.7

The Texas Workers' Compensation Commission proposes an amendment to §126.7, concerning the injured employee's choice of doctor. The amendment establishes a presumption that the first doctor to provide health care to a workers' compensation claimant, with certain exceptions, is the claimant's initial choice of doctor; and deletes references to the doctor's duty to file an initial medical report. The amendment is proposed to clarify

the concept of "choice of doctor," and disassociate it from the reporting requirement.

Andrew Thigpen, associate director, financial management, has determined that for the first five-year period the section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the amended section.

Mr. Thigpen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be greater understanding of, and compliance with, the Texas Workers' Compensation Act. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§126.7. Injured Employee's Choice of Doctor.

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

(c) Except as provided in subsections (d), (e) and (f) of this section, the [The] first doctor, as defined in the Act, §1.03(17), who provides health care to an injured employee shall be presumed to be the injured employee's initial choice of treating doctor. [to administer non-emergency health care shall submit to the commission a completed TWCC Form 61, Initial Medical Report, and shall be known as the injured employee's treating doctor, as defined in the Act, §1.03(46). Although a doctor who renders emergency treatment shall also file a completed TWCC Form 61, that doctor shall not be considered the injured employee's initial choice of doctor, except as stated in subsection (d) of this section.]

(d)-(k) (No change.)

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200613 Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 440-3972

Chapter 133. Medical Benefits- General Medical Provisions

Subchapter B. Required Re- ports

• 28 TAC §133.101

The Texas Workers' Compensation Commission proposes an amendment to §133.101, concerning the initial medical report required to be filed by health care providers after treating workers' compensation claimants. The proposed amendment relieves the doctor of the requirement to complete and file the report when the injured worker does not lose more than one full day or shift from work. The amendment expressly provides that the doctor must submit the report upon request, and requires that the clinical notes be adequate for this purpose. The amendment additionally deletes the list of items to be included in the report, since form TWCC-61, developed after the rule was originally adopted, contains all these items. The amendment is proposed pursuant to a rule-making petition submitted by a health care provider.

Andrew Thigpen, associate director, financial management, has determined that for the first five-year period the section is in effect there will be fiscal implications for state and local government as a result of enforcing or administering the section. The effect on the state will be a decrease in administrative costs due to a reduction in the number of reports filed with the commission, estimated at between 10,000 and 20,000 per year. As self-insured employers, the state and local governments will experience decreased administrative costs due to the reduction in the number of reports filed; they will additionally be relieved of the \$15 payment to the doctor for each report. There is no anticipated impact on employment, locally or statewide, as a result of implementing the amendment.

Mr. Thigpen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be reduced paperwork and cost to the workers' compensation system as a whole. Small insurance companies and health care providers will experience decreased administrative costs due to the reduced number of reports filed; insurance companies will additionally be relieved of the \$15 payment to the doctor for each report. The impact on small businesses compared with large businesses should be proportionately the same, based on market share. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The amendment is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§133.101. Initial Medical Report.

(a) The treating doctor shall complete Form TWCC-61, [an] Initial Medical Report, for every occupational disease, and every accidental injury resulting in loss of more than one full day or one full shift from work, [in the form and manner prescribed by the commission,] and submit it to the carrier, the commission, and the injured employee [claimant] or his/her [the injured claimants's] representative within 10 days of the initial visit. [The report shall include:

[(1) history of occupational injury or occupational disease (including any emergency medical care);

[(2) findings of a clinical assessment, including the following:

[(A) physical examination findings;

[(B) laboratory test results;

[(C) radiographic and imaging findings; and

[(D) other pertinent tests;

[(3) type of treatment rendered at time of visit;

[(4) specific diagnosis(es) with appropriate International Classifications of Disease-9-Clinical Manifestations (ICD-9-CM) code(s);

[(5) treatment plan which may include the following:

[(A) physical or occupational therapy orders. The orders shall include:

[(i) clear and concise language, explaining specific treatments to be performed;

[(ii) frequency of treatments; and

[(iii) provision of reevaluation by the treating doctor within 60 days, if physical or occupational therapy shall be continued;

[(B) referrals given to the claimant;

[(C) medications or durable medical equipment ordered; and treatment.

[(D) other pertinent information involving future treatment;

[(6) anticipated date the injured employee may:

[(A) return to a limited type of work;

[(B) achieve maximum medical improvement; and

[(C) return to full time work;

[(7) prognosis of the claimant.]

(b) The treating doctor is not required to complete and submit Form TWCC-61 Initial Medical Report, for an accidental injury if, at the time of the initial visit, the treating doctor:

(1) knows that the injured employee has not lost more than one full day or one full shift of work prior to the visit;

(2) does not anticipate that the employee will lose more than one full day or one full shift of work after the visit; and

(3) releases the injured worker to return to work with no restrictions.

(c) A treating doctor exempted from the reporting requirement by subsection (b) of this section must complete and submit Form TWCC-61. Initial Medical Report, upon receipt of a request from the carrier, the commission, or the injured worker or representative. Accordingly, the doctor's clinical notes from the initial visit must be adequate for this purpose.

(d) Nothing in this rule relieves a doctor from the requirement of filing Form TWCC-69. Report of Medical Evaluation, as provided by §130.1 of this title (relating to Reports of Medical Evaluation: Maximum Medical Improvement and Permanent Impairment), when certifying maximum medical improvement or assigning an impairment rating.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200611

Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 440-3972

Chapter 160. Workers' Health and Safety-General Provisions

• 28 TAC §160.2

The Texas Workers' Compensation Commission proposes new §160.2, concerning non-subscribing employers' reports of injury. The section references the statutory reporting requirements for employers who do not carry workers' compensation insurance (employers of 150 employees or more must report as of January 1, 1992; employers of 50 employees or more, as of January 1, 1992; and employers of four employees or more, as of January 1, 1994). The new section additionally establishes procedures and deadlines for reporting, and requires use of a prescribed form. The new section is proposed to implement the provisions of the Texas Workers' Compensation Act requiring that non-subscribers report injuries for review by the commission's Division of Workers' Health and Safety.

Andrew Thigpen, associate director, financial management, has determined that for the first five-year period the section is in effect there will be fiscal implications for state government. These include the costs of handling the reports filed by non-subscribers, and of developing, printing, and mailing notices of the new reporting requirements to non-subscribers, estimated as follows: 1992-\$4,025; 1993-\$6,178; 1994-\$54,780; 1995-0 (no notices required); 1996-0 (no notices required). There will be no fiscal implications for local government as a result of enforcing or administering the section. There is no anticipated impact on employment, locally or statewide, as a result of implementing the new section.

Mr. Thigpen also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be implementation of the Texas Workers' Compensation Act, and reduction of work-related injuries, due to the commission's increased ability to identify and monitor work-related injuries. The cost of compliance for a small business will be the minimal cost of first class postage to file the report, no more frequently than once a month. The impact on small businesses compared to large businesses should be proportionately the same, based on market share. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Ernest Boardman, Acting General Counsel, Texas Workers' Compensation Commission, 4000 South IH-35, Austin, Texas 78704. Comments will be accepted for 30 days after publication of this proposal in the *Texas Register*.

The new section is proposed under Texas Civil Statutes, Article 8308-2.09(a), which authorize the commission to adopt rules necessary to administer the Texas Workers' Compensation Act.

§160.2. Non-Subscribing Employer's Report of Injury.

(a) A non-subscribing employer, as defined by Texas Civil Statutes, Article 8308-7.01(d), and §164.13 of this title (relating to Applicability), shall file a written report for each death, each occupational disease, and each injury that results in more than one day's absence from work for the injured employee.

(b) The report of injury shall be filed on a form prescribed by the commission.

(c) A report of all injuries that have occurred during a calendar month shall be filed with the commission not later than the seventh day of the following month. For purposes of this section, a report is filed when personally delivered or postmarked. All reports will be filed with the commission at Texas Workers' Compensation Commission, Southfield Building, 4000 South IH-35, Austin, Texas 78704-7491.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200612

Ernest Boardman
Acting General Counsel
Texas Workers'
Compensation
Commission

Earliest possible date of adoption: February 21, 1992

For further information, please call: (512) 440-3972

TITLE 34. PUBLIC FINANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter O. State Sales and Use Tax

• 34 TAC §3.286

The Comptroller of Public Accounts proposes an amendment to §3.286, concerning seller's and purchaser's responsibilities. The amendment is the result of changes to the Tax Code, Chapter 151, made by the 72nd Legislature, 1991, First Called Session.

One change is to subsection (a)(1)(F) and (G) where the definition of "engaged in business" was expanded effective October 1, 1991.

The second change because of legislation affects the sales tax permit fee that will no longer be required on or after October 1, 1991. Subsection (c) was amended to reflect this change.

The third change due to legislation was the addition of subsection (l), which covers the cancellation of an inactive permit.

The last change due to legislation is to subsection (h)(2)(B). Taxes that become delinquent on or after September 1, 1991, draw interest at the rate of 12%, compounded monthly.

Subsection (a)(4) was amended to include all local taxing jurisdictions governed by the County Sales and Use Tax Act in the definition of special purpose district. The change was made to specifically include those taxes imposed under Title 3, Chapter 324.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no significant revenue impact on the state or local government as a result of enforcing or administering the section.

Dr. Plaut also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in providing for more efficient tax administration. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

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

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

§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)-(E) (No change.)

(F) engaging in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items. [soliciting orders for taxable items by means of advertising that is broadcast from, printed at, or distributed from, a location in this state if the advertising is intended for consumers in this state and is only secondarily disseminated to bordering jurisdictions. Advertising will be considered to be intended for Texas

consumers if 75% or more of the recipients are located in Texas;]

(i) Advertising means messages by which a retailer solicits sales of taxable items.

(ii) Regular or systematic solicitation means three or more separate transmittances of any advertisement during a testing period.

(iii) Solicitation means offering, by advertisement, to make a taxable sale with a destination in Texas, or inviting offers to purchase tangible personal property for delivery in Texas.

[(G) soliciting orders for taxable items by mail if:

[(i) the solicitations are substantial and recurring; and

[(ii) the retailer uses any banking, financing, debt collection, telecommunication, or marketing activities occurring in Texas, or benefits from a location in Texas of authorized installation, servicing, or repair facilities. A retailer located outside the state who is not otherwise engaged in business in this state will not be considered as engaging in business in this state by merely placing a request for financing, telecommunication, banking, marketing or debt collection services at an out-of-state location of a service provider even though the service is performed in whole or in part in Texas.]

(G) [(H)] 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

(H) [(I)] soliciting orders for taxable items by mail or other media and federal law permits the State of Texas to require the retailer to collect Texas sales or use tax.

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

(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) (No change.)

(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 [fee] is issued without charge [§25].

(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. [The permit must be renewed yearly on the date of issuance or renewal. The fee for renewal is \$25 for each place of business.] If a person operates two or more types of business under the same roof, only one permit is needed. [It is the seller's responsibility to send an application for renewal and the permit fee to the comptroller no later than the 30th day before the expiration date shown on the permit. Failure to renew causes automatic expiration on the renewal date and the seller is considered to be operating without a permit which is a criminal offense.]

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

(d)-(g) (No change.)

(h) Prepaying the tax; discounts.

(1) (No change.)

(2) A taxpayer who makes a prepayment based upon an estimate of tax liability may retain an additional 1.25% of the amount due. The prepayment must be made on or before the 15th day of the second month (February, May, August, and November) of the quarter for which the tax is due. Monthly prepayments are due on or before the 15th day of the month and are also entitled to the additional 1.25% deduction.

(A) (No change.)

(B) 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% compounded monthly [10% per annum].

(i)-(k) (No change.)

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200594

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: February 21, 1992

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

◆ ◆ ◆
• 34 TAC §3.320

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

The Comptroller of Public Accounts proposes the repeal of §3.320, concerning ice and dry ice. This section is being repealed in order that a substantially revised section dealing with the same subject matter may be adopted.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the repeal is in effect there will be no significant revenue impact on the state or local as a result of enforcing or administering the repeal.

Dr. Plaut also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be in providing new information regarding tax responsibilities. This repeal is promulgated under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the repeal may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.320. Ice and Dry Ice.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200593

Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: February 21, 1992

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

◆ ◆ ◆
The Comptroller of Public Accounts proposes new §3.320, concerning ice and dry ice. Because of substantial changes, the current §3.320 is being proposed for repeal. The new section removes the exemption for ice and dry ice used as packaging material by someone other than manufacturers or processors.

The exemption was removed from the Tax Code, Chapter 151, by the 72nd Legislature, 1991, First Called Session, and is effective October 1, 1991.

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

Dr. Plaut also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be in providing for more efficient tax administration. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Comments on the new section may be submitted to Lucy Glover, Manager, Tax Administration Division, P.O. Box 13528, Austin, Texas 78711.

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

§3.320. Ice and Dry Ice.

(a) Manufacturers and processors. See §3.300 of this title (relating to Manufacturing; Custom Manufacturing; Fabricating; Processing) for the definition of manufacturing and processing.

(1) Sales or use tax is not due on ice used during processing or manufacturing if the ice is necessary and essential to the process.

(2) Sales or use tax is not due on ice used by manufacturers and processors inside or outside a package in order to shape, form, preserve, stabilize, or protect the contents of the manufactured product.

(b) Agriculture.

(1) Sales or use tax is not due on ice used to remove field heat from agricultural products.

(2) Sales or use tax is not due on bunker ice, top ice, or any ice placed on transportation facilities by growers. For example, ice used inside or outside crates of lettuce to cool the lettuce while being shipped is exempt.

(3) Sales or use tax is due on the subsequent icing after the initial icing for the purpose of preservation prior to sale except by the original grower.

(c) Commercial fishing boats. Sales or use tax is not due on ice exclusively used by commercial fishing boats in the storing of aquatic species, such as shrimp and other crustaceans, finfish, mollusks, and other similar creatures.

(d) Food and drinks ready for immediate consumption. Sales or use tax is not due on ice purchased for use as a part of a drink or food product to be sold in the regular course of business. Ice used to maintain food for immediate consumption in a cool state prior to sale is taxable.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200595
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Earliest possible date of adoption: February 21, 1992

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

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

Part III. Texas Youth Commission

Chapter 85. Admission and Placement

Placement Planning

• 37 TAC §85.37

The Texas Youth Commission (TYC) proposes an amendment to §85.37, concerning discharge. The amendment provides for informing youth as discharged of instructions for sealing their records.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a system to ensure that appropriate information is provided. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to discharge committed youth.

§85.37. Discharge.

(a) (No change.)

(b) Rules.

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

(6) Notification.

(A) As soon as the discharge date is determined, but not more than 30 days prior to the discharge date, the program to which the youth is assigned shall send a letter of discharge to the youth. The youth is informed of the procedure for sealing records, LS-301.

(B) (No change.)

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200543
Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: February 21, 1992

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

Chapter 87. Treatment

Program Planning

• 37 TAC §87.1

The Texas Youth Commission (TYC) proposes an amendment to §87.1, concerning case planning. The amendment will add instructions to include a projected discharge date to each youth's case plan.

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

Mr. Franks also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be additional information provided regarding numbers of youth on caseloads. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendment is proposed under the Human Resources Code, §61.075, which provides the Texas Youth Commission with the authority to determine a youth's treatment.

§87.1. Case Planning.

(a) (No change.)

(b) Rules.

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

(5) Requirements for youth at home on parole.

(A) (No change.)

(B) Parole objectives are developed for youth on parole by the parole officer in consultation with the youth, the sending primary service worker, and when available, the parents. The ICP contains the condition of release and consists of the youth's plan for work, school, training or specialized treatment, projected date of discharge, and any other special conditions.

(C) (No change.)

(D) ICP objectives may be reviewed more often in accordance with changes in a youth's behavior, need, and circumstance.

(6) (No change.)

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200542 Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: February 21, 1992

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

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Chapter 93. General Provisions

Records, Reports, Forms

• 37 TAC §93.57, §93.59

The Texas Youth Commission (TYC) proposes amendments to §93.57 and §93.59, concerning access to youth records and masterfile records. The amendments will provide direction of accessing and moving committed youth files.

John Franks, director of fiscal affairs, has determined that for the first five-year period the sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections.

Mr. Franks also has determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the sections will be a more efficient use of staff time in organizing records. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The amendments are proposed under the Human Resources Code, §61.073, which provides the Texas Youth Commission with the authority to keep written records on each child.

§93.57. Access to Youth Records.

(a) (No change.)

(b) Rules.

(1) Each program administrator is responsible for ensuring that files or records on individual youth are open to inspection only by those given access under the Texas Family Code, Title 3 as interpreted by TYC.

(A) Files are open to the professional staff or consultants of the agency or the institution who are considered, for purposes of this policy, TYC staff.

(i) This includes [Interpretation: TYC interprets this to include,] on a need-to-know basis, residential contract programs and programs providing non-residential and special services. Discretion to make available the information needed by non-TYC professional staff is granted to the employee securing the services. Electronically encoded information about TYC population is appropriately viewed only by authorized TYC staff. Approval of supervisor[,] and department head[, and deputy executive director] constitute authorization. The management information systems department is responsible for implementing security measures, and for the archiving of records.

(ii) Access to sealed records is available for the purposes of research, and only after personal identification information (name, social security number, and address) has been removed. [Access is permitted according to the following status.]

[(i) Active-current commitments. TYC staff members with authorized access have unlimited viewing privilege of an active youth electronic file.

[(ii) Discharged-discharged for reasons other than majority reached. Brownwood Reception Center and the records custodian have access to records of discharged youth for the purpose of identification. The research and planning department has unlimited access to records of discharged youth for the purpose of research.

[(iii) Ineligible-discharged for majority age reached. Records

custodian has unlimited access to records of ineligible youth for purposes of identification. The research and planning department has access to records of ineligible youth for the purpose of research.

[(iv) Record is available only to the research and planning department, only for purposes of research, and only after personal identification information (name, social security number, and address) has been removed.]

(B) Files are open to the judge, probation officers, and professional staff or consultants of the juvenile court. This means [Interpretation: TYC interprets this to mean] that only the juvenile court that committed the youth to TYC and its probation officers, professional staff, or consultants have access to a youth's records. Once [This is limited, however, in that if] a juvenile court certifies a youth for criminal trial, [as an adult and then tries to obtain the records itself or through its probation officers, professional staff, or consultants as an adult criminal court,] a subpoena is required from the criminal [that] court for [it to have] access to the youth's records.

(C) Files are open to an attorney for the youth. [Interpretation:] The youth's attorney may view the original file under supervision of a TYC employee and may copy the information at the attorney's expense but may not take possession of any original material on file.

(D) Files are open, with leave of the juvenile court, to any other person, agency, or institution having a legitimate interest in the work of the agency or institution. [Interpretation:] TYC will provide the name of the committing court judge to those not granted access by statute. Authorization must be in the form of a signed letter specifying the information to be released; phone calls do not constitute authorization.

(E) Files are open to the Texas Department of Corrections (TDC) to the extent provided in the Family Code, §51.14(b), Texas Civil Statutes. [Interpretation:] All requests from TDC are forwarded to TYC's records custodian.

(2) (No change.)

(3) With the exception of school transcripts, GED scores, and medical records under conditions specified in paragraphs (4) and (5) of this subsection, a youth has no right of [do not have] access to any confidential files, even on becoming an adult. Likewise, a youth has no authority to grant access to another party.

(4) (No change.)

(5) Medical records are considered confidential (Texas Civil Statutes, Article 4495b, [Public Health Code,] Title 71, §5.08) and may only be released upon receipt of a written consent to [notarized "release of medical records [information]" form which specifies the following:

(A) the [information or] medical records to be covered by the release;

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

(D) that the release is authorized by the youth or the youth's parent or guardian, if [or by] the youth is under 18 years of age [if age 18 or older].

(6) A prosecuting attorney may obtain a copy of a youth's adjudication for a felony-grade offense pursuant to the Human Resources Code, §61.095. Requests under this paragraph are directed to the custodian of records.

(7)[(6)] The program administrator is responsible for maintaining a record in each file of people other than TYC staff who see information from a youth file, items seen or copied by each, and a copy of the authorization for access.

(8)[(7)] Requests for information on discharged youth should be referred to the records custodian in central office.

(9)[(8)] The records custodian is responsible for responding to requests in accordance with current laws and TYC policies regarding confidentiality of such records.

(10)[(9)] If a record has been sealed by court order the records custodian states that TYC has no record of the youth.

§93.59. Youth Masterfile Records.

(a) Policy. Texas Youth Commission (TYC) staff maintain a [youth] masterfile for each youth containing accurate and complete records of commitment documents, assessment reports, and significant decisions and events regarding the youth. Files are stored and transported in a manner that ensures security and confidentiality. Youth masterfiles shall remain in the custody and control of authorized [TYC] personnel at all times and follow the youth as specified in the rules of this section. **Authorized personnel are TYC staff or probation staff under contract with TYC**

to provide parole services. The masterfile is the official set of records maintained for each youth. It physically consists of two separate file folders called the casework subfile, and medical subfile. All staff as specified on child care forms (CCF) or form instructions are responsible for completing, dating, signing, and filing all required documentation. See General Operating Policy (GOP) 75.07, §93.57 of this title (relating to Access to Youth Records). See GOP.75.13, §93.63 of this title (relating to Youth Record Disposition).

(b) Rules.

(1) Location.

(A) The casework and medical subfiles are initiated by the statewide reception center [or the mobile diagnostic unit] for each youth.

(B) The masterfile follows the youth to the TYC staffed residential facility (TYC operated high restriction [institution] or halfway house) to which he or she is assigned or to the appropriate regional or district office where the staff who supervise a youth [office of the region in which the youth is assigned placement] at home or in a non-TYC operated program are located. [Masterfiles are not maintained in district offices unless authorized by the deputy executive director.]

(C) (No change.)

(2) Storage of records. **Youth masterfiles are stored in lockable cabinets which are locked during nonworking hours; the files are each marked "confidential" as are the cabinets.**

(3) Transportation of records.

(A) A TYC staff member transporting a youth from one program to another also transports the masterfile between authorized placements [or designated drop-off points].

(B) If a youth is being transported by public transportation or any other non-TYC staff, his masterfile must be transported simultaneously to the new [appropriate] location by a TYC staff member or sent certified mail [so that the file arrives] within 24 hours of the youth's departure [youth].

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200541

Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: February 21, 1992

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

• 37 TAC §93.63

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

The Texas Youth Commission (TYC) proposes the repeal of §93.63, concerning disposition of youth records. The section is being repealed because it contains bureaucratic procedures which do not constitute a rule.

John Franks, director of fiscal affairs, has determined that for the first five-year period the repeal is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Franks also has determined that for each year of the first five years the repeal is in effect the public benefit anticipated as a result of enforcing the repeal will be greater administrative efficiency. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeal as proposed.

Comments on the proposal may be submitted to Gail Graham, Policy and Manuals Coordinator, Texas Youth Commission, 4900 North Lamar Boulevard, P.O. Box 4260, Austin, Texas 78765.

The repeal is proposed under the Human Resources Code, §61.034, which provides the Texas Youth Commission with the authority to make rules to provide the proper accomplishment of its functions.

§93.63. Youth Record Disposition.

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

Issued in Austin, Texas, on January 10, 1992.

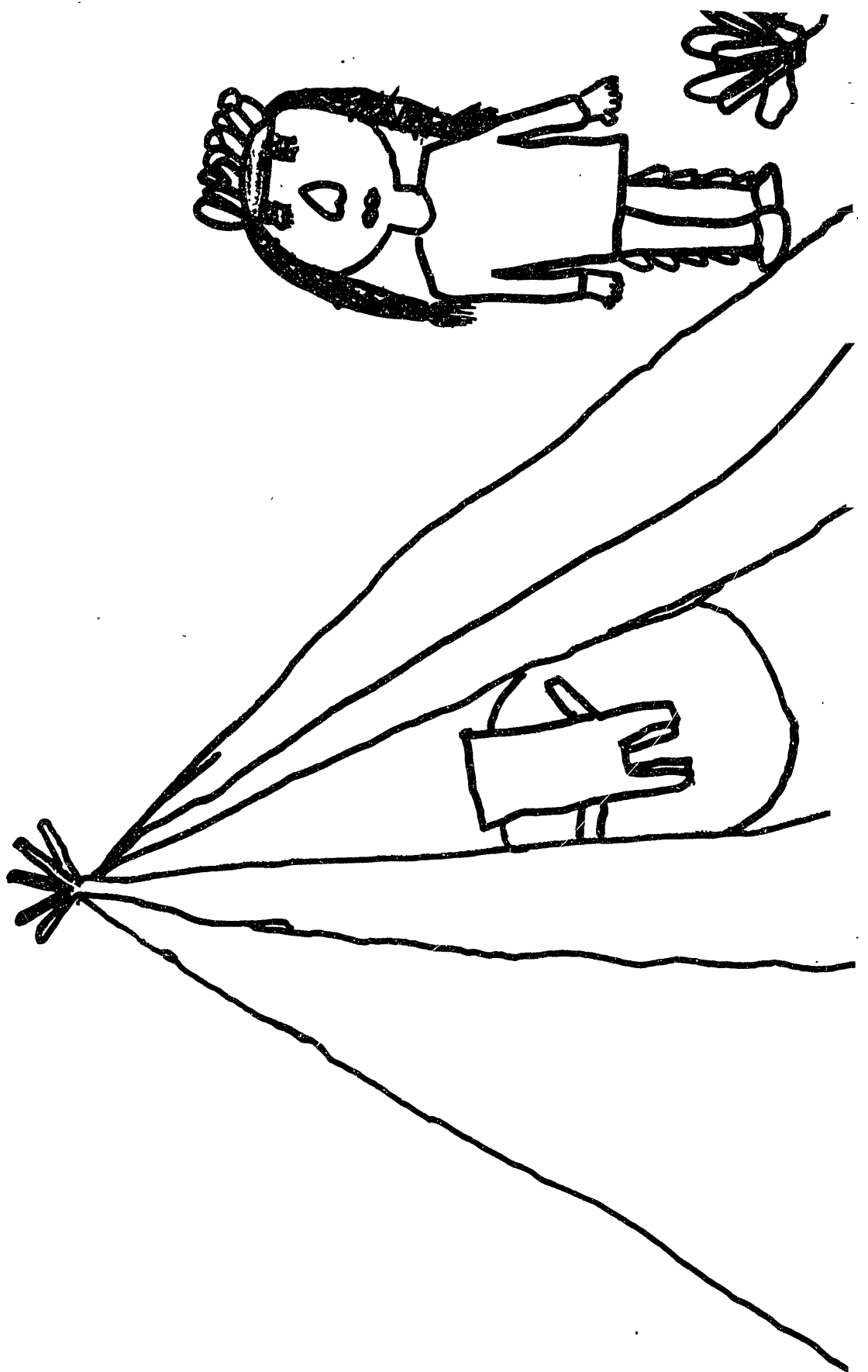
TRD-9200544

Ron Jackson
Executive Director
Texas Youth Commission

Earliest possible date of adoption: February 21, 1992

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

Indian and Teepee



Name: Vanessa Romo

Grade: 4

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

Adopted Sections

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

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

TITLE 4. AGRICULTURE Part I. Texas Department of Agriculture

Chapter 19. Seed Division

• 4 TAC §§19.1-19.3, 19.11, 19.12

The Texas Department of Agriculture adopts amendments to §§19.1-19.3, 19.12, and new §19.11, concerning Seed Division. Section 19.3 is adopted with changes to the proposed text as published in the October 18, 1991, issue of the *Texas Register* (16 TexReg 5755). Sections 19.1, 19.2, 19.11, and 19.12 are adopted without changes and will not be republished.

The amendments to §19.1 and §19.2 clarify and update the existing regulations. The amendment to §19.3 is made to allow the establishment of noxious weed control districts for castor to keep the weed out of areas in which there is a high production of food grade corn and add annual bluegrass seed to the existing list of noxious weed seeds in order to keep Texas from serving as a dumping ground for inferior quality turfgrass seed. New §19.11 is adopted to allow for a more practical enforcement of the vegetable seed labeling provisions of the Texas Seed Law and Chapter 19.

The amendment to §19.1 clarifies the definition of "brand" as used in Chapter 19 to prevent the use of the term in the labeling for a variety name. The amendment to §19.2 eliminates the variable percentage of hybrid

seed labeling to promote the marketing of a higher quality of hybrid seed.

The amendment to §19.3 adds castor and annual bluegrass seed to the existing list of noxious weed seeds, makes the list consistent with recognized taxonomy weed seed name changes, and corrects misspelled names. Section 19.3 is adopted with changes. At paragraph (1), the spelling of the scientific name for itchgrass was inadvertently misspelled and has been corrected. In addition, at paragraph (5), the scientific name for castor was inadvertently omitted, and has been added.

New §19.11 clarifies labeling regulations now used for vegetable seed sold from bulk containers. The amendment to §19.12 updates the rules for testing of seed, established criteria for labeling of seed, and updates the name and address of the department's seed program office.

Comments generally in favor of the regulations were made by the Texas Seed Trade Association. Several seed companies commented on the regulations. Several individual seed companies expressed concerns for the addition of annual bluegrass to the list of noxious weed seeds and requested that an exemption be made for annual bluegrass seed in grasses intended for forage use. The department agrees that the classification of annual bluegrass as a noxious weed seed should only apply when found in seed marketed for lawn and turf purposes. The amendment to §19.3, as proposed states that intent in footnote number one.

Another comment was made by a seed company in opposition of the addition of castor to the noxious weed seed list. The commenter expressed concern that the addition of castor to the noxious weed seed list would be detrimental to the efforts in to produce and market castor as an oil seed crop. The department disagrees that the addition of castor to the noxious weed seed list will hinder production and marketing of castor. The addition of castor to the list will not prevent anyone from marketing castor seed or other kinds of planting seed containing castor seed for planting purposes or other kinds of planting. The addition of castor to the list will, however, enable local governments to take action through a noxious weed control district where there is a danger of contamination of other crops such as corn with castor seed.

The amendments and the new section are adopted under the Texas Agriculture Code, §61.002, which authorizes the department to adopt rules for the efficient enforcement of the Texas Seed Law, Texas Agriculture Code, Chapter 61.

§19.3. Noxious Weed Seeds. It shall be unlawful to sell, offer for sale, or expose for sale any agricultural or vegetable seed for planting purposes within this state containing noxious weed seed in excess of the following limitations per pound.

(1) Prohibited noxious weed seeds are:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Limitation per pound</u>
annual bluegrass	<i>Poa annua</i>	prohibited 1/
balloonvine	<i>Cardiospermum halicacabum (L.)</i>	prohibited
field bindweed	<i>Convolvulus arvensis</i>	prohibited
hedge bindweed	<i>Calystegia sepium</i>	prohibited
cocklebur	<i>Xanthium spp.</i>	prohibited
itchgrass	<i>Rottboellia cochinchinensis</i>	prohibited
nutgrass	<i>Cyperus rotundus and cyperus esculentus</i>	prohibited
nutgrass tubers	<i>Cyperus spp.</i>	prohibited
serrated tussock	<i>Nassella trichotoma</i>	prohibited

(2) Restricted noxious weed seeds and limitations per pound are:

<u>Common Name</u>	<u>Scientific Name</u>	<u>Limitation per pound</u>
Bermudagrass	<i>Cynodon dactylon</i>	name and number
blessed milk thistle	<i>Silybum marianum (L.)</i>	20
blessed thistle	<i>Cnicus benedictus</i>	100
blueweed	<i>Helianthus ciliaris</i>	100
bracted plantain and buckhorn plantain	<i>Plantago aristata</i> <i>Plantago lanceolata</i>	300
Canada thistle	<i>Cirsium arvense</i>	100
castor	<i>Ricinus communis</i>	name and number
cheat or chess	<i>Bromus secalinus and</i> <i>Bromus commutatus</i>	300
common giant mustard.	<i>Rapistrum rugosum</i>	300
corncockle	<i>Agrostemma githago</i>	300
darnel and/or Persian ryegrass	<i>Lolium temulentum</i> <i>Lolium persicum</i>	300
dock and sorrel	<i>Rumex spp.</i>	300
dodder	<i>Cuscuta spp.</i>	100
giant foxtail	<i>Setaria faberi</i>	100
goatgrass	<i>Aegilops spp.</i>	20
horsenettle and purple nightshade	<i>Solanum carolinense</i> <i>Solanum elaeagnifolium</i>	300
Johnsongrass	<i>Sorghum halepense</i>	name and number
morningglory	<i>Ipomoea spp.</i>	name and number
puncturevine	<i>Tribulus terrestris</i>	300
quackgrass	<i>Elytrigia repens</i>	100
red rice	<i>Oryza sativa var</i>	1

Russian knapweed	<i>Centaurea repens</i>	100
wild carrot	<i>Daucus carota</i>	300
wild mustards and wild turnips	<i>Brassica and Sinapis sp.</i>	300
wild oat and/or feral oat	<i>Avena fatua (L.) Avena spp. (feral oat)</i>	300
wild onion and/or wild garlic	<i>Allium spp.</i>	100
wild radish	<i>Raphanus raphanistrum</i>	100

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

(5) If castor (*Ricinus communis*) occurs in excess of 5.0% of the whole by weight, its presence therein must be indicated as an agricultural seed on the label of such seed pursuant to the provisions of the Act, §61.004(a)(1)(3) (concerning labeling of agricultural seed).

(6) Restricted noxious weed seeds in any combination in excess of 500 per pound are prohibited from sale, provided, however, that the rate per pound of Bermudagrass, giant Bermudagrass, Johnsongrass, morningglory, and castor are exempt from the total count.

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200514 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: February 3, 1992

Proposal publication date: October 18, 1991

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

◆ ◆ ◆
• 4 TAC §19.4

The Texas Department of Agriculture adopts an amendment to §19.4, concerning service testing fees for agricultural seed vegetable seed, and flower seed, with changes to the proposed text as published in the October 18, 1991, issue of the *Texas Register* (16 TexReg 5758).

The amendment is adopted in order to make the section consistent with mandatory fee increases made by the 72nd Legislature, 1991, and to bring the amount of fees closer to the actual cost to the department for providing testing services. Subsection (a)(10) has been changed to clarify that a fee will only be charged for winter test readings of noncertified samples.

The amendment increases service testing fees for agricultural seed, vegetable seed, and flower seed, and adds new categories for flower and grasses and wildflower mixed seeds and for winter test readings of noncertified samples.

The Texas Seed Trade Association commented generally in favor of the amendment.

The amendment is adopted under the Texas Agriculture Code, §61.002 and §61.009 and General Appropriations Act, House Bill 1, 72nd Legislature 1991, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient enforcement of the Texas Agriculture Code, Chapter 61.

§19.4. Service Testing.

(a) The following schedule of tests and charges therefore shall be applicable to all service testing of agricultural seed, vegetable seed, and flower seed conducted by this department:

(1) standard germination test only and purity test only: \$7.50 each (except grasses: \$12.50 each; noxious weed examination only: \$4.00 each; and mixtures and seed containing high inert matter: \$9.50 each);

(2) complete test (purity and germination): \$15 each (except grasses: \$25 each; and mixtures and seed containing high inert matter: \$17 each);

(3) vigor test: \$9.50 each;

(4) tetrazolium or phenol test: \$11;

(5) examination of 10-pound rice seed sample for presence of red rice: \$11 each;

(6) moisture test: \$6.00 each;

(7) fescue Endophyte test: \$25 each;

(8) flower: \$25;

(9) grasses and wildflower mixed: \$50; and

(10) winter test readings (non-certified samples): \$25.

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

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200515 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: February 3, 1992

Proposal publication date: October 18, 1991

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

◆ ◆ ◆
• 4 TAC §19.11

The Texas Department of Agriculture (the department) adopts the repeal of §19.11, concerning the notification of cottonseed shipments into Texas, without changes to the proposed text as published in the October 18, 1991, issue of the *Texas Register* (16 TexReg 5759).

Section 19.11 is repealed because there is no longer a need for the department to monitor shipment of cottonseed into Texas.

The repeal of §19.11 eliminates the requirement for persons shipping, transporting, or delivering conditioned cottonseed for planting purposes or cottonseed to be conditioned for planting purposes to notify the department of certain identifying information not later than the date of shipment of such cottonseed.

The Texas Seed Trade Association commented generally in favor of the repeal. No other comments were received.

The repeal is adopted under the Texas Agriculture Code, §61.002, which provides the Texas Department of Agriculture with the authority to adopt rules necessary for the efficient enforcement of the Texas Seed Law, the Texas Agriculture Code, Chapter 61.

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200516 Dolores Alvarado Hibbs
Chief Administrative Law
Judge
Texas Department of
Agriculture

Effective date: February 3, 1992

Proposal publication date: October 18, 1991

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

TITLE 22. EXAMINING BOARDS

Part XXII. Texas State Board of Public Accountancy

Chapter 503. Definitions

• 22 TAC §503.1

The Texas State Board of Public Accountancy adopts the repeal of §503.1, concerning definitions, without changes to the proposed text as published in the September 13, 1991, issue of the *Texas Register* (16 TexReg 5053).

The rule is being repealed in order to ensure that the rules of the agency will be clearer and less redundant.

The section is being repealed to avoid duplications in the rules of the agency.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to definitions used in the rules of professional conduct.

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200483 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 3, 1992

Proposal publication date: September 13, 1991

For further information, please call: (512)
450-7066

Chapter 521. Fee Schedule

• 22 TAC §521.7

The Texas State Board of Public Accountancy adopts an amendment to §521.7, concerning fee for transfer of credits, without changes to the proposed text as published in the October 25, 1991, issue of the *Texas Register* (16 TexReg 6026).

The amendment is necessary in order to ensure a reduction in the burden on Texas taxpayers by requiring certified public accountants in other jurisdictions seeking Texas licensure to pay their own costs; and by requiring Texas certified public accountants seeking to obtain licensure in other states to pay their own costs.

The amendment will increase the fees for transfer of credits to and from jurisdictions outside of Texas.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 41a-1, §6(a), which provide the Texas State Board of Public Accountancy with the authority to promulgate rules relating to transfer of credits fee.

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

Issued in Austin, Texas, on January 10, 1992.

TRD-9200482 William Treacy
Executive Director
Texas State Board of
Public Accountancy

Effective date: February 3, 1992

Proposal publication date: October 25, 1991

For further information, please call: (512)
450-7066

TITLE 34. PUBLIC FI- NANCE

Part I. Comptroller of Public Accounts

Chapter 3. Tax Administration

Subchapter A. General Rules

• 34 TAC §3.8

The Comptroller of Public Accounts adopts an amendment to §3.8, concerning informant's recovery payment limitations, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7163).

These changes are necessitated by Senate Bill 1108, adopted by the 72nd Legislature, 1991. The legislation, effective September 1, 1991, allows the state to pay a maximum of 5.0% to an informant from the funds recovered under the contract by the state. The section is revised to eliminate the \$10,000 limitation and states that any contract to pay an informant must be executed in advance of any investigation or audit.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200601 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 13, 1991

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

Subchapter O. State Sales and Use Tax

• 34 TAC §3.300

The Comptroller of Public Accounts adopts an amendment to §3.300, concerning manufacturing; custom manufacturing; fabricating; processing, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7163).

The amendment reflects the changes to the Tax Code, Chapter 151, made by the 72nd Legislature, 1991, First Called Session. The phased-in exemption on manufacturing machinery and equipment was delayed.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200596 Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 13, 1991

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

Subchapter S. Interstate Motor Carrier Sales and Use Tax

• 34 TAC §3.443

The Comptroller of Public Accounts adopts an amendment to §3.443, concerning imposition of interstate motor carrier (IMC) tax, without changes to the proposed text as pub-

lished in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7081).

The change is a result of the amendment of the Tax Code, §157.001(7) by the 72nd Legislature, 1991. The amendment expanded the definition of "semitrailer" in subsection (a)(3) to include vans, flatbeds, tanks, dumpsters, dollies, jeeps, stingers, auxiliary axles, and converter gears. This equipment was previously taxed under limited sales, excise, and use tax.

To avoid confusion, the amendment to the section does not include "vans, flatbeds, tanks, and dumpsters," as they have already been taxed under IMC tax or motor vehicle sales and use tax.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200598
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 10, 1991

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

◆ ◆ ◆
• 34 TAC §3.444

The Comptroller of Public Accounts adopts an amendment to §3.444, concerning computation of the proportioned tax, without changes to the proposed text as published in the November 22, 1991, issue of the *Texas Register* (16 TexReg 6741).

The amendment reflects the changes to the Tax Code, Chapter 157, made by the 72nd Legislature, 1991, First Called Session. The tax rate used in the computation was increased.

No comments were received regarding adoption of the amendment.

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

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200597
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: November 22, 1991

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

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Subchapter Z. Coastal Protection Fee

• 34 TAC §3.692

The Comptroller of Public Accounts adopts new §3.692, concerning definitions, without changes to the proposed text as published in the December 10, 1991, issue of the *Texas Register* (16 TexReg 7082).

Senate Bill 14, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the coastal protection fee imposed on crude oil off-loaded from vessels or loaded onto vessels at marine terminals located in Texas. This new section provides for the definition of certain terms. The new section was adopted on an emergency basis on June 5, 1991, and published in the June 14, 1991, issue of the *Texas Register* (16 TexReg 3235). The definitions in this section will be applied retroactively to May 27, 1991, the effective date of the legislation.

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.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200600
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 10, 1992

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

◆ ◆ ◆
• 34 TAC §3.731

The Comptroller of Public Accounts adopts new §3.731, concerning the imposition and collection of the oil field cleanup regulatory fee on oil, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7165).

Senate Bill 1103, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the oil fee. This new section provides guidance to persons required to report or pay or collect the fee.

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.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200602
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 13, 1991

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

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Subchapter DD. Oil Field Cleanup Regulatory Fee

• 34 TAC §3.732

The Comptroller of Public Accounts adopts new §3.732, concerning the reporting requirements on the gas fee, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7166).

Senate Bill 1103, adopted in the 72nd Legislature, 1991, requires the comptroller to administer and enforce the collection of the oil field cleanup regulatory fee. This new section provides guidance to persons required to report or pay or collect the fee on gas.

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.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200603
Martin Cherry
Chief, General Law
Section
Comptroller of Public
Accounts

Effective date: February 5, 1992

Proposal publication date: December 13, 1991

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

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Subchapter EE. Boat and Motor Sales and Use Tax

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• 34 TAC §3.741

The Comptroller of Public Accounts adopts new §3.741, concerning the imposition of the boat and motor sales and use tax, without changes to the proposed text as published in the November 22, 1991, issue of the *Texas Register* (16 TexReg 5746).

The new section is necessary so that persons in the business of selling boats and boat motors will be aware of the new tax, the tax rate, and the manner in which the tax is collected effective October 1, 1991.

Chapter 160, Tax Code, was passed by the 72nd Legislature, 1991. The tax is assessed on certain boats and motors formerly taxed under the Tax Code, Chapter 151.

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.

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

Issued in Austin, Texas, on January 15, 1992.

TRD-9200599 Martin Cherry
 Chief, General Law
 Section
 Comptroller of Public
 Accounts

Effective date: February 5, 1992

Proposal publication date: November 22, 1991

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

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS

◆ ◆ ◆
Part I. Texas Department of Public Safety

Chapter 3. Traffic Law Enforcement

Traffic Supervision

◆ ◆ ◆
• 37 TAC §3.59

The Texas Department of Public Safety adopts an amendment to §3.59, concerning traffic supervision, without changes to the proposed text as published in the November

29, 1991, issue of the *Texas Register* (16 TexReg 6914).

The adoption of the amendment will provide uniformity and compliance with the federal hazardous material regulations which seek to increase the safety to the public and the environment from the accidental discharge of hazardous materials being transported on the public highways of this state.

The amendments in subsections (a) and (b) add 49 Code of Federal Regulations, Chapter 1, Part 180, which established minimum specifications for cargo tanks used in the transportation of hazardous materials in Texas.

One comment was received requesting clarification of paragraph (6), reference exemption of cargo tanks having a capacity of 3,000 gallons or less used to transport flammable liquids and manufactured prior to January 1, 1982. The comment specifically asks if adoption of Part 180 would alter the exemption for bobtail-truck cargo tanks with a capacity of 3,000 gallons or less and assembled prior to January 1, 1982. The adoption of this amendment does not affect the exemption in paragraph (6) regarding cargo tanks having a capacity of 3,000 gallons or less and manufactured prior to January 1, 1982, use to transport flammable liquids.

The name of a group or association making comments for the section is as follows: Texas Oil Marketers Association.

The amendment is adopted under Texas Civil Statutes, Article 6701d, §139, which provide the director of the Texas Department of Public Safety with the authority to adopt such regulations as may be deemed necessary for the safe transportation of hazardous materials.

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

Issued in Austin, Texas, on January 8, 1992.

TRD-9200478 James R. Wilson
 Director
 Texas Department of
 Public Safety

Effective date: February 3, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 465-2000

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TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

Chapter 4. Medicaid Programs—Children and Pregnant Women

Eligibility Requirements

◆ ◆ ◆
• 40 TAC §§4.1004, 4.1006, 4.1010

The Texas Department of Human Services (DHS) adopts amendments to §§4.1004, 4.1006, and 4.1010, concerning expansion of Medicaid eligibility for pregnant women and infants. The amendment to §4.1006 is adopted with a change to the proposed text as published in the November 26, 1991, issue of the *Texas Register* (16 TexReg 6847). The amendments to §4.1004 and §4.1010 are adopted without changes to the proposed text, and will not be republished.

The justification for the amendments is to increase the percentage of the federal poverty income limits (FPIIL) from 133% to 185% of FPIIL used to determine eligibility for Medicaid program coverage of pregnant women and children under age one. DHS is adopting the amendments to comply with the 72nd Texas Legislature's directive to increase the income eligibility limits for this program.

The amendments will function by enabling more needy pregnant women and infants to receive Medicaid program benefits.

No comments were received regarding adoption of the amendments; however, DHS is adopting §4.1006 with a minor editorial change in the first sentence of the rule. This change does not affect the intent of the rule.

The amendments are adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which provides the department with the authority to administer public and medical assistance programs.

§4.1006. Requirements for Application. To be eligible for the Medicaid Programs for Children and Pregnant Women (CPW) Program, clients must meet the following requirements.

(1) (No change.)

(2) Resources. Resource limits and types of countable and exempt resources for CPW are the same as those outlined in the AFDC rules, with the following exceptions.

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

(C) When determining eligibility for children described in §4.1004(1)-(3) of this title (relating to Eligible Groups),

the family's primary vehicle is exempt. All other vehicles are considered in accordance with food stamp resource requirements.

(D) (No change.)

(3)-(8) (No change.)

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

Issued in Austin, Texas, on January 14, 1992.

TRD-9200570

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: March 1, 1992

Proposal publication date: November 26, 1991

For further information, please call: (512) 450-3765

◆ ◆ ◆
**Chapter 15. Medicaid
Eligibility**

Subchapter D. Resources

• **40 TAC §15.435**

The Texas Department of Human Services adopts an amendment to §15.435, concerning liquid resources, in its Medicaid Eligibility chapter. The amendment is adopted without changes to the proposed text as published in the November 26, 1991, issue of the *Texas Register* (16 TexReg 6848).

The amendment is justified because every Medicaid eligibility policy is applied correctly and uniformly statewide.

The amendment will function by clarifying policy for separating funds that clients hold in joint bank accounts.

The department received no comments regarding adoption of the amendment.

The amendment is adopted under the Human Resources Code, Title 2, Chapter 22, which authorizes the department to administer public assistance programs, and Chapter 32, which authorizes the department to administer medical assistance programs.

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

Issued in Austin, Texas, on January 14, 1992.

TRD-9200571

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: February 15, 1992

Proposal publication date: November 26, 1991

For further information, please call: (512) 450-3765

◆ ◆ ◆
**Chapter 29. Purchased Health
Services**

Subchapter G. Hospital Services

• **40 TAC §29.606**

The Texas Department of Human Services (DHS) adopts an amendment to §29.606, concerning reimbursement methodology for inpatient hospital services, in its Purchased Health Services Chapter, without changes to the proposed text as published in the November 26, 1991, issue of the *Texas Register* (16 TexReg 6849).

The amendment is justified to comply with a rider in the department's current appropriations bill.

The amendment will function by revising the reimbursement of services to hospitals with 100 or fewer licensed beds. Hospitals with 100 or fewer licensed beds are currently reimbursed the greater of the amount the hospital received under the prospective payment system or the amount the hospital would have received under the Tax Equity and Fiscal Responsibility Act (TEFRA) principles of reimbursement. This determination is made at final cost settlement of the hospital's fiscal year. A rider in the department's current appropriations bill requires that the determination be made at initial or tentative settlement. Section 29.606 is amended to specify that the determination will be made at tentative settlement with subsequent adjustment, if applicable, at final settlement.

Although no comments were received regarding adoption of this amendment, implementation of this amendment is contingent upon approval of the Title XIX State Plan amendment by the Health Care Financing Administration.

The amendment is adopted under the Human Resources Code, Title 2, Chapters 22 and 32, which authorizes the department to administer public and medical assistance programs.

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

Issued in Austin, Texas, on January 14, 1992.

TRD-9200572

Nancy Murphy
Agency liaison, Policy and
Document Support
Texas Department of
Human Services

Effective date: March 1, 1992

Proposal publication date: November 26, 1991

For further information, please call: (512) 450-3765

Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours prior to a scheduled meeting time. Some notices may be received too late to be published before the meeting is held, but all notices are published in the *Texas Register*.

Emergency meetings and agendas. Any of the governmental entities named above must have notice of an emergency meeting, an emergency revision to an agenda, and the reason for such emergency posted for at least two hours before the meeting is convened. Emergency meeting notices filed by all governmental agencies will be published.

Posting of open meeting notices. All notices are posted on the bulletin board outside the Office of the Secretary of State on the first floor of the East Wing in the State Capitol, Austin. These notices may contain more detailed agenda than what is published in the *Texas Register*.

Texas State Board of Public Accountancy

Thursday, January 16, 1992, 9 a.m. The Texas State Board of Public Accountancy met at 1033 La Posada, Suite 340, Austin. According to the emergency revised agenda summary, the board considered amending Rule 505.10 (board-committees) and Rule 513.28 (registered limited liability partnership). The emergency status was necessary due to change in committee structure as a result of recent legislation.

Contact: William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892, (512) 451-0241.

Filed: January 15, 1992, 12:58 p.m.

TRD-9200621

Texas Board of Architectural Examiners

Friday-Saturday, January 24-25, 1992, 9 a.m. The Texas Board of Architectural Examiners will meet at 8213 Shoal Creek Boulevard, Suite 107, Austin. According to the agenda summary, the board will call the meeting to order; recognize guests; take roll call; hear chairman's opening remarks; consider and act on the following categories: setting board goals and priorities; discuss approval of minutes; consent on director's report; committee matters; election of officers for 1992; hold hearings; disciplinary matters; legislative matters; adoption of proposed rules and regulations; approval of University of Texas at Arlington landscape architecture degree programs; personal appearances; and reciprocity.

Contact: Robert H. Norris, 8213 Shoal Creek Boulevard, #107, Austin, Texas 78758, (512) 458-1363.

Filed: January 15, 1992, 2:47 p.m.

TRD-9200631

Texas Commission on the Arts

Wednesday, January 29, 1992, 10:30 a.m. The Education Committee of the Texas Commission on the Arts will meet at the E. O. Thompson Building, 920 Colorado Street, Suite 501, Austin. According to the agenda summary, the committee will call the meeting to order; introduce guests; hold a public hearing; discuss approval of the minutes of June 3, 1991 Education Committee meeting; Arts Education Task Force; building resources in developing general Education (BRIDGE); discuss other business; and adjourn.

Contact: Connie Green, P.O. Box 13406, Austin, Texas 78711, (512) 463-5535.

Filed: January 15, 1992, 10:36 a.m.

TRD-9200616

State Board of Barber Examiners

Tuesday, February 4, 1992, 8:30 a.m. The State Board of Barber Examiners will meet at 9101 Burnet Road, Suite 103, Austin. According to the complete agenda, the board will discuss approval of the minutes of previous meeting; sign teacher and school certificates; hear reports by the executive director; read letters to the board; adopt proposed rules; discuss budget; meet in executive session; and adjourn.

Contact: Jo King McCrorey, 9101 Burnet Road, Suite 103, Austin, Texas 78758, (512) 835-2040.

Filed: January 16, 1992, 9:32 a.m.

TRD-9200670

Texas Bond Review Board

Thursday, January 23, 1992, 10 a.m. The Texas Bond Review Board will meet at the Reagan Building, 105 West 15th Street,

Room 101, Austin. According to the agenda summary, the board will call the meeting to order; discuss approval of minutes; consider proposed issues; discuss other business; and adjourn.

Contact: Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

Filed: January 15, 1992, 4:57 p.m.

TRD-9200648

Texas Board of Chiropractic Examiners

Thursday, January 23, 1992, 10 a.m. The Texas Board of Chiropractic Examiners will meet at the Hyatt Regency DFW, inside the Airport, DFW Airport. According to the revised agenda summary, the board will meet in executive session pursuant to §2(e), Article 6252-17, Vernon's Texas Civil Statutes, discuss with counsel the Federal Trade Commission complaint and order. In addition, the board will discuss and act on executive session item as required in open session; Dr. Anthony Kunce will address the board concerning the re-instatement of his license; board will discuss and act on Dr. Kunce's license; discuss and act on a proposed new chapter and section, 81, concerning chiropractic facilities; and rule concerning illegal remuneration.

Contact: Jennie Smetana, 8716 Mopac Expressway North, Suite 301, Austin, Texas 78759, (512) 343-1895.

Filed: January 15, 1992, 3:58 p.m.

TRD-9200640

Credit Union Department

Friday, January 17, 1992, 10 a.m. The Credit Union Commission of the Credit Union Department met at the Credit Union Department Building, 914 East Anderson Lane, Austin. According to the complete

emergency revised agenda, the commission recognized new commission appointees; considered resolutions (recognition of service by newly replaced commission members) and proposed amendments to rules 91.211 (Foreign State Credit Union Branch Offices) and 95.3 (Share Deposit Guaranty requirements). The emergency status was necessary due to the new appointments on January 14, 1992 by the Governor to the Credit Union Commission and enactment of federal legislation on December 19, 1991 relative to mandatory disclosures for deposit insurance.

Contact: Harry L. Elliott, 914 East Anderson Lane, Austin, Texas 78752-1699, (512) 837-9236.

Filed: January 15, 1992, 9:11 a.m.

TRD-9200592

Texas Board of Criminal Justice

Thursday, January 23, 1992, 9 a.m. The Subcommittee on Substance Abuse of the Texas Board of Criminal Justice will meet at the Texas Board of Criminal Justice, Administration Headquarters, Room 141, Spur 59 off U.S. Highway 75 North, Huntsville. According to the agenda summary, the subcommittee will call the meeting to order; discuss approval of minutes; update on in-prison therapeutic community request for proposal; education provider for therapeutic communities; substance abuse felony punishment facility needs; employment of ex-offenders in in-prison therapeutic communities; substance abuse treatment program orientation training for correctional officers; outpatient audit; discuss prior pending business; and discuss new business.

Contact: Andrea Scott, P.O. Box 99, Huntsville, Texas 77342, (409) 294-2931.

Filed: January 15, 1992, 3:03 p.m.

TRD-9200636

Texas State Board of Dental Examiners

Friday-Saturday, January 17-18, 1992, 8 a.m. The Texas State Board of Dental Examiners met at Loews Anatole Hotel, 2201 Stemmons Freeway, Dallas. According to the complete emergency revised agenda, the board reviewed and discussed adoption of proposed rules 101.1, 103.1, 103.11, 103.12, 103.13, 103.14, 109.144, 109.153, 109.174, 109.175, 109.181, 109.220, 109.221, 109.222, 109.223, 109.224, 113.2, 113.5, 114.1, 115.2, 115.3, and 115.10; and consider proposed and adoption of emergency rule 109.222(h); and met in executive session to hear reports and discussion con-

cerning pending litigation Cryan versus TSBDE, Hartsfield versus TSBDE, Hernandez versus TSBDE, Lee versus TSBDE, MacTavish versus TSBDE, Roland versus TSBDE, Tuffiash versus TSBDE, and Yeary versus TSBDE. The emergency status was necessary as the legislature had recently empowered the TSBDE to adopt infection control rules. The threat of Hepatitis B is an imminent peril to the public health and safety, and the threat and danger of Hepatitis B to the public health and safety is increasing over time.

Contact: C. Thomas Camp, 327 Congress Avenue, Suite 500, Austin, Texas 78701, (512) 477-2985.

Filed: January 16, 1992, 7:56 a.m.

TRD-9200649

Texas Education Agency (TEA)

Friday-Saturday, January 24-25, 1992, 8 a.m. The Advisory Committee for Technology Standards (ACTS) of the Texas Education Agency will meet at the Department of Information Resources, Capitol One Plaza Building, 15th and Lavaca Streets, Austin. According to the complete agenda, on Friday, the committee will have a materials review period; hear report on status of related state initiatives; review and refine committee charge; status reports and discussions of draft standards, i.e., planning and evaluation, hardware and equipment, telecommunications, staff development, and software and courseware; standards writing, i.e., hardware and staff development; wrap-up; and adjourn. On Saturday, the committee will have a materials review period; review progress and confirm agenda; subcommittee writing tasks; continue standards effort; and adjourn.

Contact: Lane Scott, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9401.

Filed: January 16, 1992, 9:39 a.m.

TRD-9200671

Tuesday-Wednesday, January 28-29, 1992, 1 p.m. and 8 a.m. respectively. The Texas Successful Schools Award System Advisory Committee of the Texas Education Agency will meet at the Stephen F. Austin Building, Room 11-49B (January 28) and Room 512 (January 29), 1700 North Congress Avenue, Austin. According to the complete agenda, the committee will discuss approval of minutes; present results of data run; present information on teacher data; discuss awards ceremony; award amount; application process; notification process of criteria; notification process of eligibility; timeline for award process; and set date for next meeting.

Contact: Leigh Sharpe, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9524.

Filed: January 16, 1992, 9:40 a.m.

TRD-9200672

Texas Ethics Commission

Saturday, January 25, 1992, 9:30 a.m. The Texas Ethics Commission will meet at 1101 Camino La Costa, Room 235, Austin. According to the agenda summary, the commission will consider and possibly act on: board meeting rules; Article 6252-9b rules on meals, lodging and transportation; confidentiality rules; enforcement rules; briefing on speaker's race; briefing on request for Attorney General's opinion on per diem; and discussion of executive director and additional staff.

Contact: Carl S. Richie, 1101 Camino La Costa, Austin, Texas 78752, (512) 406-0100.

Filed: January 15, 1992, 1:52 p.m.

TRD-9200623

Texas High-Speed Rail Authority

Wednesday, January 22, 1992, 10 a.m. The Board of Directors of the Texas High-Speed Rail Authority will meet at the John H. Reagan Building, 15th Street and Congress Avenue, Room 105, Austin. According to the agenda summary, the board will discuss approval of the minutes; meet in executive session; transfer of franchise; franchise agreement; disadvantaged business program proposed rules; consultant selection for third party environmental impact statement; authority expenditure oversight; board committees; hear executive director's report; and citizen communication.

Contact: Allan Rutter, 823 Congress Avenue, Suite 1502, Austin, Texas 78701, (512) 478-5484.

Filed: January 14, 1992, 2:30 p.m.

TRD-9200569

Texas Department of Human Services

Thursday, January 23, 1992, 10 a.m. The Sanctions and Penalties Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, Second Floor, West Tower, Classroom 2, Austin. According to the complete agenda, the committee will make opening comments; deputy commissioner's comments;

discuss approval of minutes; advisory committee rules and procedures; review of proposed sanctions and penalties rules; open discussion; plan next meeting; and adjourn.

Contact: Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3053.

Filed: January 15, 1992, 10:08 a.m.

TRD-9200615

Texas Department of Insurance

Wednesday, January 22, 1992, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will review and discuss pending board orders on personnel; litigation; solvency; planning calendar; consider request on behalf of State Farm Insurance Company to incorporate a provision for older driver and low mileage discounts into the rating manual to be promulgated by the board, or to provide otherwise for the continuation of such discounts; consider appointment of the following: three members to the Surplus Lines Stamping Office of Texas Board of Directors; two recording agents to the Texas Catastrophe Property Insurance Association Board of Directors; and one member to the Governing Committee of the Texas Workers' Compensation Insurance Facility.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 14, 1992, 3:53 p.m.

TRD-9200585

Thursday, January 23, 1992, 8:30 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the agenda summary, the board will consider adoption of the following rules: 28 TAC §7.76, concerning annual and quarterly statement diskette filing requirements; 28 TAC §7.61 concerning annual and quarterly statement blanks; 28 TAC §5.4001 concerning the plan of operation of the Texas Catastrophe Property Insurance Association; 28 TAC §5.4101 concerning Texas Catastrophe Property Insurance Policy for windstorm and hail; and 28 TAC §5.4401 concerning the Texas Special Mobile Home Windstorm and Hail policy; and discuss litigation and personnel.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 15, 1992, 1:02 p.m.

TRD-9200622

Friday, January 24, 1992, 9 a.m. The State Board of Insurance of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Room 100, Austin. According to the complete agenda, the board will hold a public hearing to consider the appeal from Paul K. Gabriel from action, of the Commissioner of Insurance issuing Subpoena Duces Tecum.

Contact: Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

Filed: January 15 1992, 10:08 a.m.

TRD-9200614

Texas Board of Professional Land Surveying

Friday-Saturday, January 24-25, 1992, 9 a.m. respectively. The Texas Board of Professional Land Surveying will meet at 7701 North Lamar Boulevard, Suite 400, Austin. According to the complete agenda, the board will discuss approval of the minutes of the previous meeting; discuss correspondence; hear committee reports; discuss standards; review new applications; reconsider old applications; consider complaint 91-6; discuss approval of the April, 1992 exam; and consider new business.

Contact: Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

Filed: January 14, 1992, 11:05 a.m.

TRD-9200545

Texas State Board of Medical Examiners

Friday, January 24, 1992, 8:30 a.m. The Disciplinary Process Review Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the committee will discuss approval of minutes from December 1991 meeting; enforcement report; and meet in executive session to review files. Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 15, 1992, 4:28 p.m.

TRD-9200645

Friday, January 24, 1992, 8:30 a.m. The Reciprocity Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300,

Austin. According to the agenda summary, the committee will review recommendations of ineligibility; and review of reciprocal endorsement applicants. The committee will meet in Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 15, 1992, 4:29 p.m.

TRD-9200646

Friday, January 24, 1992, 9:30 a.m. The Examination Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the committee will have orientation for new examination committee members; and review of examination applicants. The committee will meet in Executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 15, 1992, 4:30 p.m.

TRD-9200647

Friday, January 24, 1992, 11:30 a.m. The Finance Committee of the Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the committee will review and discuss financial statements and budget. The committee will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 15, 1992, 4:27 p.m.

TRD-9200644

Friday-Saturday, January 24-25, 1992, 1 p.m. and 8 a.m. respectively. The Texas State Board of Medical Examiners will meet at 1812 Centre Creek Drive, Suite 300, Austin. According to the agenda summary, the board will hold licensure hearings; review and discuss a proposal for decision; proposed rule changes; public hearings on rule changes; requests for modification of probation and termination of probation; probationary appearances; resolutions; discuss approval of minutes; agreed board orders; board committees; hear executive director's report to include discussion of enforcement, budget, computers, licensure, AIMS meeting, and federation meet-

ing. The board will meet in executive session under authority of Article 6252-17, as related to Article 4495b, 2.07, 3.05(d), 4.05(d), 5.06(s)(1) and Opinion of Attorney General 1974, Number H-484.

Contact: Pat Wood, P.O. Box 149134, Austin, Texas 78714-9134, (512) 834-7728.

Filed: January 15, 1992, 4:26 p.m.

TRD-9200643

Texas Motor Vehicle Commission

Wednesday, January 22, 1992, 9 a.m. The Texas Motor Vehicle Commission will meet at 815 Brazos Street, Suite 302, Brazos Building, Austin. According to the agenda summary, the commission will call the meeting to order; take roll call; discuss approval of minutes of commission meeting of December 11, 1991; argument on motion for rehearing and motion for entry of order; review of advertising program; agreed orders; orders of dismissal-licensing and enforcement; review and discuss various commission reporting requirements and implementation of Sunset legislation requirements; consider proposed policy to provide public with reasonable opportunity to appear before commission and speak on any issue under jurisdiction of commission; consider proposed plan describing how a person who does not speak English or who has a physical, mental or developmental disability can be provided access to commission's programs; review of proposed policies defining respective responsibilities of commission and its staff; review of agency budget and appropriations for FY 1992-1993; review of consumer complaint recap report and report of decisions made by executive director; discussion of procedure to be utilized by commission members in voting on motions for rehearing in lemon law cases; and adjourn.

Contact: Russell Harding, 815 Brazos Street, Suite 300, Austin, Texas 78701, (512) 476-3587.

Filed: January 14, 1992, 12:08 p.m.

TRD-9200547

Texas Board of Licensure for Nursing Home Administrators

Friday, January 17, 1992, 9 a.m. The Texas Board of Licensure for Nursing Home Administrators met at 4800 North Lamar Boulevard, Suite 310, Austin. According to the complete agenda, the board called the emergency meeting to order; took roll call; discussed agenda approval; may

have approved the October 18 and December 6-7, 1991 minutes; heard public comment; ex-officio reports; education committee report: issues and waivers, personal appearances, examinations; emergency rules on disciplinary procedures; proposed rules on application procedures; executive director's report: fiscal report, quarterly performance report, timeline for strategic plan; election of board officers; and adjourned. Retreat followed regular board meeting. The emergency status was necessary as additional items resulted from discussions with the Attorney General's office.

Contact: K.Foutz, 4800 North Lamar Boulevard, Suite 310, Austin, Texas 78756, (512) 458-1955.

Filed: January 15, 1992, 12:15 p.m.

TRD-9200620

Texas Parks and Wildlife Department

Wednesday, January 22, 1992, 6 p.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at Ruth's Chris Steakhouse, 3010 Guadalupe Street, Austin. According to the agenda summary, the members of the commission plan to have dinner at 6 p.m., January 22, 1992. Although this function is primarily a social event and no formal action is planned, the commission may discuss items on the Public Hearing agenda scheduled for 9 a.m., January 23, 1992.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:17 p.m.

TRD-9200555

Wednesday, January 22, 1992, 10 a.m. The Regulations Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of the committee minutes from November 6, 1991 meeting; briefing on Mountain Lion regulations in Texas; briefing on proposed 1992-1993 hunting and fishing regulations; briefing on stocking policy by private individuals; alligator regulations; Depredating Animals Control and Wildlife Management from aircraft; broodfish collection rules; permits to rehabilitate injured wildlife; harmful or potentially harmful fish, shellfish, and aquatic plants rules; repeal of rules pertaining to permitting of rough fish removal, shellfish sourcing, and exotic shellfish culture; proposed Texas Blue Crab Fisheries Management Plan; special game warden program;

briefing on proposed 1992-1993 early season migratory game bird proclamation; oyster lease program review; and freshwater mussels and mussel harvesting.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:18 p.m.

TRD-9200556

Wednesday, January 22, 1992, 1 p.m. The Litigation Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will review and discuss proposed nonprofit organization regulations.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:18 p.m.

TRD-9200557

Wednesday, January 22, 1992, 2 p.m. The Land Acquisition and Development Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will read and approve minutes from November 6, 1991 meeting; discuss Capital Development and Repair Program; grants process and local parks advisory board proposal; Washington-on-the-Brazos briefing; South Texas briefing; and meet in executive session.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:18 p.m.

TRD-9200558

Wednesday, January 22, 1992, 2 p.m. The Land Acquisition and Development Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will meet in executive session; discuss land acquisition in Lubbock County and Hidalgo County; and review strategic land acquisition plan.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:19 p.m.

TRD-9200559

Wednesday, January 22, 1992, 4 p.m. The

Strategic Planning Committee of the Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the committee will discuss approval of minutes; proposed mitigation policy; and review department strategic plan.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:19 p.m.

TRD-9200560

Thursday, January 23, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will discuss approval of minutes; presentation of retirement certificates and services awards; presentation of Shikar Safari Award; discuss local park funding; Depredating Animal Control and Wildlife Management from Aircraft Proclamation; broodfish collection rules; permits to rehabilitate injured wildlife; harmful or potentially harmful exotic fish, shellfish, and aquatic plants rules; repeal of rules pertaining to permitting of rough fish removal, shellfish sourcing and exotic shellfish culture; proposed Texas Blue Crab Fishery Management Plan; special game warden program; capital budget; facilities development funding-San Marcos Fish Hatchery; proposed nonprofit organization regulations; nomination for oil and gas lease-Resaca De La Palma SP-Cameron County; nomination for oil and gas lease-Sheldon WMA-Harris County; land acquisition-Hidalgo County; land acquisition-Lubbock County; briefing on proposed 1992-1993 early season migratory game bird proclamation; and briefing on proposed 1992-1993 hunting and fishing regulations.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:17 p.m.

TRD-9200553

Thursday, January 23, 1992, 9 a.m. The Texas Parks and Wildlife Commission of the Texas Parks and Wildlife Department will meet at the Parks and Wildlife Headquarters, Complex Building B, 4200 Smith School Road, Austin. According to the agenda summary, the commission will meet in executive session; discuss approval of minutes; land acquisition in Hidalgo County and Lubbock County.

Contact: Andrew Sansom, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4802.

Filed: January 14, 1992, 2:17 p.m.

TRD-9200554

Polygraph Examiners Board

Friday, January 24, 1992, 9 a.m. The Polygraph Examiners Board will meet at the Holiday Inn, 6911 North IH-35, Austin. According to the complete agenda, the board will elect officers for 1992; consider applications for licensure; closed meeting for administration of licensing exam; discuss approval of October 1991 meeting minutes; hear report from Ad Hoc Committee regarding certain board rules; consideration of proposed rule 395.17; discuss computer polygraph instruments and their suitability in accordance with Article 4413(29cc) Vernon's Texas Civil Statutes, Section 4; discuss the Americans with Disabilities Act, Public Law Number 101-336; appearance of Frank Robinson, President of T.A.P.E.; give agency update; and adjourn.

Contact: Bryan M. Perot, P.O. Box 4087, Austin, Texas 78773, (512) 465-2058.

Filed: January 14, 1992, 10:53 a.m.

TRD-9200540

Public Utility Commission of Texas

Wednesday, January 22, 1992, 9 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the agenda summary, the commission will consider the following dockets: 10575, 10713, 10169, 10484/10422, 10375, 10473, 10400, 9852, P10796, 10142, P10634, P10780, P10843; and administrative matters: to consider and approve comments to the Environmental Protection Agency on proposed rules to implement the Acid Rain provisions (Title IV) of the Clean Air Act; and P10756 and P10842.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 14, 1992, 3:11 p.m.

TRD-9200576

Tuesday, February 4, 1992, 1:30 p.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10673-application of Brownsville Public Utilities Board to amend

certificate of convenience and necessity within Cameron County.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 14, 1992, 3:11 p.m.

TRD-9200577

Tuesday, March 10, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a hearing on the merits in Docket Number 10798-application of West Texas Utilities Company to revise tariff for experimental rider for interruptible service, experimental rider for curtailable service, and experimental economic development rider.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 15, 1992, 2:54 p.m.

TRD-9200634

Monday, March 16, 1992, 10 a.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a hearing on the merits in Docket Number 10503-complaint of Metromedia Communications Corporation against GTE Southwest, Inc.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 14, 1992, 3:11 p.m.

TRD-9200578

Tuesday, March 24, 1992, 1:30 p.m. The Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the commission will hold a prehearing conference in Docket Number 10758-application of Southwestern Bell Telephone Company to revise its intrastate access service tariff.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 15, 1992, 2:54 p.m.

TRD-9200635

Monday, July 13, 1992, 10 a.m. The Hearings Division of the Public Utility Commission of Texas will meet at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a hearing on the merits in Docket Number 9655-petition of Southwestern Electric Power Company for a Declaratory Order and for revision of avoided cost rates.

Contact: Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

Filed: January 15, 1992, 2:51 p.m.

TRD-9200633

Board for Lease of State-owned Lands

Thursday, January 23, 1992, 2:30 p.m. The Board for Lease of Texas Parks and Wildlife Department of the Board for Lease of State-owned Lands will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 833, Austin. According to the agenda summary, the board will discuss approval of the minutes of the previous board meeting; consider nominations, terms, conditions and procedures for the April 7, 1992, oil, gas and other minerals lease sale.

Contact: Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

Filed: January 14, 1992, 3:55 p.m.

TRD-9200586

Texas Guaranteed Student Loan Corporation

Wednesday, January 22, 1992, 2 p.m. The Finance Committee of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the committee will discuss approval of the minutes of December 13, 1991; review of minority vendor policy; report of FY 1991 financial statement; report of FY 1992 financial statement, first quarter; meet in executive session to discuss legal matters; consultation between Finance Committee and general counsel concerning collections; and personnel matters: evaluation of the management of loan servicing and related issues.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

Filed: January 14, 1992, 4:37 p.m.

TRD-9200588

Thursday, January 23, 1992, 9 a.m. The Board of Directors of the Texas Guaranteed Student Loan Corporation will meet at 12015 Park 35 Circle, Colonnade Building, Suite 300, Austin. According to the complete agenda, the board will discuss approval of the minutes of September 26, 1991; hear corporate status report-first quarter; financial report: Cooper's audit, first quarter finance; review legislation: reauthorization and legislative affairs-a rec-

ommendation; discuss new business: lender advisory committee report; school advisory committee report; nominations to lender and school advisory committee; discuss old business: future meeting dates; report from policy and finance committee; meet in executive session to discuss legal matters: consultation between finance committee and general counsel concerning collections; discuss personnel matters: evaluation of the management of loan servicing and related issues; evaluation and action related to executive management; and adjourn.

Contact: Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

Filed: January 15, 1992, 4:10 p.m.

TRD-9200641

Texas Tech University

Thursday, January 23, 1992, 10:30 a.m. The Academic, Student and Administrative Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider granting of academic tenure with appointment; degree program leading to a bachelor of science with a major in Agricultural Communications; ratify change name of Department of Agricultural Education and Mechanization to Department of Agricultural Education, Communications, and Systems Management; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:07 a.m.

TRD-9110655

Thursday, January 23, 1992, 10:30 a.m. The Finance Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider: budget adjustments for November, 1991; ratify and approve grazing lease extension on Proctor Estate Ranch lands located in Oldham and Hartley Counties; ratify agreement with Texas Tech University Health Sciences Center; approve purchase/resale agreement with Apple Computer, Inc.; ratify: specification of officers and/or employees to authorize wire transfers and to approve and sign documents for the purchase, sale and transfer of securities owned or controlled by the University; award of contract for com-

puter software to Software AG of North America, Inc.; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:07 a.m.

TRD-9200656

Thursday, January 23, 1992, 10:30 a.m. The Campus and Building Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider: approval of 1992-1993 traffic and parking regulations; authorize president to award construction contract and to reauthorize funding sources for installation of back pressure cogeneration turbine at Central Heating and Cooling Plant I; approve schematic design and authorize president to proceed with receipt of bids for library addition to law school; approve schematic design, reestablish project budget, and authorize president to proceed with receipt of bids for addition to grandstand facilities at Dan Law Field; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:08 a.m.

TRD-9200657

Thursday, January 23, 1992, 10:30 a.m. The Committee of the Whole of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will meet in executive session, Vernon's Annotated Civil Statutes, Article 6252-17 (e) to consult with president and general counsel regarding pending and contemplated litigation, settlement orders, settlement negotiations and matters confidential pursuant to Code of Professional Responsibility of State Bar of Texas; discuss prospective gifts to the University and Health Sciences Center and contractual negotiations contemplated and those in progress; discussion concerning evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:08 a.m.

TRD-9200659

Thursday, January 23, 1992, 10:30 a.m.
The Development and Public Relations Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider acceptance of gifts-in-kind with value in excess of \$25,000; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:08 a.m.

TRD-9200658

Thursday, January 23, 1992, 10:30 a.m.
The Governmental Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the October 3, 1991 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:09 a.m.

TRD-9200661

Thursday, January 23, 1992, 10:30 a.m.
The Research Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:08 a.m.

TRD-9200660

Thursday, January 23, 1992, 10:30 a.m.
The Academic, Student, Clinical and Administrative Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider revision of the Board of Regents Policy 06.04, establishing rank and awarding tenure; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:09 a.m.

TRD-9200663

Thursday, January 23, 1992, 10:30 a.m.
The Finance Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider budget adjustments for November, 1991; approve Quasi Endowment for study of reproduction in Department of Cell Biology and Anatomy; ratify agreement with Texas Tech University; ratify specification of officers and/or employees to authorize wire transfers and approve and sign documents for the purchase, sale and transfer of securities owned or controlled by Health Sciences Center; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:09 a.m.

TRD-9200664

Thursday, January 23, 1992, 10:30 a.m.
The Campus and Building Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; consider approval of 1992-1993 traffic and parking regulations; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:10 a.m.

TRD-9200665

Thursday, January 23, 1992, 10:30 a.m.
The Development and Public Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:10 a.m.

TRD-9200666

Thursday, January 23, 1992, 10:30 a.m.
The Committee of the Whole of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center,

4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will meet in executive session, Vernon's Annotated Civil Statutes, Article 6252-17 in consultation with the president and general counsel regarding pending and contemplated litigation, settlement offers, settlement negotiations and matters confidential pursuant to Code of Professional Responsibility of the State Bar of Texas; discussion of prospective gifts to the University and Health Sciences Center and contractual negotiations contemplated and those in progress; discussion concerning evaluation and duties of Texas Tech University and Texas Tech University Health Sciences Center officers and employees; and conference with various employees for the purpose of receiving information and asking questions of employees.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:10 a.m.

TRD-9200667

Thursday, January 23, 1992, 10:30 a.m.
The Research Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the December 5, 1991 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:10 a.m.

TRD-9200668

Thursday, January 23, 1992, 10:30 a.m.
The Governmental Affairs Committee of the Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the complete agenda, the committee will discuss approval of the October 3, 1991 committee meeting minutes; and hear reports.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:10 a.m.

TRD-9200669

Friday, January 24, 1992, 9:15 a.m.
The Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the agenda summary, the board will hear reports and act on: discuss approval of the minutes; hear president's re-

port; discuss academic, student, and administrative affairs; finance; campus and building; development and public relations; and Committee of the Whole.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:07 a.m.

TRD-9200654

Friday, January 24, 1992, 9:15 a.m. The Board of Regents of Texas Tech University will meet at the Faculty Senate Room, Texas Tech Regional Academic Health Center, 4800 Alberta Avenue, El Paso. According to the agenda summary, the board will hear reports and act on: discuss approval of the minutes; discuss academic, student, clinical and administrative affairs; finance; campus and building; development and public affairs; and Committee of the Whole.

Contact: Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

Filed: January 16, 1992, 9:09 a.m.

TRD-9200662

University of Houston

Tuesday, January 21, 1992, 2 p.m. The Animal Care Committee of the University of Houston will meet at the University of Houston, 4800 Calhoun Boulevard, S&R II, Room 201, Houston. According to the agenda summary, the committee will discuss and/or act on the following: approval of the December minutes; renewal protocols; OHP; faculty training course; update on security system; and AAALAC update.

Contact: Julie T. Norris, 4800 Calhoun Boulevard, Houston, Texas 77204, (713) 749-3412.

Filed: January 14, 1992, 10:52 a.m.

TRD-9200539

Texas Water Commission

Monday, January 27, 1992, 9:30 a.m. The Task Force 21: Waste Management Policy for the Future of the Texas Water Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 102, Austin. According to the complete agenda, the task force will make introductions; discuss key issues: permit process study; draft source reduction rules; discuss other issues/new initiatives; and adjourn.

Contact: Minor Hibbs, 1700 North Congress Avenue, Austin, Texas 78734, (512) 463-7760.

Filed: January 15, 1992, 9:45 a.m.

TRD-9200604

Tuesday, February 4, 1992, 9 a.m. The Office of Hearings Examiner of the Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 512, Austin. According to the agenda summary, the executive director has requested a public hearing to consider potential violations by the City of Cedar Park of a buffer zone agreement between the City of Cedar Park and the Hidden Valley Estates Homeowners Association and its residents and members.

Contact: Carl X. Forrester, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 14, 1992, 2:13 p.m.

TRD-9200550

Tuesday, February 11, 1992, 1 p.m. The Office of Hearings Examiners of the Texas Water Commission will meet at the Henry B. Gonzales Convention Center, 200 East Market Street, River Level VIP Room, San Antonio. According to the agenda summary, the office will consider the application of USPCI, 4303 Profit Drive, San Antonio, for a permit (Proposed Permit Number HW50294) to authorize the operation of a Class I hazardous and non-hazardous industrial solid waste storage and processing facility.

Contact: Cynthia Hayes, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

Filed: January 14, 1991, 2:50 p.m.

TRD-9200549

Texas Workers' Compensation Insurance Fund

Wednesday, January 22, 1992, 8:30 a.m. The Board of Directors of the Texas Workers' Compensation Insurance Fund will meet at the Crest Hotel, San Antonio Room, 111 East First Street, Austin. According to the agenda summary, the board will call the meeting to order; take roll call; discuss approval of the December 18, 1991 minutes; oath of office; meet in executive session to discuss staffing telephone system, personnel policies, procedures and pay plan, marketing and underwriting report, service operations report, financial report, administrative operations; service agreements report; financial report, including expenses, bonds, tax status, selection process for auditor and financial advisor; report on office space; board member training; authority to negotiate affirmative action consultant contract; and adjourn.

Contact: Alana Foster, 100 Congress Avenue, Suite 300, Austin, Texas 78701, (512) 322-3800.

Filed: January 14, 1992, 4:14 p.m.

TRD-9200587

Regional Meetings

Meetings Filed January 14, 1992

The County Education District Number 14 met at the Pampa Middle School Library, 2401 Charles Street, Pampa, January 20, 1992 at 7 p.m. Information may be obtained from Dawson Orr, 321 West Albert, Pampa, Texas 79065, (806) 669-4700. TRD-9200584.

The Dewitt County Appraisal District Board of Directors will meet at the Dewitt County Appraisal Office, 103 East Bailey Street, Cuero, January 21, 1992, at 7:30 p.m. Information may be obtained from John Haliburton, P.O. Box 4, Cuero, Texas 77954, (512) 275-5753. TRD-9200552.

The Henderson County Appraisal District Board of Directors met at 1751 Enterprise Street, Athens, January 20, 1992, at 7:30 p.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9200580.

The Henderson County Appraisal District Appraisal Review Board will meet at 1751 Enterprise Street, Athens, January 23, 1992, at 9 a.m. Information may be obtained from Helen Marchbanks, 1751 Enterprise Street, Athens, Texas 75751, (903) 675-9296. TRD-9200581.

The High Plains Underground Water Conservation District Number One Board of Directors' will meet at 2930 Avenue Q, Conference Room, Lubbock, January 21, 1992, at 10:30 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9200582.

The Jack County Appraisal District Board of Directors will meet at 210 North Church Street, JCAD Conference Room, Jacksboro, January 21, 1992, at 7 p.m. Information may be obtained from J. D. Garcia or Donna Hartzell, P.O. Box 958, Jacksboro, Texas 76458, (817) 567-6301. TRD-9200546.

The Palo Pinto County Education District met at the Palo Pinto County Courthouse, Commissioners Court, Palo Pinto, January 20, 1992, at 6:30 p.m. Information may be obtained from Ron Munday, 102 North West Sixth Avenue, Mineral Wells, Texas 76067, (817) 325-6404. TRD-9200589.

The Panhandle Regional Planning Commission Board of Directors will meet at 2736 West Tenth Street, PRPC Board Room, Amarillo, January 23, 1992, at 1:30

p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-9257, (806) 372-3381. TRD-9200579.

The Rusk County Appraisal District Board of Directors will meet at the Administrative Office, 107 North Van Buren, Henderson, January 23, 1992, at 1:30 p.m. Information may be obtained from Melvin R. Cooper, P.O. Box 7, Henderson, Texas 75653-0007, (903) 657-3578. TRD-9200551.

The Sabine Valley Center Personnel Committee met at the Administration Building, Ben F. Bane Room, 107 Woodbine Place, Bramlette Lane, Longview, January 20, 1992, at 9:30 a.m. Information may be obtained from Mack O. Blackwell or LaVerne Moore, P.O. Box 6800, Longview, Texas 75608, (903) 758-2471. TRD-9200583.

The Wheeler County Appraisal District Board of Directors met at the District's Office, County Courthouse Square, Wheeler, January 20, 1992, at 6:30 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 1200, Wheeler, Texas 79096, (806) 826-5900. TRD-9200575.

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**Meetings Filed January 15,
1992**

The Dallas Central Appraisal District Board of Directors will meet at 2949 North Stemmons Freeway, Dallas, January 22, 1992, at 7:30 a.m. Information may be obtained from Rick L. Kuehler, 2949 North Stemmons Freeway, Dallas, Texas 75247, (214) 631-0520. TRD-9200626.

The Gillespie Central Appraisal District Board of Directors will meet at the City Hall Assembly Room, Fredericksburg, January 23, 1992, at 9 a.m. Information may be

obtained from Mary Lou Smith, P.O. Box 429, Fredericksburg, Texas 78624, (512) 997-9807. TRD-9200629.

The Kendall County Appraisal District Board of Directors will meet at 207 East San Antonio Street, Boerne, January 23, 1992, at 5 p.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9200630.

The Lamar County Appraisal District Board will meet at the Lamar County Appraisal District Office, 521 Bonham Street, Paris, January 21, 1992, at 5 p.m. Information may be obtained from Joe Welch, 521 Bonham Street, Paris, Texas 75460, (903) 785-7822. TRD-9200625.

The Liberty County Central Appraisal District Board of Directors will meet at 315 Main Street, Liberty, January 22, 1992, at 9:30 a.m. (revised agenda). Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9200637.

The Lower Neches Valley Authority Board of Directors will meet at the LNVA Office Building, 7850 Eastex Freeway, Beaumont, January 21, 1992, at 10:30 a.m. (revised agenda). Information may be obtained from A. T. Hebert, Jr., P. O. Drawer 3464, Beaumont, Texas 77704, (409) 892-4011. TRD-9200638.

The Tyler County Appraisal District Appraisal Review Board will meet at 806 West Bluff, Woodville, January 23, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9200639.

The West Central Texas Council of Governments Executive Committee will meet at 1025 East North Tenth, Abilene, January

22, 1992, at 12:45 p.m. Information may be obtained from Brad Helbert, P.O. Box 3195, Abilene, Texas 79604, (915) 672-8544. TRD-9200642.

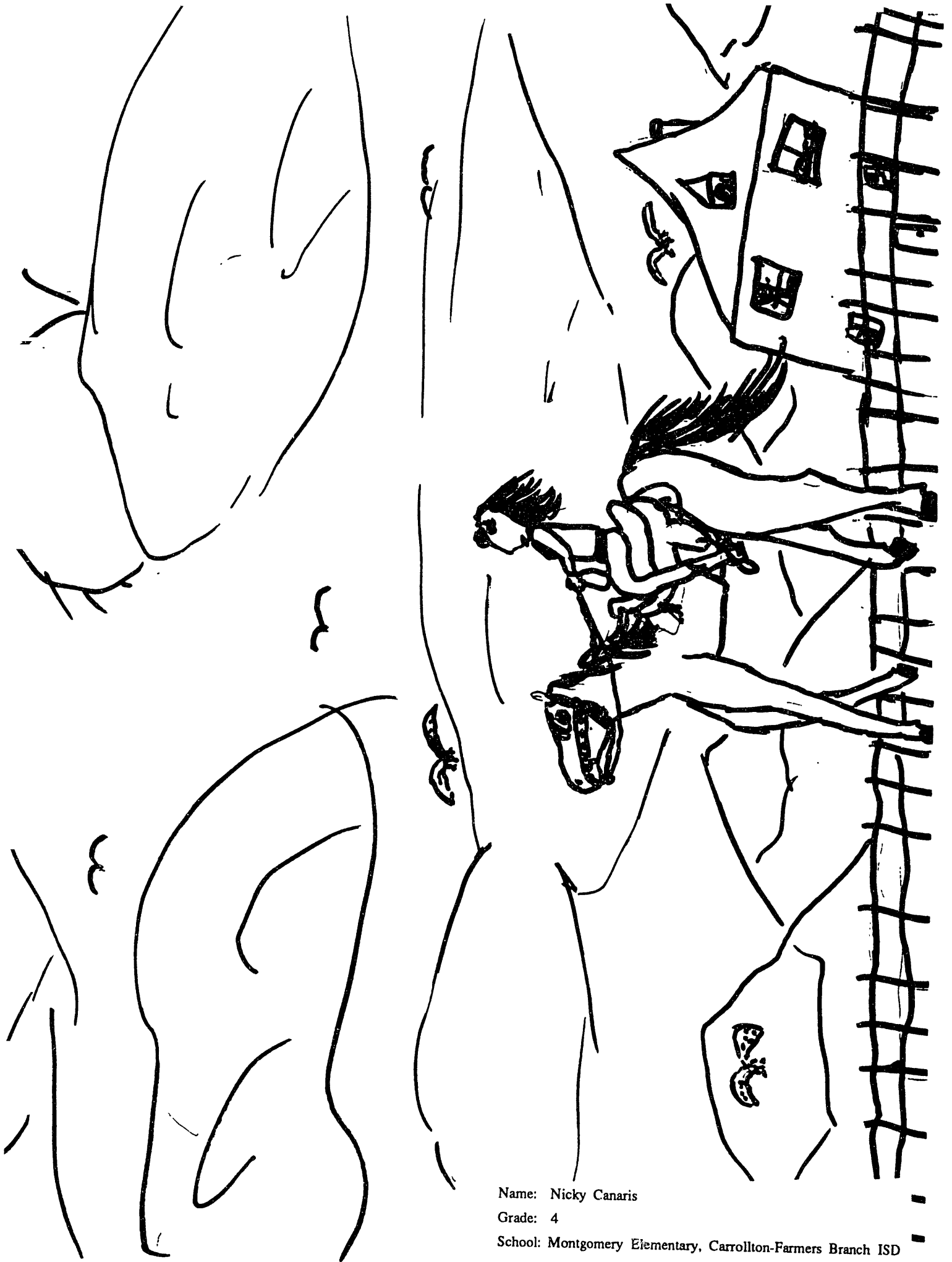
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**Meetings Filed January 16,
1992**

The Central Appraisal District of Johnson County Board of Directors will meet at 109 North Main Street, Suite 201, Room 202, Cleburne, January 21, 1992, at 4:30 p.m. Information may be obtained from Priscilla A. Bunch, 109 North Main Street, Cleburne, Texas 76031, (817) 645-3986. TRD-9200653.

The Central Texas Quality Work Force Planning Committee will meet at 3402 Atkinson Street, Killeen, January 24, 1992, at 10 a.m. Information may be obtained from Joseph F. Kiefer, Jr., 2600 South First Street, Temple, Texas 76504, (817) 773-9961, ext. 311. TRD-9200652.

The Education Service Center Region Ten Board of Directors will meet at the Region Ten Board Room, 400 East Spring Valley, Richardson, January 21, 1992, at 9:30 a.m. Information may be obtained from Joe Farmer, 400 East Spring Valley, Richardson, Texas 75083, (214) 231-6301. TRD-9200651.

The Nortex Regional Planning Commission North Texas Private Industry Council will meet at the Wichita Falls Activity Center, Room 215, 10th and Indiana Streets, Wichita Falls, January 29, 1992, at noon. Information may be obtained from Fritz Taylor, P.O. Box 5144, Wichita Falls, Texas 76307, (817) 322-5281. TRD-9200650.



Name: Nicky Canaris

Grade: 4

School: Montgomery Elementary, Carrollton-Farmers Branch ISD

In Addition

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

Ark-Tex Council of Governments

Request for Proposal

The Ark-Tex Council of Governments (ATCOG) is soliciting proposals for the provision of training under Title 11B of the Job Training Partnership Act (JTPA), Public Law 97-300.

Allowable training activities may include, but are not limited to: Texas Academic Skills Program (TASP) and Texas Assessment of Academic Skills (TAAS) preparation; computer assisted instruction; basic education skills remediation; and/or English as a Second Language. The period of performance is June 1, 1992-September 30, 1992.

The service area includes the following counties in Texas: Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, and Titus.

In order to ensure that all respondents are provided sufficient assistance in completing proposals, a respondent's conference will be held at the Ark-Tex Council of Governments Conference Room, Building A, Centre West, 911 North Bishop Road, Texarkana, Texas on Monday, January 20, 1992, at 10 a.m.

Potential respondents may obtain a copy of the RFP, Scoring Guidelines and Procedures, and Project Scoring Criteria by contacting Genevieve Burtchell, Ark-Tex Council of Governments, P.O. Box 5307, Texarkana, Texas 75505, or call (903) 832-8636. The deadline for proposal submission is February 14, 1992, at 5 p.m. The Ark-Tex Private Industry Council will score the proposals. Respondents will be notified in writing of the date, time, and place of the meeting at which the proposals will be scored.

Issued in Texarkana, Texas, on January 7, 1992.

TRD-9200509 James D. Goerke
Executive Director
Ark-Tex Council of Governments

Filed: January 13, 1992

For further information, please call: (903) 832-8636

Texas Historical Commission

Consultant Contract Award

This statement of award of consulting services is filed under the provisions of Texas Civil Statutes, Article 6252-11C. The request for proposal was published in the *Texas Register* on October 25, 1991, Volume 16, Page 6089.

The Texas Historical Commission has awarded a contract for five National Historic Landmark nominations to the firm of Dames and Moore, 8310 Capital of Texas High-

way, Suite 285, Austin, Texas 78731. The total contract price is \$31,965.92, with a starting date of January 10, 1992, and ending April 1, 1992. Nominations are due by April 1, 1992, and include Capitol of the Republic of the Rio Grande, Trevino Fort, Roma Historic District, Rancho San Francisco, and the Old River Pumphouse.

A contract for two National Register nominations was awarded to the firm of Hardy, Heck, Moore, 2112 Rio Grande, Austin, Texas 78705. The total contract price is \$9,430, with a starting date of January 10, 1992, and ending April 1, 1992. Nominations are due by April 1, 1992, and include Palmito Hill Battlefield (Brownsville vicinity) and Fort Ringgold (Rio Grande City).

Issued in Austin, Texas, on January 13, 1992.

TRD-9200525 Mario L. Sanchez
Program Director, Los Caminos del Rio
Heritage Project
Texas Historical Commission

Filed: January 13, 1992

For further information, please call: (512) 463-6100

Texas Department of Human Services

Notice of Correction of Error

The Texas Department of Human Services (DHS) submitted adopted amendments, repeals, and new sections that contained an error as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7361). On page 16 TexReg 7367, the adopted repeal of §19.502, Activities, is missing. As indicated in the adoption preamble, DHS repealed old §19.502 and replaced the repealed section with new §19.502, Activities.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200574 Nancy Murphy
Agency liaison, Policy and Document
Support
Texas Department of Human Services

Filed: January 14, 1992

For further information, please call: (512) 450-3765

Notice of Public Hearing

The Texas Department of Human Services (TDHS) will conduct a public hearing to receive comments on the department's proposed reimbursement rates for the Vendor Drug Program. The hearing is held in compliance with 40 TAC §24.102(j), which requires a public hearing on proposed reimbursement rates for medical assistance programs. The public hearing will be held on February 7, 1992, at 9 a. m., in the department's public hearing room of the John H. Winters Center (701 West 51st Street, Austin, First Floor, East Tower). Interested parties may

request to have mailed to them or may pick up a briefing package concerning the proposed reimbursement rates on or after January 24, 1992, by contacting Kathy E. Hall, MC E-601, P.O. Box 149030, Austin, Texas 78714-9030, (512) 450-3702.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200573 Nancy Murphy
Agency liaison, Policy and Document
Support
Department Texas Department of Human
Services

Filed: January 14, 1992

For further information, please call: (512) 450-3765

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**Texas Department of Mental Health
and Mental Retardation**

Notice of Award of Consultant Contract

This award of consulting services is being filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

On October 28, 1991, the Central Office of the Texas Department of Mental Health and Mental Retardation filed a request for proposals with the *Texas Register* which was published in (16 TexReg 6316) TRD-9113295 on November 5, 1991. The department has contracted with Joseph M. Peraino, Ph.D., P.C. and Associates whose business address is 1020 Holcombe Boulevard, Suite 525, Houston, Texas 77030.

The contract requires Joseph M. Peraino, Ph.D., P.C. and Associates to conduct an external study of the In-Home and Family Support Program of TXMHMR. The study will include the following components: an evaluation of whether or not the desired outcomes of the program have been met; a consumer assessment of the impact the support acquired had on the disabled individual and/or the family; and an analysis of the cost-benefit/cost effectiveness of the program.

The consultant will produce a camera ready report by May 31, 1992.

The contract was entered into on January 6, 1992.

The total value of the contract is \$29,125.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200538 Dennis R. Jones
Commissioner
Texas Department of Mental Health and
Mental Retardation

Filed: January 14, 1992

For further information, please call: (512) 465-4591

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Texas Racing Commission
Correction of Errors

The Texas Racing Commission proposed amendments to Chapter 307, 309, 311, and 313 in the December 17, 1991, *Texas Register* (16 TexReg 7692).

Errors should be corrected as follows:

Page 7692-3, §307.61:

Paragraph 1 of preamble: "form" should read "from".

Paragraph 3 of preamble, last sentence: "economic will vary" should read "economic cost will vary".

Page 7693, §309.352, paragraph 1 of preamble: "303.352" should read "309. 352".

Page 7694, §311.10(c): "near greyhound crate" should read "near a greyhound crate".

Page 7694, §311.10(d), 4th line should read: "and on showing a valid license badge. A licensee may not assist or attempt to assist another person"

Page 7694-5, §311.16(a)(2), 1st and 2nd lines should read: "(2) an electrical shocking device, spur, or similar device or paraphernalia designed to increase or decrease the".

Page 7696, §311.171(i):

7th line: "they greyhound" should read "the greyhound".

11th line: "to determined" should read "to determine".

Page 7696, §313.4(c), 2nd line should read: "rescind the approval of an official if".

◆ ◆ ◆
The Texas Racing Commission submitted adopted amendments to 16 TAC §305.68, concerning greyhound race-track fees. The rule appeared in the December 20, 1991, *Texas Register* (16 TexReg 7481).

In the preamble, paragraph five, the second half of the sentence should read "and §§5.01, 6.03, and 6.18, which authorize the commission to impose annual fees on race-track licensees."

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Texas Savings and Loan Department
Notice of Change of Control Application
of Life Savings Association

Texas Civil Statutes, Article 852a, §11.20, requires any person who intends to acquire control of a state-chartered savings and loan association to file an application and the savings and loan commissioner for approval of the transaction. A hearing may be held if the application is denied by the commissioner.

On January 10, 1992, the savings and loan commissioner received an application for approval of the acquisition of control of Life Savings Association, Austin, Travis County, by LifeCorp, Inc., J. Frederick Welling, President.

Any inquiries may be directed to the Texas Savings and Loan Department, 2601 North Lamar Boulevard, Suite 201, Austin, Texas 78705.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200548 James L. Pledger
Commissioner
Texas Savings and Loan Department

Filed: January 14, 1992

For further information, please call: (512) 475-1350

Texas Department of Transportation Request for Proposals

The following request for proposals for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional services for the preparation of a feasibility study and, depending upon the results of the study, preparation of a site selection study, airport master plan, and environmental assessment for a new airport for Kendall County and the City of Boerne.

Those interested consulting engineers should submit five copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Transportation, Division of Aviation, Attention: Linda Howard, TDA Project Number 93-01-011, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Proposals must be received by 4 p.m., February 20, 1992. Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The estimated project cost is \$60,000.

The County of Kendall and the City of Boerne reserve the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel, and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach—a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

If there are any questions, please contact Lydia Scarborough, Assistant Division Director, Division of Aviation, Texas Department of Transportation, (512) 476-9262.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200607 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: January 15, 1992

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



The following request for proposals for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional services for the preparation of an airport master plan for the Angelina County Airport.

Those interested consulting engineers should submit five copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Transportation, Division of Aviation, Attention: Bruce Ehly, TDA Project Number 93-08-031, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Proposals must be received by 4 p.m., February 20, 1992.

Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The estimated project cost is \$45,000.

The County of Angelina reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel, and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach—a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

If there are any questions, please contact Lydia Scarborough, Assistant Division Director, Division of Aviation, Texas Department of Transportation, (512) 476-9262.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200609 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: January 15, 1992

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



The following request for proposals for providing professional engineering services is filed under the provisions of Texas Civil Statutes, Article 664-4.

The Division of Aviation will solicit and receive proposals for professional services for the preparation of a site selection study, airport master plan, and environmental assessment for a new Mount Pleasant Municipal Airport.

Those interested consulting engineers should submit five copies of brief proposals consisting of the minimum number of pages sufficient to provide necessary information to: Texas Department of Transportation, Division of Aviation, Attention: Linda Howard, TDA Project Number 93-99-031, P.O. Box 12607, Austin, Texas 78711, (512) 476-9262.

Proposals must be received by 4 p.m., February 20, 1992.

Procedures for award will be in accordance with FAA Advisory Circular AC 150/5100-14B.

The estimated project cost is \$50,000.

The City of Mount Pleasant reserves the right to reject any or all proposals received and to conduct new consulting engineer selection procedures for future projects.

The proposal shall include: firm name, address, phone number, and person to contact regarding the proposal; proposed project management structure identifying key personnel and subconsultants (if any); qualifications and recent experience of the firm, key personnel, and subconsultants relative to the performance of similar services for FAA or TDA (TAC) projects; proposed project schedule, including major tasks and target completion dates; technical approach—a brief discussion of the tasks or steps to accomplish the project; list of in-state references including the name, address, and phone number of the person most closely associated with the firm's prior project performance; statement regarding an Affirmative Action Program; certification that all franchise taxes are paid or that consultant is not subject to franchise taxes.

Proposals will be reviewed by a consultant selection committee in order to identify from three to five consultants who will be interviewed by the committee. The final consultant selection will be made following completion of interviews.

If there are any questions, please contact Lydia Scarborough, Assistant Division Director, Division of Aviation, Texas Department of Transportation, (512) 476-9262.

Issued in Austin, Texas, on January 14, 1992.

TRD-9200608 Diane L. Northam
Legal Administrative Assistant
Texas Department of Transportation

Filed: January 15, 1992

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

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Texas Water Commission
Enforcement Orders

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Cangelosi, John C. (SWR 39805) on December 23, 1991, assessing \$64,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Steve Dickman, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 9, 1992.

TRD-9200496 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: January 13, 1992

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Atochem North America Inc (Permit 50222; SWR 30663) on January 3, 1992, assessing \$197,480 in administrative penalties with \$41,240 deferred and foregone pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Sally Jo Hahn, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 9, 1992.

TRD-9200497 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: January 13, 1992

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to Coastal Refining and Marketing Inc. (SWR 30530) on January 3, 1992, assessing \$67,160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Irene Montelongo, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 9, 1992.

TRD-9200498 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: January 13, 1992

For further information, please call: (512) 463-7898

Pursuant to the Texas Water Code, which states that if the commission finds that a violation has occurred and a civil penalty is assessed, the commission shall file notice of its decision in the *Texas Register* not later than the 10th day after the date on which the decision is adopted, the following information is submitted.

An enforcement order was issued to West Texas Gas (PST Facility I.D. Number 01757) on January 3, 1992, assessing \$10,188 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Carlos Celestino, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on January 9, 1992.

TRD-9200499 Laurie J. Lancaster
Notices Coordinator
Texas Water Commission

Filed: January 13, 1992

For further information, please call: (512) 463-7898

Notice of Application For Waste Disposal Permit

Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of January 6-January 10, 1992.

No public hearing will be held on these applications unless an affected person has requested a public hearing. Any such request for a public hearing shall be in writing and contain the name, mailing address, and phone number of the person making the request; and a brief description of how the requester, or persons represented by the requester, would be adversely affected by the granting of the application. If the commission determines that the request sets out an issue which is relevant to the waste discharge permit decision, or that a public hearing would serve the public interest, the commission shall conduct a public hearing, after the issuance of proper and timely notice of the hearing. If no sufficient request for hearing is received within 30 days of the date of publication of notice concerning the applications, the permit will be submitted to the commission for final decision on the application.

Information concerning any aspect of these applications may be obtained by contacting the Texas Water Commission, P.O. Box 13087, Austin, Texas 78711. (512) 463-7905.

Listed are the name of the applicant and the city in which the facility is located, type of facility, location of the facility, permit number, and type of application—new permit, amendment, or renewal.

Folger Coffee Company; Sherman; coffee and fruit juice processing plant; at 300 West FM Road 1417, which is located at the southwest corner of the intersection of FM Road 1417 and Howe Drive, in the City of Sherman, Grayson County; amendment; 02486.

City of Santa Anna; wastewater treatment facility; approximately 1.6 miles south of the City of Santa Anna and approximately 4,000 feet west of U.S. Highway 283, on the west bank of Horse Creek in Coleman County; amendment; 10274-01.

Texas Utilities Electric Company; Dallas; Dallas Steam Electric Station; in Block 392 and 393 at 2707 Flynn Street in the City of Dallas, Dallas County; amendment; 01248.

City of Waxahachie; wastewater treatment facilities; south of MKT Railroad and west of Waxahachie Creek in the southern portion of the City of Waxahachie in Ellis County; amendment; 10379-01.

Zavala Feeders, Inc.; Crystal City; cattle feedlot; on the north side of FM Road 393, approximately two miles west of the intersection of FM 393 and FM Road 1668 in Zavala County; amendment; 01791.

Issued in Austin, Texas, on January 10, 1992.

TRD-9200503 Laurie J. Lancaster
Deputy Chief Clerk
Texas Water Commission

Filed: January 13, 1992

For further information, please call: (512) 463-7906

Texas Workers' Compensation Commission Correction of Error

The Texas Workers' Compensation Commission submitted adopted 28 TAC §143.3, §§144.1-144.16 for publication in the December 17, 1992, *Texas Register* (16 TexReg 7358).

Due to proofreading errors by the *Texas Register* the following corrections should be made.

In §143.3 the signature block should read "Issued in Austin, Texas, on December 10, 1991."

In the preamble to §§144.1-144.16, paragraph 15 should read "...the right to have all relevant evidence heard; the right...". Paragraph 17 should read "New §144.15 requires the arbitrator within seven days of the last day of the proceeding, to..."

In (c)(2), the paragraph should read "(2) identify the dispute and explain each party's position on it;"

On page 16 TexReg 7388, paragraph 15 should read "...if prescribed by a doctor. Psychological services..."

In paragraph 29 (fourth paragraph on page 7389) the code "70011" was omitted.

1992 Publication Schedule for the *Texas Register*

Listed below are the deadline dates for the January-December 1992 issues of the *Texas Register*. Because of printing schedules, material received after the deadline for an issue cannot be published until the next issue. Generally, deadlines for a Tuesday edition of the *Texas Register* are Wednesday and Thursday of the week preceding publication, and deadlines for a Friday edition are Monday and Tuesday of the week of publication. No issues will be published on February 28, November 6, December 1, and December 29. A bullet beside a publication date indicates that the deadlines have been moved because of state holidays.

FOR ISSUE PUBLISHED ON	ALL COPY EXCEPT NOTICES OF OPEN MEETINGS BY 10 A.M.	ALL NOTICES OF OPEN MEETINGS BY 10 A.M.
1 *Friday, January 3	Friday, December 27	Tuesday, December 31
2 *Tuesday, January 7	Tuesday, December 31	Thursday, January 2
3 Friday, January 10	Monday, January 6	Tuesday, January 7
4 Tuesday, January 14	Wednesday, January 8	Thursday, January 9
5 Friday, January 17	Monday, January 13	Tuesday, January 14
6 Tuesday, January 21	Wednesday, January 15	Thursday, January 16
Friday, January 24	1991 ANNUAL INDEX	
7 Tuesday, January 28	Wednesday, January 22	Thursday, January 23
8 Friday, January 31	Monday, January 27	Tuesday, January 28
9 Tuesday, February 4	Wednesday, January 29	Thursday, January 30
10 Friday, February 7	Monday, February 3	Tuesday, February 4
11 Tuesday, February 11	Wednesday, February 5	Thursday, February 6
12 Friday, February 14	Monday, February 10	Tuesday, February 11
13 Tuesday, February 18	Wednesday, February 12	Thursday, February 13
14 *Friday, February 21	Friday, February 14	Tuesday, February 18
15 Tuesday, February 25	Wednesday, February 19	Thursday, February 20
Friday, February 28	NO ISSUE PUBLISHED	
16 Tuesday, March 3	Wednesday, February 26	Thursday, February 27
17 Friday, March 6	Monday, March 2	Tuesday, March 3
18 Tuesday, March 10	Wednesday, March 4	Thursday, March 5
19 Friday, March 13	Monday, March 9	Tuesday, March 10
20 Tuesday, March 17	Wednesday, March 11	Thursday, March 12
21 Friday, March 20	Monday, March 16	Tuesday, March 17
22 Tuesday, March 24	Wednesday, March 18	Thursday, March 19
23 Friday, March 27	Monday, March 23	Tuesday, March 24
24 Tuesday, March 31	Wednesday, March 25	Thursday, March 26
25 Friday, April 3	Monday, March 30	Tuesday, March 31
26 Tuesday, April 7	Wednesday, April 1	Thursday, April 2
27 Friday, April 10	Monday, April 6	Tuesday, April 7
Tuesday, April 14	FIRST QUARTERLY INDEX	
28 Friday, April 17	Monday, April 13	Tuesday, April 14
29 Tuesday, April 21	Wednesday, April 15	Thursday, April 16

30 Friday, April 24	Monday, April 20	Tuesday, April 21
31 Tuesday, April 28	Wednesday, April 22	Thursday, April 23
32 Friday, May 1	Monday, April 27	Tuesday, April 28
33 Tuesday, May 5	Wednesday, April 29	Thursday, April 30
34 Friday, May 8	Monday, May 4	Tuesday, May 5
35 Tuesday, May 12	Wednesday, May 6	Thursday, May 7
36 Friday, May 15	Monday, May 11	Tuesday, May 12
37 Tuesday, May 19	Wednesday, May 13	Thursday, May 14
38 Friday, May 22	Monday, May 18	Tuesday, May 19
39 Tuesday, May 26	Wednesday, May 20	Thursday, May 21
40 *Friday, May 29	Friday, May 22	Tuesday, May 26
41 Tuesday, June 2	Wednesday, May 27	Thursday, May 28
42 Friday, June 5	Monday, June 1	Tuesday, June 2
43 Tuesday, June 9	Wednesday, June 3	Thursday, June 4
44 Friday, June 12	Monday, June 8	Tuesday, June 9
45 Tuesday, June 16	Wednesday, June 10	Thursday, June 11
46 Friday, June 19	Monday, June 15	Tuesday, June 16
47 Tuesday, June 23	Wednesday, June 17	Thursday, June 18
48 Friday, June 26	Monday, June 22	Tuesday, June 23
49 Tuesday, June 30	Wednesday, June 24	Thursday, June 25
50 Friday, July 3	Monday, June 29	Tuesday, June 30
51 Tuesday, July 7	Wednesday, July 1	Thursday, July 2
52 Friday, July 10	Monday, July 6	Tuesday, July 7
Tuesday, July 14	SECOND QUARTERLY INDEX	
53 Friday, July 17	Monday, July 13	Tuesday, July 14
54 Tuesday, July 21	Wednesday, July 15	Thursday, July 16
55 Friday, July 24	Monday, July 20	Tuesday, July 21
56 Tuesday, July 28	Wednesday, July 22	Thursday, July 23
57 Friday, July 31	Monday, July 27	Tuesday, July 28
58 Tuesday, August 4	Wednesday, July 29	Thursday, July 30
59 Friday, August 7	Monday, August 3	Tuesday, August 4
60 Tuesday, August 11	Wednesday, August 5	Thursday, August 6
61 Friday, August 14	Monday, August 10	Tuesday, August 11
62 Tuesday, August 18	Wednesday, August 12	Thursday, August 13
63 Friday, August 21	Monday, August 17	Tuesday, August 18
64 Tuesday, August 25	Wednesday, August 19	Thursday, August 20
65 Friday, August 28	Monday, August 24	Tuesday, August 25
66 Tuesday, September 1	Wednesday, August 26	Thursday, August 27
67 Friday, September 4	Monday, August 31	Tuesday, September 1
68 Tuesday, September 8	Wednesday, September 2	Thursday, September 3
69 *Friday, September 11	Friday, September 4	Tuesday, September 8

70 Tuesday, September 15	Wednesday, September 9	Thursday, September 10
71 Friday, September 18	Monday, September 14	Tuesday, September 15
72 Tuesday, September 22	Wednesday, September 16	Thursday, September 17
73 Friday, September 25	Monday, September 21	Tuesday, September 22
74 Tuesday, September 29	Wednesday, September 23	Thursday, September 24
75 Friday, October 2	Monday, September 28	Tuesday, September 29
76 Tuesday, October 6	Wednesday, September 30	Thursday, October 1
77 Friday, October 9	Monday, October 5	Tuesday, October 6
Tuesday, October 13	THIRD QUARTERLY INDEX	
78 Friday, October 16	Monday, October 12	Tuesday, October 13
79 Tuesday, October 20	Wednesday, October 14	Thursday, October 15
80 Friday, October 23	Monday, October 19	Tuesday, October 20
81 Tuesday, October 27	Wednesday, October 21	Thursday, October 22
82 Friday, October 30	Monday, October 26	Tuesday, October 27
83 Tuesday, November 3	Wednesday, October 28	Thursday, October 29
Friday, November 6	NO ISSUE PUBLISHED	
84 Tuesday, November 10	Wednesday, November 4	Thursday, November 5
85 Friday, November 13	Monday, November 9	Tuesday, November 10
*86 Tuesday, November 17	Tuesday, November 10	Thursday, November 12
87 Friday, November 20	Monday, November 16	Tuesday, November 17
88 Tuesday, November 24	Wednesday, November 18	Thursday, November 19
89 Friday, November 27	Monday, November 23	Tuesday, November 24
Tuesday, December 1	NO ISSUE PUBLISHED	
90 Friday, December 4	Monday, November 30	Tuesday, December 1
91 Tuesday, December 8	Wednesday, December 2	Thursday, December 3
92 Friday, December 11	Monday, December 7	Tuesday, December 8
93 Tuesday, December 15	Wednesday, December 9	Thursday, December 10
94 Friday, December 18	Monday, December 14	Tuesday, December 15
95 Tuesday, December 22	Wednesday, December 16	Thursday, December 17
96 Friday, December 25	Monday, December 21	Tuesday, December 22
Tuesday, December 29	NO ISSUE PUBLISHED	
1 (1993) Friday, January 1	Monday, December 28	Tuesday, December 29

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