

# Texas Register

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## Texas Register

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**Withdrawn Sections** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the *Texas Register* six months after proposal publication date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

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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"

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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).

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## Texas Register Publications



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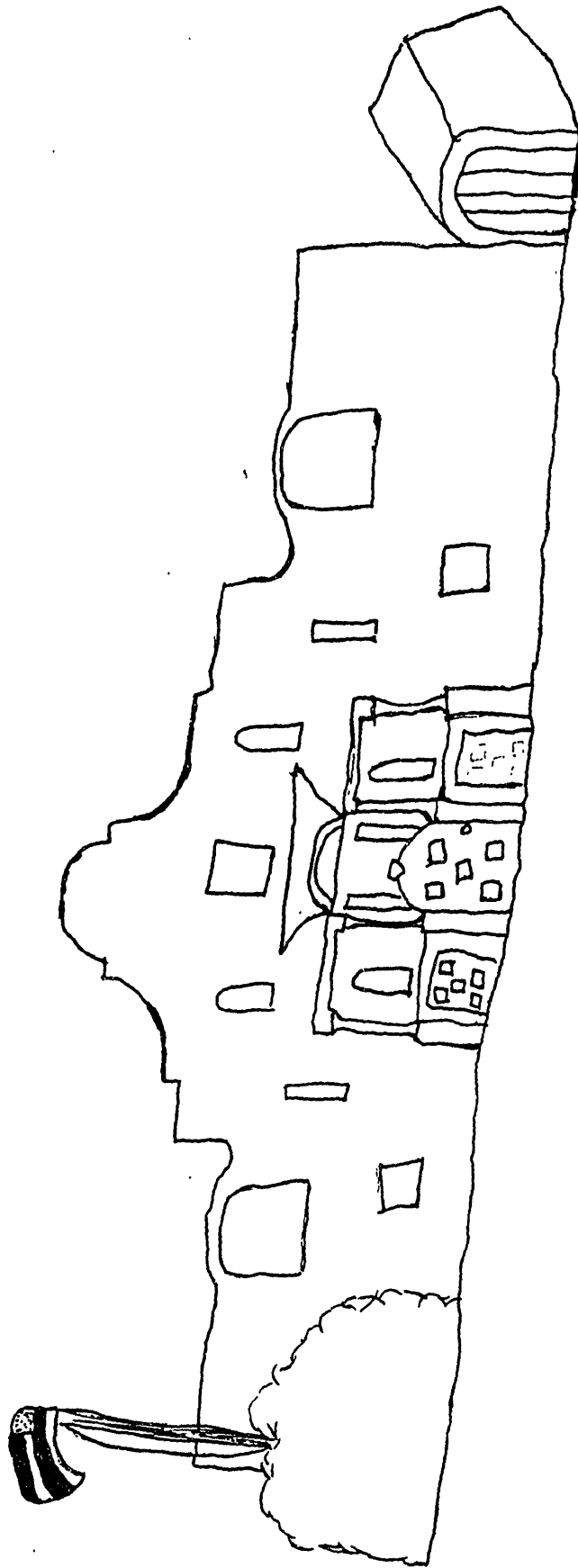
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School: Kuehnle Elementary School, Klein ISD

# The Governor

As required by Texas Civil Statutes, Article 6252-13a, §6, the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in Chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1814.

## Appointments Made January 29, 1992

To be a member of the **Governing Committee of the Workers' Compensation Insurance Facility** for a term to expire February 1, 1993: James R. Hardeman, 122 North College, Justin, Texas 76247. Mr. Hardeman is being appointed pursuant to House Bill Number 62, 72nd Legislature, Second Called Session.

## Appointments Made February 7, 1992

To be a member of the **Texas National Guard Armory Board** under the provisions of the Government Code, Title 4, §435.004 and §435.005: Brigadier General (p) David J. Rist, senior eligible officer of the Texas Air National Guard, 7955 Briaridge Road, Dallas, Texas 75248. Section 435.005 requires the secretary of state to notify the officer concerned in order that he may qualify for membership by taking and filing with you the constitutional oath of office which form is being mailed to General Rist. General Rist will be serving a term to expire April 30, 1997, and will be replacing Major General Charles Driggers.

## Appointments Made February 13, 1992

To be a member of the **Texas State Board of Veterinary Medical Examiners** for a term to expire August 26, 1997: John A. Wood, D.V. M., P.O. Box 428, Lufkin, Texas 75901. Dr. Wood will be replacing

Dr. Mary E. Mainster of San Antonio whose term expired.

## Appointments Made February 14, 1992

To be a member of the **State Board of Vocational Nurse Examiners** for a term to expire September 6, 1997: Morris Spector, M.D., 231 Luther Drive, San Antonio, Texas 78212. Dr. Spector will be replacing Dr. Lee C. Detenbeck of Horseshoe Bay whose term expired.

## Appointments Made February 18, 1992

To be a member of the **Texas Board of Human Services** for a term to expire January 20, 1993: Karen Marelle Heltzel, 1228 Cliff Trail, DeSoto, Texas 75115. Ms. Heltzel will be filling the unexpired term of Maurice Lee Barksdale of Arlington who resigned.

To be presiding officer of the **Governing Board of the International Trade Commission** for a term at the pleasure of the governor: J. McDonald Williams, 4004 Euclid Avenue, Dallas, Texas 75205. This appointment is being made pursuant to House Bill Number 1029, 72nd Legislature.

To be a member of the **Governing Board of the International Trade Commission** for a term to expire February 1, 1997: J. McDonald Williams, 4004 Euclid Avenue, Dallas, Texas 75205. Mr. Williams is being appointed to a new position pursuant to House Bill 1029, 72nd Legislature.

To be chair of the **Finance Commission of Texas** for a term at the pleasure of the

governor: Georgina S. Gonzalez, 311 Big Hollow Lane, Houston, Texas 77042. Ms. Gonzalez will be replacing Leonard B. Rosenberg who is no longer on the commission.

To be a member of the **Finance Commission of Texas** for a term to expire February 1, 1998: Georgina S. Gonzalez, 311 Big Hollow Lane, Houston, Texas 77042. Ms. Gonzalez will be replacing Leonard B. Rosenberg of Houston whose term expired.

To be a member of the **Finance Commission of Texas** for a term to expire February 1, 1998: Katherine B. Reynolds, 807 Brazos, Suite 314, Austin, Texas 78701. Ms. Reynolds will be replacing John C. Dawson, Jr. of Houston whose term expired.

To be a member of the **Finance Commission of Texas** for a term to expire February 1, 1998: James T. Chambers, P.O. Box 1157, Stephenville, Texas 76401. Mr. Chambers will be replacing Lewis E. Bracy, Jr. of Uvalde whose term expired.

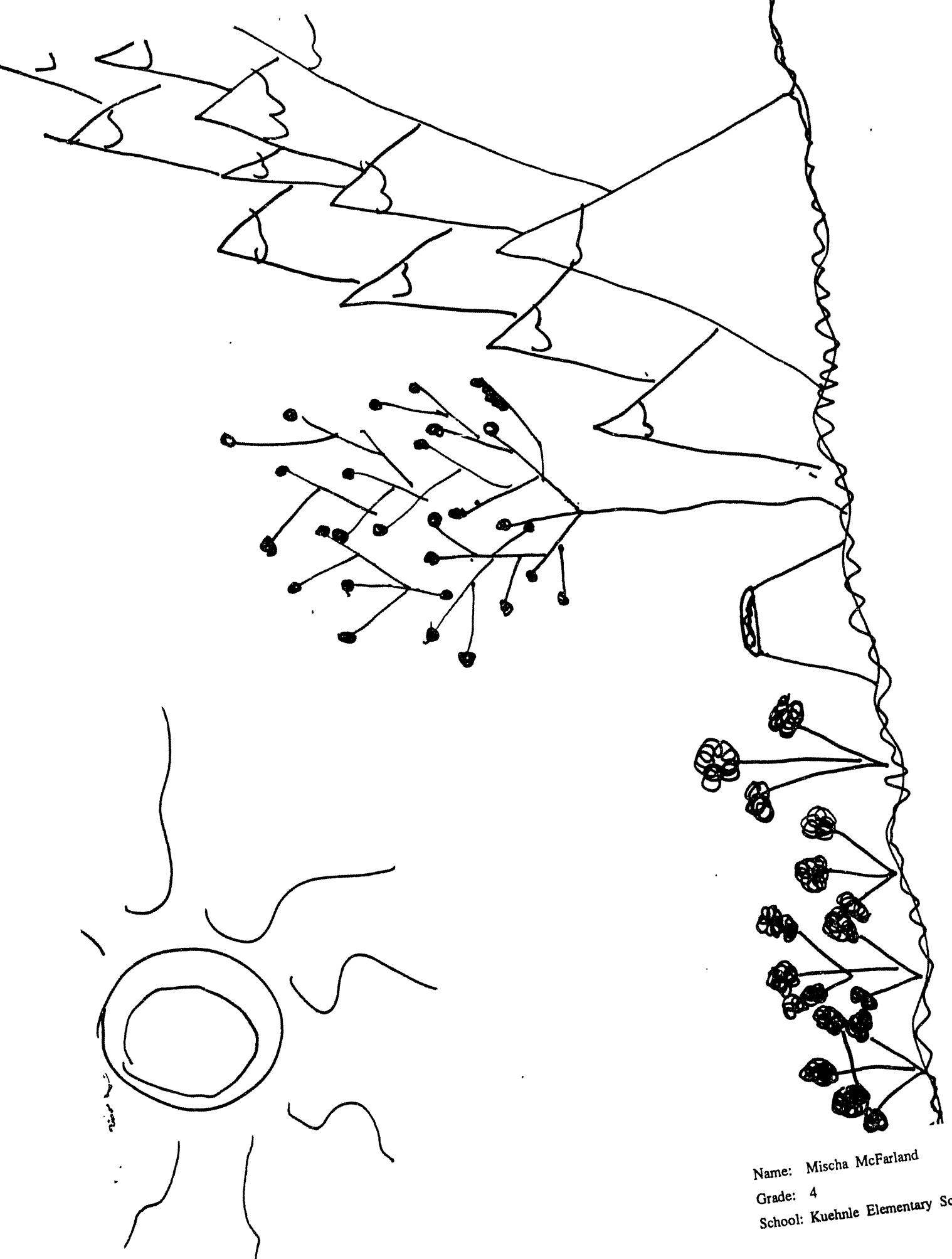
To be a member of the **Finance Commission of Texas** for a term to expire February 1, 1996: Ruby J. Wimberley, Orange Savings and Loan Association, 812 North 16th Street, Orange, Texas 77630. Ms. Wimberley will be filling the unexpired term of James S. Dubose of Fort Worth who resigned.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202653

Ann W. Richards  
Governor of Texas





Name: Mischa McFarland  
Grade: 4  
School: Kuehnle Elementary School, Klein



# 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.

## Letter Opinion

**LO-92-001 (RQ-188).** Request from David J. Freeman, Executive Secretary, Texas Racing Commission, Austin, concerning Letter Opinion considering the authority of the Texas Racing Commission to reinstate revoked licenses pursuant to Texas Civil Statutes, Article 179e, §6.19 the Racing Act.

TRD-9202552

## Open Records Decision (ORD)

**ORD-599 (RQ-2121).** Request from William Grossenbacher, Administrator, Texas Employment Commission, Austin, concerning whether certain information submitted by employers to the Texas Employment Commission is subject to disclosure under the Open Records Act, Texas Civil Statutes, Article 6252-17a.

**Summary of Decision.** Texas Civil Statutes, Article 5221b-9(g), makes confidential information the Texas Employment Commission obtains in employment records and reports, including SIC numbers and the number of employees of an employing unit. Texas Employment Commission identification numbers are excepted from disclosure by the Open Records Act, §3(a)(1), because federal regulations prohibit their public disclosure.

TRD-9202551

## Opinions

**DM-70 (RQ-127).** Request from Joe Lucas, El Paso County Attorney, El Paso, concerning whether the Local Government Code, §252.024, in itself exempts municipal purchases of excess or surplus insurance from competitive bidding, and related questions.

**Summary of Opinion.** The Local Government Code, §252.024, does not in itself exempt municipal purchases of "excess" or "surplus" insurance from the requirement that such purchases be made through competitive bidding. Nor does that section in

itself exempt a municipality's selection of a "sole broker of record" from competitive bidding requirements.

TRD-9202550

**DM-71 (RQ-150).** Request from Gene Green, Chairman, Jurisprudence Committee, Texas State Senate, Austin, concerning authority of public housing authority to regulate tenants' legal possession of firearms.

**Summary of Opinion.** The Local Government Code, §215.001, prohibits a municipal housing authority from adopting a regulation providing for a tenant's eviction for the otherwise legal possession of a firearm.

TRD-9202549

**DM-72 (RQ-114).** Request from Ted B. Lyon, Chairman, Criminal Justice Committee, Texas State Senate, Austin, concerning whether the Dallas City Council may control the use of funds confiscated pursuant to the asset forfeiture law.

**Summary of Opinion.** Except for funds transferred to the city governing body under subsection (h), it is the law enforcement agency to which forfeiture funds are distributed under Article 59.06, and not the governing body of the city, that has the authority to determine the law enforcement purposes for which such forfeiture funds are to be spent.

TRD-9202548

**DM-73 (RQ-193).** Request from Mike Driscoll, Harris County Attorney, Houston, concerning whether a county pre-trial services agency is authorized under Chapter 17 of the Code of Criminal Procedure to hold personal property as additional security for personal bond if additional security is ordered by the district court, and, if so, where such personal property should be held.

**Summary of Opinion.** Chapter 17 of the Code of Criminal Procedure does not authorize the Harris County Pre-Trial Services Agency, a personal bond office created pursuant to the Code, Article 17.42, to hold or store personal property required by a magistrate as security on a personal bond.

TRD-9202547

**DM-74 (RQ-52).** Request from Carlos Valdez, Nueces County Attorney, Nueces County Courthouse, Corpus Christi, concerning whether a district judge can set the salary of his official court reporter at a level that differs from that set by the other district judges in a county.

**Summary of Opinion.** A district judge can set the salary of his official court reporter at a level that differs from that set by the other district judges in a county.

TRD-9202546

**DM-75 (RQ-253).** Request from David Motley, Kerr County Attorney, Kerrville, concerning construction of Title 37, Texas Administrative Code, §211.821(2), concerning licensing requirements for constables, where constable originally elected before September 1, 1985, seeks election to precinct newly created upon the elimination of original precinct through redistricting.

**Summary of Opinion.** The elimination of a precinct through redistricting and the incumbent constable's election as constable for the new precinct created by the redistricting does not result in a "break in office" for the constable within Title 37 of the Texas Administrative Code, §211.82(i)(2), where the new precinct differs from the old only in its number and the addition of territory. Under such circumstances, a constable who had been continuously reelected from his precinct since before September 1, 1985, would be exempt from the Government Code, §415.053, requirement of licensure as a peace officer through the Government Code, §415.015(c) and Title 37, Texas Administrative Code, §211.82(i)(2).

TRD-9202545

**DM-76 (RQ-111).** Request from Romero Molina, Starr County Attorney, Rio Grande City, concerning whether nepotism law applies to individuals hired as independent contractors.

**Summary of Opinion.** A county commissioners court may not hire an individual related to a county commissioner within a prohibited degree, regardless of whether the individual is hired as a regular employee or as an independent contractor. Statements in

Attorney General Opinion JM-492 (1986) to the effect that the nepotism statute did not apply to an individual hired as an independent contractor are incorrect and should be disregarded.

TRD-9202544

**DM-77 (RQ-169).** Request from Mark H. Dettman, Midland County Attorney, Midland, concerning authority of a sheriff to conduct investigations and make arrests outside his county, and related questions.

**Summary of Opinion.** A sheriff has no general authority to investigate criminal activities outside of the geographical boundaries of the county for which he is elected. His authority to make warrantless arrests outside his county is circumscribed by the conditions imposed in the Texas Code of Criminal Procedure, Article 14.03(d).

TRD-9202543

**DM-78 (RQ-2163).** Request from Burton B. LeTulle, Chairman, Board of Directors, Lower Colorado River Authority, Austin, concerning whether working interests owned by the Lower Colorado River Authority in oil and gas wells in Fayette County are subject to ad valorem taxation.

**Summary of Opinion.** Whether leasehold interests owned by the Lower Colorado River Authority in oil and gas wells in Fayette County are exempt from ad valorem taxation raises questions of fact that cannot be resolved in the opinion process. The holdings of the Grand Prairie cases do not dictate that the LCRA's mineral interests are subject to taxation as a matter of law. If the LCRA holds its working interests in oil and gas wells exclusively for the use and benefit of the public, those interests are exempt from ad valorem taxation.

TRD-9202561

**DM-79 (RQ-136).** Request from Bill Turner, Brazos County District Attorney, Bryan, concerning whether a juvenile board created pursuant to Chapter 152 of the Human Resources Code has the power to hire and discharge employees of a juvenile probation department after it has employed a chief juvenile probation officer.

**Summary of Opinion.** Pursuant to the Human Resources Code, §152.0007 and §152.0008, the chief juvenile probation officer of the Brazos County Juvenile Probation Department has the authority to appoint juvenile probation department personnel, subject to the approval of the Brazos County Juvenile Board. The chief juvenile probation officer and assistant juvenile probation officers serve at the pleasure of the juvenile board, and the juvenile board has the authority to terminate their employment. The chief juvenile probation officer has the

authority to terminate other juvenile probation department employees, subject to the approval of the juvenile board.

TRD-9202560

**DM-80 (RQ-101).** Request from Temple Dickson, Chairman, Senate Economic Development Committee, Austin, concerning whether a municipal industrial development corporation may use funds generated by a sales tax for the purpose of acquiring, constructing, and operating a "for profit" hospital or clinic.

**Summary of Opinion.** Hospitals are not "manufacturing or industrial facilities" or facilities "required or suitable for the promotion of commercial development" and may not be financed by bonds issued by industrial development corporations created pursuant to the Development Corporation Act of 1979, as amended.

TRD-9202559

**DM-81 (RQ-198).** Request from Burton F. Raiford, Interim Commissioner, Texas Department of Human Services, Austin, concerning validity of a rider to the General Appropriations Act that requires certain employees of state agencies to submit financial statements for review and approval by the board or commission to which the employees are responsible.

**Summary of Opinion.** The current General Appropriations Act, Article V, §79, which requires certain employees of state agencies to submit financial statements for review and approval by the board or commission to which the employees are responsible, is constitutionally invalid to the extent that it expands or is inconsistent with Texas Civil Statutes, Article 6252-9b. It is valid to the extent that it merely restates that statute. Guidelines applicable to the rider are those provided by the statute. The rider's requirement that the affected employee file with his board is constitutionally invalid.

TRD-9202558

**DM-82 (RQ-222).** Request from Eddie Cavazos, Chairman, Budget and Oversight Committee, Austin, concerning whether the Corpus Christi Municipal Court has jurisdiction in certain cases involving the issuance of bad checks.

**Summary of Opinion.** The Corpus Christi Municipal Court has jurisdiction over theft cases involving the issuance of a check when the property or services involved is valued at less than \$20.

TRD-9202556

**DM-83 (RQ-255).** Request from Doyle Willis, Chairman, General Investigating Committee, Texas House of Representatives, Austin, concerning application of the Texas Constitution, Article III, §47(b), which imposes limitations on the

kinds of organizations that may conduct bingo games.

**Summary of Opinion.** Only those organizations named in the Texas Constitution Article III, §47(b), may conduct bingo games, and such an organization may conduct the bingo game only on property owned or leased by the organization.

TRD-9202557

**DM-84 (RQ-38).** Request from Doyle Willis, Chairman, General Investigating Committee, Texas House of Representatives, Austin, concerning whether the owner of a restaurant in a dry area violates §101.31 of the Alcoholic Beverage Code by giving away wine to patrons or using alcoholic beverages for cooking.

**Summary of Opinion.** The owner or employee of a restaurant in a dry area would violate §101.31 of the Alcoholic Beverage Code if he gave a glass of wine to patrons during meals purchased at the restaurant. Whether the owner or employee of a restaurant violates the code by adding alcohol to food is a question of fact that cannot be resolved in the opinion process. Although possession of a quart of alcohol creates a presumption that an individual possesses with intent to sell, the presumption is rebuttable, depending on the facts of any given circumstances.

TRD-9202554

**DM-85 (RQ-269).** Request from Bob Bullock, Lieutenant Governor of Texas, Austin, and Mike Moncrief, Chairman, Interim Committee on Health and Human Services, Texas State Senate, Austin, concerning the authority of the Texas Department of Health and the Texas Department of Mental Health and Mental Retardation to inspect private psychiatric facilities.

**Summary of Opinion.** The Health and Safety Code, §222.024(a), which places limits on additional licensing inspections of a hospital licensed by TDH or TDMHMR, applies only to inspections required as a condition for receiving or renewing a license. It does not prohibit those agencies from conducting inspections to ensure compliance with state laws or agency standards.

Chapter 571 of the Health and Safety Code authorizes TDMHMR to adopt certain standards applicable to the part of a general hospital in which diagnosis, treatment, and care for persons with mental illness is provided. TDMHMR may enter such facilities to review the commitment procedure or to investigate a complaint, but it has no authority to enforce those standards against general hospitals. TDH could enforce the TDMHMR standards if it were to adopt them as its own pursuant to §241.026(a). Whether it may do so with respect to a

particular standard can only be answered on a case-by-case basis.

TRD-9202555

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**Requests for Opinions**

**(RQ-269).** Request from Bob Bullock, Lieutenant Governor, Austin, and Mike Moncrief, Chairman, Interim Committee on Health and Human Services, Texas State Senate, Austin, concerning authority of the Texas Department of Health and the Texas Department of Mental Health and Mental Retardation to inspect private psychiatric facilities.

**(RQ-270).** Request from Elaine H. Piper, Assistant City Attorney, Office of the City Attorney, The City of El Paso, El Paso, concerning whether a binding arbitration proceeding pursuant to the Articles of Agreement between the City of El Paso and the El Paso Municipal Police Officers' Association constitutes "litigation" for purposes of the Open Records Act, §3(a)(3).

**(RQ-271).** Request from Terry D. McEachern, District Attorney, 64th and 242nd Judicial Districts, Hale County Courthouse, Plainview, concerning whether the compensation paid to a county judge for serving on a juvenile board is included in the computation of the "compensation and allowances received from all sources by the highest paid elected county officer" for purposes of the Local Government Code, §152.032, limiting the compensation received by a county auditor, where the county judge is the highest paid elected county officer.

**(RQ-272).** Request from Terry D. McEachern, District Attorney, 64th and 242nd Judicial, Hale County Courthouse, Plainview, concerning whether the 5.0% increase limitation on the salaries of assistant county auditors imposed by the Local

Government Code, §111.013, applies to the amount budgeted from one fiscal year to the next or to the amount of salary actually paid.

**(RQ-273).** Request from Terry D. McEachern, District Attorney, 64th and 242nd Judicial, Hale County Courthouse, Plainview, concerning whether a juvenile board may order an increase in the compensation paid to county judge members of the board in excess of the compensation ordered by the commissioners court under the Human Resources Code, §152.0411 and related question.

**(RQ-274).** Request from Bob Bullock, Lieutenant Governor, Austin, concerning whether a rider which authorizes issuance of revenue bonds to finance construction of a state office building in Nueces County is valid.

**(RQ-275).** Request from Ted B. Lyon, Jr., Chairman, Criminal Justice Committee, Texas State Senate, Austin, concerning whether §6.08(a) of the Texas Racing Act, Texas Civil Statutes, Article 179e, permits certain deductions from purse winnings without prior approval.

**(RQ-276).** Request from Diana L. Granger, Deputy City Attorney, City of Austin, Austin, concerning whether the Local Government Code, §143.089, excepts from public disclosure files of completed internal affairs investigations.

**(RQ-277).** Request from Debra Danburg, Chair, Committee on Elections, Texas House of Representatives, Austin, concerning conditions by which life sentences may be fulfilled.

**(RQ-278).** Request from Charles S. Brack, Chambers County Attorney, Anajuac, concerning whether a hospital district may lease part of its facility for the operation of a private adolescent drug treatment center.

**(RQ-279).** Request from Richard D. Monroe, Associate General Counsel, Texas Department of Transportation, Austin, concerning whether a governmental body may withhold, under the Open Records Act, §3(a)(5), information related to a condemnation proceeding previously made public in the proceeding of litigation of the matter is pending.

**(RQ-280).** Request from Mike Driscoll, Harris County Attorney, Houston, concerning the procedures for the sale of county land acquired for road purposes.

**(RQ-281).** Request from Georgia D. Flint, Acting Commissioner, Texas Department of Insurance, Austin, concerning whether, considering the Property Code, §42.001 and §42.002 and the Insurance Code, Article 21.22 insurance policy proceeds and cash values are completely exempt from seizure under process, and related question.

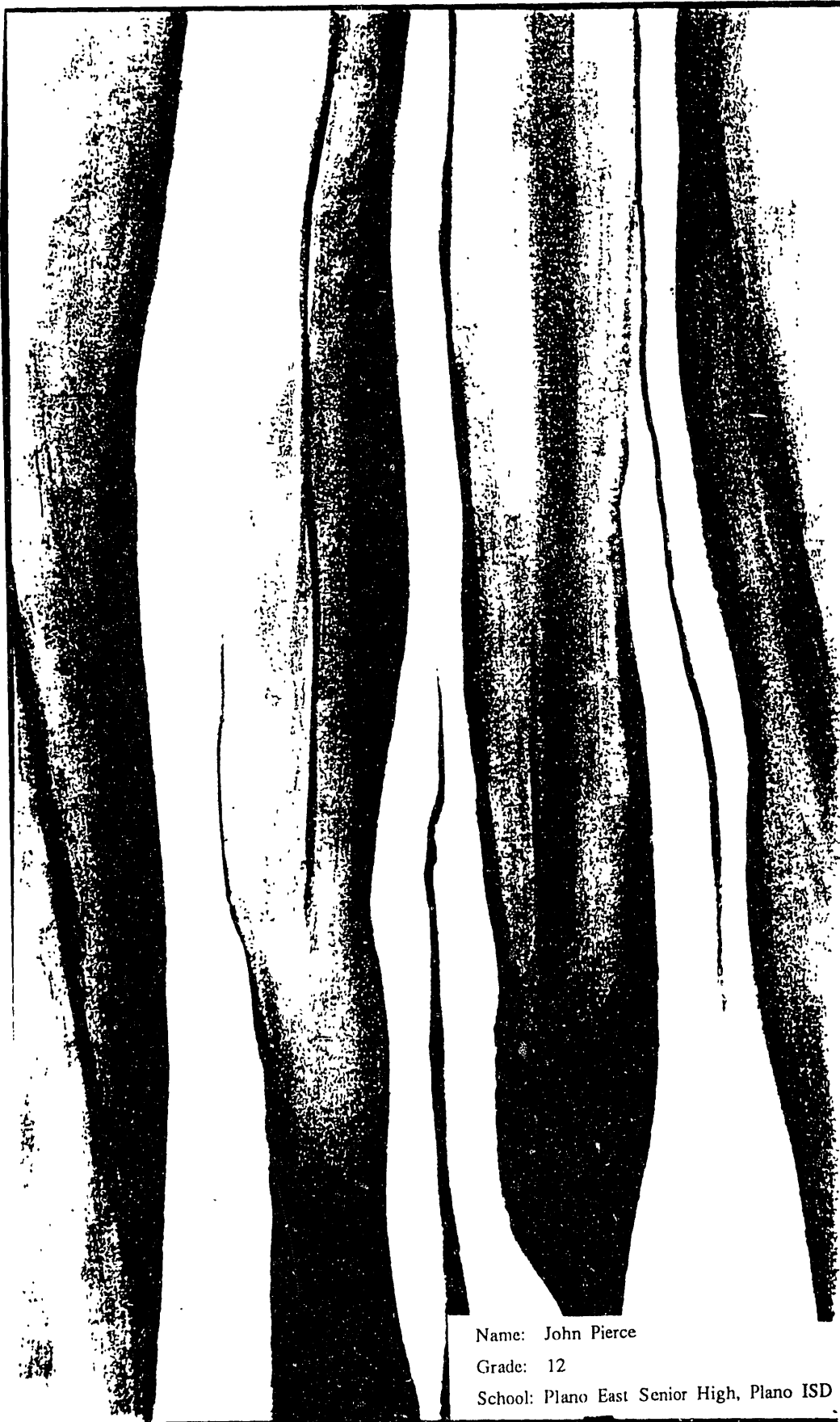
**(RQ-282).** Request from Jesusa Sanchez-Vera, Jim Wells County Attorney, Alice, concerning whether the executive director of a municipal housing authority is subject to the nepotism statute, Texas Civil Statutes, Article 5996a.

**(RQ-283).** Request from Roman Martinez, Chairman, Committee on Labor and Employment Relations, Texas House of Representatives, Austin, concerning whether emergency medical service technicians are within the scope of the Fire and Police Employee Relations Act, Texas Civil Statutes, Article 5154c-1.

**(RQ-284).** Request from Ron Lewis, Chairman, Natural Resources Committee, Texas House of Representatives, Austin, concerning the legality of "casino night" fundraising by nonprofit organizations.

TRD-9202553

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Name: John Pierce

Grade: 12

School: Plano East Senior High, Plano ISD

# 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 13. CULTURAL RESOURCES

### Part II. Texas Historical Commission

#### Chapter 17. State Architectural Programs

##### • 13 TAC §17.4

The Texas Historical Commission proposes an amendment to §17.4, concerning Texas preservation trust fund. The Texas preservation trust fund was the enactment of Senate Bill 294 by the 71st Legislature, which amended Chapter 442 of the Texas Government Code, by adding §442.0071. A minor change in the Texas preservation trust fund rules was approved by the Texas Historical Commission board at their February 3, 1992 meeting.

George Ramirez, fiscal officer, 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.

Curtis Tunnell, executive director, 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 inform the public of a new vehicle which may give the agency the opportunity to receive as well as grant and loan monies to applicants for the acquisition, restoration, and preservation of historic properties in the State of Texas. 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The amendment is proposed under the Texas Government Code, Chapter 442, which provide the Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005(q)).

##### §17.4. Texas Preservation Trust Fund.

(a)-(h) (No change.)

(i) Texas Historical Commission Preservation Trust Fund Committee (herein-

after referred to as Trust Fund Committee). The Trust Fund Committee shall be appointed by the chairman of the Texas Historical Commission. All actions of the Texas Trust Fund Committee are subject to ratification by the full Texas Historical Commission. Duties of the Trust Fund Committee are:

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

[(6) to establish, organize, and direct the efforts of a broad-based, state-wide membership organization to support the trust fund.]

(j)-(n) (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 February 3, 1992.

TRD-9202710 Curtis Tunnell  
Executive Director  
Texas Historical  
Commission

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-6100

#### Chapter 21. Museum Services

##### • 13 TAC §21.5

*(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 Historical Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The Texas Historical Commission proposes the repeal of §21.5, concerning museum services. The section is repealed because the Museum Services Department was consolidated with the State Marker Program and renamed the Local History Programs. The rule changes will be printed in a pamphlet and distributed to the public.

George Ramirez, fiscal officer, 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.

Curtis Tunnell, executive director, 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 no public benefit 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The repeal is proposed under the Texas Government Code, Chapter 42, which provides the Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442.005(q)).

##### §21.5. Museum On-Site Consultations.

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 October 25, 1991.

TRD-9202711 Curtis Tunnell  
Executive Director  
Texas Historical  
Commission

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-6100

The Texas Historical Commission proposes new §21.5, concerning local history programs. This is a new section which reflects the consolidation of the Department of Museum Services and the State Marker Program of the Texas Historical Commission now called Local History Programs. These changes will be printed in a new rules book for the agency and distributed to the public.

George Ramirez, fiscal officer, 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.

Curtis Tunnell, executive director, has determined that for each year of the first five years the section is in effect there will be no public benefit 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 Cindy Laguna Dally, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711, (512) 463-6100.

The new section is proposed under the Texas Government Code, Chapter 442, which provides the Texas Historical Commission with the authority to adopt rules as it considers proper for the effective administration of this chapter (§442. 005(q)).

#### §21.5. Museum On-Site Consultations.

(a) Activities. The Texas Historical Commission gives a number of on-site consultations each year and provides advice on many topics.

(b) Applicants. Public museums, or nonprofit private museums, may request an on-site visit and consultation from the Department of Museum Services, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Commercial museums are excluded. Consultation is also available for groups planning the establishment of a public or nonprofit private museum.

(c) Form of request. Request clearly stating the problems(s) to be treated shall be made in writing to the commission.

(d) Honoring request. The Texas Historical Commission will honor those requests deemed meritorious as funds and available staff permit.

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 October 25, 1991.

TRD-9202712

Curtis Tunnell  
Executive Director  
Texas Historical  
Commission

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-6100

◆ ◆ ◆  
**TITLE 16. ECONOMIC  
REGULATION**  
**Part I. Railroad  
Commission of Texas**  
**Chapter 3. Oil and Gas  
Division**

### Conservation Rules and Regulations

#### • 16 TAC §3.99

The Railroad Commission of Texas (commission) proposes new §3.99 concerning completion procedures for cathodic protection wells. Statewide Rule 99 defines terms used in the rule and requires operators to complete all cathodic protection wells drilled below 20

feet with cement plugs at the surface. This rule is proposed to prevent pollution of ground water from runoff into improperly completed cathodic protection wells.

Rita E. Percival, planner, has determined that for the first five-year period the proposed section will be in effect, there will be fiscal implications as a result of enforcing or administering the section. There will be no effect on state or local government.

Jane Hoffman, Staff Attorney, has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section as proposed will be the prevention of usable quality water contamination from improperly completed cathodic protection wells. The cost of compliance with the proposed section for small businesses as a result of enforcing or administering the section will be an estimated \$50 for the first well in a project area and \$25 each for any additional wells. The anticipated economic cost to persons who are required to comply with the section as proposed will be approximately \$50 for the first well in a project area and \$25 each for any additional wells.

The Railroad Commission invites public comment on the proposed rule. Please submit written comments to Jane Hoffman, Staff Attorney, Underground Injection Control, Oil and Gas Division, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas, 78711-2967. The deadline for filing comments is April 2, 1992.

The new section is proposed under the Texas Natural Resources Code, Title 3, §91.101 and §141.102, which authorizes the Railroad Commission to adopt rules to prevent pollution of surface or subsurface water in the state.

#### §3.99. Cathodic Protection Wells.

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

(1) Cathodic protection well—Any well drilled for the purpose of installing one or more anodes to prevent corrosion of a facility associated with the production of oil, gas, or geothermal resources, such as a well casing, storage and separation facility, or pipeline.

(2) Project area—The geographic area in which a related group of cathodic protection wells is drilled.

(3) Protection depth—Depth to which usable quality water must be protected, as determined by the Texas Water Commission, which may include zones that contain brackish or salt water if such zones are correlative and/or hydrologically connected to zones that contain usable quality water.

(4) Commission—The Railroad Commission of Texas or its authorized representative.

(b) Exemption. Any cathodic protection well that is drilled to a depth of 20 feet or less is not subject to the requirements of this section.

(c) Determination of protection depth. Before drilling any cathodic protection well, an operator shall obtain a letter from the Texas Water Commission stating the protection depth.

(d) Drilling permits.

(1) Wells that do not penetrate the protection depth. A cathodic protection well that does not penetrate the protection depth does not require a drilling permit.

(2) Wells that penetrate the protection depth. A cathodic protection well that penetrates the protection depth must be drilled in accordance with the requirements of §3.5(g) of this title (relating to Application to Drill, Deepen, Reenter, or Plug Back) (Statewide Rule 5).

(e) Completion.

(1) Timing. A cathodic protection well must be completed as soon as possible after it is drilled.

(2) Wells that do not penetrate the protection depth. A cathodic protection well that does not penetrate the protection depth must be completed in accordance with subparagraph (A) or (B) of this paragraph.

(A) The operator must place at least a 10-foot cement plug at the top of the well. The top of the cement plug shall be no less than three feet below the surface, and the remainder of the hole between the top of the plug and the surface shall be filled with drill cuttings or native soil.

(B) Alternative completion procedures and materials may be utilized when the operator has demonstrated to the commission's satisfaction that the alternatives will protect usable quality water.

(3) Wells that penetrate the protection depth. A cathodic protection well that penetrates the protection depth must be completed in accordance with subparagraph (A) or (B) of this paragraph.

(A) The operator must either set and cement casing to the base of usable quality water or center a 100-foot cement plug across the base of usable quality water, and must place at least a 10-foot cement plug at the top of the well. The top of the cement plug shall be no less than three feet below the surface, and the remainder of the hole between the top of the plug and the surface shall be filled with drill cuttings or native soil.

(B) Alternative completion procedures and materials may be utilized when the operator has demonstrated to the commissions satisfaction that the alternatives will protect usable quality water.

(f) Reporting. Within 30 days of completion of the last well in a project area, the operator shall submit a letter to the commission stating that each cathodic protection well in the project area has been completed in accordance with subsection (e) of this section. The letter must include the completion date for each well, the name and address of the operator, and the drilling permit and API numbers of the well, if applicable. A plat of the project area identifying cathodic protection well locations, counties, survey lines, scale, and northerly direction must be attached. In addition, a letter from the Texas Water Commission stating the protection depth(s) must be attached.

(g) Abandonment. Upon abandonment of a cathodic protection well, any wires or vent pipe must be cut off at the top of the cement plug, and the vent pipe must be securely capped or plugged.

(h) Superconducting super collider. No provision of this section exempt any operator from compliance with §3.78 of this title (relating to Drilling Operations in the Vicinity of the Superconducting Super Collider, Ellis County) (Statewide Rule 82).

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 February 24, 1992.

TRD-9202804

Nolan Ward  
Hearings Examiner, Legal  
Division-General Law  
Railroad Commission of  
Texas

Proposed date of adoption: April 21, 1992

For further information, please call: (512) 463-6857

◆ ◆ ◆  
**TITLE 19. EDUCATION**  
**Part II. Texas Education**  
**Agency**

**Chapter 61. School Districts**

**Subchapter G. School Facilities**

**• 19 TAC §§61.91-61.94**

The Texas Education Agency (TEA) proposes new §§61.91-61.94, concerning agency facility grant funds. The new sections implement policies governing the allocation of emergency facility grant funds.

Joe Wisnoski, senior director, resource planning and reports division, has determined that for the first five-year period the sections are in

effect there will be fiscal implications as a result of enforcing or administering the section. The effect on state government for the first five-year period will include the cost of hiring additional personnel to administer the grants as well as the \$50 million cost of the grants themselves. In addition, the agency is also responsible for the development of standards for facilities. Project personnel needed to implement these new programs include two architects with experience in the area of school construction at a cost of approximately \$84,000 per year. This includes salaries, fringe benefits, rent, and phone. An additional \$5,000 will be required in the first year to purchase furniture and computer equipment. This amount will be realized from a reduction of two positions in another agency function. The effect on local government (school districts) for the first five-year period will be the cost of the required matching grants necessary to qualify for state funds. The estimated amount of the matching grants is \$50 to \$100 million in local funds. However, districts are not under an obligation to participate in the program. To achieve the same results without the program, it is presumed that districts would have incurred \$50 million in additional expenses. There will be no fiscal implications for small businesses.

Mr. Wisnoski and Criss Cloudt, director, policy planning and evaluation, have 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 buildings that are safer for students and teachers provided at reduced cost to districts with limited financial resources. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The new sections are proposed under the Texas Education Code, §15.16(b), which provides the State Board of Education with the authority to establish procedures and qualifications for school districts who wish to obtain a facilities emergency grant.

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

**Imminent threat**—An immediate danger to students and staff due to either current exposure or high risk of exposure in emergency situation. Examples include, but are not limited to, exposed electrical hazards, current exposure to toxic chemicals through daily use in an unsafe environment, structural damage that endangers the immediate integrity of the building, and blind corridors posing a substantial threat in

emergency exit situations. Examples would not include: failure of pre-existing buildings to meet safety standards for new buildings, asbestos abatement under a pre-existing abatement plan, or inadequate handicap accessibility.

**Project**—A set of activities to repair, renovate, or add to existing facilities to address a specific, limited need. As an example, the addition of vent hoods in the chemistry labs would be considered a project. Within the same building, the addition of fire escapes for exit from a blind corridor would be considered a separate project. Districts may propose multiple projects per building.

**§61.92. District Prioritization.**

(a) Districts will be given a funding priority based on three factors:

(1) District rank of property wealth per weighted student in the 1991-1992 school year, defined as the State Property Tax Board value used in state aid distribution in that year divided by the number of weighted students for guaranteed yield purposes. This factor will receive a weight of 55%.

(2) District rank of average total effective tax rate from 1989-1991, defined as tax collections divided by the State Property Tax Board value used in state aid distribution in those years. This factor will receive a weight of 30%.

(3) District rank of growth rate from 1989-1990-1994-1995, defined as the projected average daily attendance for 1994-1995 divided by the attendance in 1989-1990. This factor will receive a weight of 15%.

(b) Rankings will each be rated to create a composite score for the district. The composite score will be the result of the formula: .55(rank of district wealth) + .30(rank of tax rate) + .15(rank of growth rate). The composite scores will then be rank ordered to determine priorities for funding projects.

**§61.93. Project Eligibility.**

(a) Districts will be notified of their eligibility to receive a grant based on the ranking produced pursuant to §61.92(b) of this title (relating to District Prioritization) and the availability of funds. Districts will be notified that:

(1) they are eligible to receive a grant for a qualified project;

(2) that they may be eligible to receive a grant for a qualified project if funds remain available;

(3) that they are ineligible to receive a grant.



(b) Districts will be eligible for funding for one or more school facilities renovation or construction projects by submitting a written application for funds to the Central Education Agency.

(c) Districts must submit a project plan and the associated costs to the commissioner of education. The commissioner will determine the format for applications and will make the final determination of project eligibility.

#### §61.94. General Requirements.

(a) The provisional entitlement for a district will be the lesser of a grant of no more than \$150 per weighted pupil in average daily attendance in 1991-1992 or the cost of the qualified project.

(b) Projects funded under this program must be completed by February 28, 1995. Funds granted must be used for the projects for which the grants were made.

(c) Once the \$50 million provided for under this rule has been expended, there are no further entitlements under this grant.

(d) School districts must apply for funding no later than a date set by the commissioner. Documentation of need for the proposed project will be required.

(e) The commissioner of education shall be responsible for interpretation of the terms and conditions of under this rule and shall make final determinations of project eligibility and awards.

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 February 17, 1992.

TRD-9202753      Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-9701

## Chapter 97. Planning and Accreditation

### Subchapter A. General Provisions

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

The Texas Education Agency (TEA) proposes the repeal of §§97.1-97.11 and

§97.21-97.39 concerning planning and accreditation. Senate Bill 1, 71st Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. All sections of Chapter 97 have been reviewed by the board and are being repealed. A new Chapter 97 is being proposed in a separate submission.

Criss Cloudt, director, policy planning and evaluation, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Ms. Cloudt, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be in effect the public benefit anticipated as a result of enforcing the repeals will be a clearer, more concise statement of the agency's rule authority. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed repeals submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

#### • 19 TAC §§97.1-97.11

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

#### §97.1. Purpose of Accreditation.

#### §97.2. Accreditation Required.

#### §97.3. The Accreditation Process.

#### §97.4. The Accreditation Cycle.

#### §97.5. Obtaining Information From Parents.

#### §97.6. Obtaining Information From Teachers.

#### §97.7. Monitors, Masters, and Management Teams.

#### §97.8. Types of Accreditation Status.

#### §97.9. Modification of a District Accreditation Status.

#### §97.10. State-Operated School Districts.

#### §97.11. Non-public Schools.

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

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TRD-9202751      Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

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For further information, please call: (512) 463-9701

## Subchapter B. Principles and Standards for Accreditation

### • 19 TAC §§97.21-97.39

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

The repeals are proposed under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

#### §97.21. Accreditation Standards, Criteria, and Academic Excellence Indicators.

#### §97.22. District Domain I. Planning and Evaluation.

#### §97.23. District Domain II. Curriculum.

#### §97.24. District Domain III. Instruction.

#### §97.25. District Domain IV. Student Services.

#### §97.26. District Domain V. Instructional Resources.

#### §97.27. District Domain VI. Personnel.

#### §97.28. District Domain VII. Governance.



§97.29. District Domain VIII. Community Awareness and Support.

§97.30. District Domain IX. Physical Facilities.

§97.31. District Domain X. District and Campus Organization and Management.

§97.32. District Domain XI. District Resource Allocation.

§97.33. Campus Domain I. Instructional Leadership.

§97.34. Campus Domain II. Instructional Focus.

§97.35. Campus Domain III. School Climate.

§97.36. Campus Domain IV. Teacher Behavior and High Expectations.

§97.37. Campus Domain V. Assessment.

§97.38. Campus Domain VI. Parental and Community Involvement.

§97.39. Campus Domain VII. Campus Resource Allocation.

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

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Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

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For further information, please call: (512) 463-9701

◆ ◆ ◆  
• 19 TAC §§97.1-97.6

The Texas Education Agency (TEA) proposes new §§97.1-97.6, concerning planning and accreditation. Senate Bill 1, 71st Legislature, requires the State Board of Education (SBOE) to reconsider all rules affected by this provision so that any rules adopted on these matters must occur under the new rule-making relationship between the SBOE and the Legislative Education Board. The review of the rules is to be conducted over a three-year period. All sections of Chapter 97 have been reviewed by the board and are being repealed in a separate submission. The new rules will bring the rules into conformity with legislative changes and will establish procedures for the new performance-based accred-

itation process emphasizing excellence and equity in student performance.

Dr. Ruben Olivarez, deputy commissioner for accountability, has determined that for the first five-year period the proposed sections will be in effect there will be no fiscal implications for state and local government as a result of enforcing or administering the sections.

Dr. Olivarez and Criss Cloudt, director, policy planning and evaluation, also have determined that for each year of the first five years the proposed sections will be in effect the public benefit anticipated as a result of enforcing the sections will be an accountability system that is driven by excellence and equity in student performance. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed sections.

Comments on the proposal may be submitted to Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed sections submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the sections has been published in the *Texas Register*.

The new sections are proposed under Senate Bill 1, §2.25, passed by the 71st Legislature, Sixth Called Session, which provides the State Board of Education with the authority to review all rules, other than portions of Chapter 75, under Title 19, Texas Administrative Code, relating to public education.

§97.1. Purpose of Accreditation. The purpose of school accreditation is to assure that school districts will be held accountable for excellence in student performance and equity for all segments of the student population. Accountability for outcomes will be determined through assessment of student performance on the academic excellence indicators and other performance indicators. Accountability will also include elements of effective school improvement and planning activities, as well as site-based decision-making directed toward the improvement of outcomes for all students. Under this accountability system, schools will receive optimal encouragement to secure release from state laws and rules which inhibit student performance and will have maximum flexibility in determining the kinds of programs needed to achieve excellence and equity standards, consistent with state and federal laws and State Board of Education rule.

§97.2. Accreditation Required.

(a) Each school district must be accredited by the Central Education Agency.

(b) The accreditation of a school district is based primarily on its overall

performance by all students as demonstrated on state adopted academic excellence indicators and other indicators of student performance. Additional criteria for determining accreditation status shall include evidence of equity and safety for all students; and effectiveness of governance, planning, decision-making, and program quality in respect to student outcomes.

(c) Accreditation by a voluntary association is a local option of the district, but it does not substitute for accreditation by the Central Education Agency.

§97.3. Types of Accreditation Status. The specific procedures for determining accreditation status based on performance measures will be established by the commissioner of education. The types of status districts may receive are as follows.

(1) Exemplary. In accordance with the established procedures, a district may be classified as exemplary if there is evidence of sustained exemplary performance on all academic excellence indicators and other student performance measures that is achieved equitably across all student populations. Evidence must also demonstrate that the health and safety of all students are ensured, and that the district is in compliance with state and federal laws.

(A) The performance results reported on each of the academic excellence indicators shall be the primary consideration of exemplary status.

(B) A district may retain its exemplary status unless it fails to maintain standards of excellence and equity in an annual review of performance on each of the academic excellence indicators or fails to maintain standards on other accreditation criteria.

(2) Recognized. A district may be classified as recognized if in accordance with the established procedures an assessment indicates sustained high level performance on all academic excellence indicators and other student performance measures for all student populations. Evidence must also demonstrate that health and safety of all students are ensured, and the district is in compliance with state and federal laws.

(A) The performance results reported on each of the academic excellence indicators shall be the primary consideration of recognized status.

(B) A district may retain its recognized status unless it fails to maintain standards of excellence and equity in an annual review of performance on each of the academic excellence indicators or fails

to maintain standards on other accreditation criteria.

(3) Accredited. In accordance with the established procedures, a district shall be classified as accredited when it meets the basic standards of performance on all of the state's academic excellence indicators and other student performance measures, and maintains equity in achievement across all student populations. Analyses must demonstrate that the district is attaining sustained improvement in student performance for all student groups. Evidence must also demonstrate that health and safety of all students are ensured, and that the district is in compliance with state and federal laws.

(4) Accredited, conditional. A newly formed district, or a district adding grades, shall be placed on accredited, conditional status until the agency can conduct a full accreditation review and establish an accreditation status for the new district or the total district, including the new grade levels.

(5) Accredited, advised. In accordance with the established procedures, a district shall be classified as accredited, advised when the district's students fail to achieve the basic standard of performance on the academic excellence indicators and other student performance measures, substantial inequities in achievement exist, the district fails to sustain gains in student performance, evidence of serious threats to the health or safety of students exists, and/or a district remains substantially out of compliance with state or federal laws.

(6) Academically unaccredited. In accordance with the established procedures, a district shall be classified as academically unaccredited when a substantial percentage of the district's students fail to achieve the basic standard of performance on the state's academic excellence indicators and other student performance measures, a wide disparity in student achievement exists across student populations, analyses indicate a sustained drop in student performance, evidence of severe threats to the health or safety of students exists, and/or when a district remains substantially out of compliance with state or federal laws.

#### §97.4. Criteria for Accreditation.

(a) The academic excellence indicators adopted by the State Board of Education shall be the main consideration of the Central Education Agency in the rating of a district. Performance on academic excellence indicators required by this section shall be used for the purposes of evaluation, accreditation, and determination of exemplary status. Performance information on each of the academic excellence indicators

shall be used to establish a longitudinal performance data base. The indicators must be based on information that is disaggregate with respect to race, gender, age, and socioeconomic status. Use of the academic excellence indicators in the rating process shall include consideration of:

(1) adequate campus and district performance under the indicators adopted; and

(2) the relation between the academic excellence indicators adopted by the board and the campus performance objectives established under the Texas Education Code, §21.7532.

(b) Other criteria which must be applied include the following:

(1) the relevance of the relationship between the goals and objectives of the district and student performance;

(2) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under statutory authority;

(3) information by grades, gender, ethnicity or race, and economic status pertaining to discipline rates, suspensions, placements in in-school suspension, alternative placements, corporal punishment, and other disciplinary sanctions, and reasons for disciplinary interventions;

(4) the quality of the district's appraisal of teacher performance and of administrator performance;

(5) the effectiveness of the district principals as instructional leaders;

(6) the effectiveness of the district's campuses on the basis of the most current criteria identified by research on effective schools;

(7) the fulfillment of curriculum requirements;

(8) the effectiveness of the district's programs in special education based on the Central Education Agency's most recent compliance review of the district and programs for special populations;

(9) the effectiveness of teacher in-service training;

(10) the effective use of technology to enhance student achievement;

(11) the effectiveness of the district's remedial and support programs under the Texas Education Code, §21.557, for students at risk of dropping out of school;

(12) the effectiveness of the district's dropout prevention and recovery programs;

(13) efficient allocation of available resources;

(14) the manner in which the campus performance objectives were established and the progress of the campus in meeting the objectives;

(15) the quality of learning on each of the district's campuses based on indicators including scores on achievement tests;

(16) current information on any outstanding agency requests in respect to financial or compliance audits, or civil rights issues;

(17) the quality of the district's planning for site-based decision making;

(18) the effectiveness of the school district's ability to provide physical facilities that are safety and designated to meet the educational needs of all students in an environment conducive to learning; and

(19) the effectiveness of the school district's ability to govern and manage the operations of the district in accordance with statewide standards and duties of a school board member.

#### §97.5. The Accreditation Process.

(a) For the purpose of issuing accreditation ratings, not less than once every six years, each school district in the state shall receive an accreditation rating. This rating will be based on the district's performance on the accreditation criteria as described in §97.4 of this title (relating to Criteria for Accreditation) and its history in respect to compliance with state and federal laws. Based on standards established by the commissioner of education, districts will be assigned an appropriate accreditation rating.

(b) At least once every six years, or as required in the Texas Education Code, §21.754, each district will receive a complete review of all accreditation criteria, utilizing the regular periodic compliance review by the Texas Education Agency staff.

(c) The commissioner shall establish the level of frequency of on-site visits, and the level of investigative review needed, dependent upon the district's performance as measured annually on academic excellence indicators, the history of the district's equity and performance trends, history of compliance with state and federal laws, and health and safety issues.

(d) The accreditation on-site review process shall normally be conducted by a select group of peers of professional district staff and board members. Agency staff will manage and facilitate the peer review process. The team will review, gather, and analyze data pertaining to student performance, district and campus planning and decision-making, compliance, equity, governance, health and safety. The team shall report its on-site visit findings to the com-

missioner. Agency staff will review all performance reports, compliance reports, other pertinent district records and findings of the review team, and the commissioner will determine the district's accreditation status in respect to standards established by the commissioner of education.

(e) At any time under certain circumstances the commissioner may order a review team composed of Texas Education Agency staff.

(f) In order to be considered for the status of recognized or exemplary, districts must request and receive an optional peer on-site review.

(g) Districts that receive the status of academically unaccredited will be reviewed on-site at least annually to determine the level of oversight and/or technical assistance required, and to monitor progress in respect to student performance, compliance, and other indicators of improvement.

(h) Districts that receive the status of accredited advised will be reviewed on-site at least every two years to determine the level of oversight and/or technical assistance required, and to monitor progress in respect to student performance, compliance, and other indicators of improvement.

(i) The Central Education Agency shall give written notice to the superintendent and board of trustees of each district before a scheduled accreditation visit.

(j) The procedures to be followed during the on-site accreditation visits will be established by the commissioner of education.

(k) The on-site review team shall obtain information from campus administrators, teachers, parents, and students. Information from parents and teachers will be obtained in a manner that prevents the campus or district from screening the information.

(l) At the conclusion of a district's accreditation visit, the accreditation team shall orally report its preliminary findings to administrators and representatives from the board of trustees, as appropriate. District representatives may, if they wish, respond to the preliminary report orally during the closing session. The district may also make written responses to the preliminary findings.

(m) A written report shall be sent to the district. The report shall include the district accreditation status.

(n) If the district disagrees with the accreditation status, the district shall be afforded an opportunity for a hearing in accordance with the due process procedures established by the commissioner of education. The report becomes public upon receipt by the district and must be entirety by

the board of trustees at a regularly scheduled board meeting as soon thereafter as possible.

(o) To determine if a district qualifies for a higher rating, upon request from the district the commissioner of education may direct the agency to conduct an on-site accreditation review.

(p) At any time upon the identification of potential problems the commissioner of education may direct the agency to conduct outside investigations and may raise or lower a district's accreditation rating as a result of such investigations.

**§97.6. Nonpublic Schools.** The commissioner of education shall be authorized to review the criteria of other accrediting bodies that accredit nonpublic schools in Texas. Where the commissioner determines that such criteria are comparable to the standards in this chapter, the commissioner may recognize the accrediting association. The commissioner shall disseminate information on schools accredited by associations recognized by the commissioner of education. Student credits earned in nonpublic schools accredited by a recognized association shall be transferable to Texas public schools, and teacher service in accredited nonpublic schools shall be creditable in accordance with Chapter 121, Subchapter C, of this title (relating to Years of Service for Salary Increment Purposes).

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 February 17, 1992.

TRD-9202759

Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

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For further information, please call: (512) 463-9701

◆ ◆ ◆  
**Chapter 149. Education**  
**Personnel Development**  
**Subchapter C. Appraisal of**  
**Certified Personnel**

• **19 TAC §149.43**

The Texas Education Agency (TEA) proposes an amendment to §149.43, concerning teacher appraisal procedures. The amendment will provide more flexibility in the Texas teacher appraisal system and make changes to the frequency of observations, conditions for scoring, and conferencing requirements. The intent of the amendment is to provide sound clinical supervision and assistance to those teachers who are most in need.

Dr. Richard Swain, associate commissioner for professional development, has determined that for the first five-year period the proposed section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Dr. Swain and Criss Cloudt, director, policy planning and evaluation, have 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 more time for school district appraisers to redirect efforts to those teachers who need support. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §§13.302-13.304, which provide the State Board of Education with the authority to adopt an appraisal process and criteria on which to appraise the performance of teachers for career ladder level assignment purposes.

**§149.43. Teacher Appraisal Procedures.**

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

(c) Appraisals, observations, and conferences.

(1) At least two appraisals are required each year for each probationary teacher and [teacher,] each teacher on career ladder level one who does not meet the state's minimum criteria for advancement to level two. The first appraisal shall be formative. It shall be scored, but not be used for career ladder assignment. Teachers on level one who have met the state's minimum requirements for advancement to level two, but who have not been assigned to level two because of school district stricter performance criteria, and teachers on levels two, three, and four on the career ladder whose performance was exceeding expectations or clearly outstanding on the most recent overall summative performance score, shall be appraised at least once each year. Teachers on career ladder level two, three, or four whose performance on the most recent overall summary performance score was less than exceeding expectations shall have at least two appraisals. [teacher, and each teacher on career ladder levels two, three, or four, whose performance on the most recent overall summary performance score was

less than exceeding expectations. Teachers on levels two, three, or four of the career ladder whose performance was exceeding expectations or clearly outstanding on the most recent overall summary performance score shall be appraised at least once each year.]

(2) (No change.)

(3) [Beginning with the 1990-1991 school year, school] School districts which use the minimum of two appraisers during any appraisal period shall provide for an observation by a third appraiser if requested by a teacher due to a variance of 15 or more points between the sum of the domain subtotals for Domains I-IV awarded by the teacher's supervisor and the sum of the domain subtotals for Domains I-IV awarded by the other appraiser. Each district shall adopt procedures for uniform implementation of this procedure within the district.

(4)-(5) (No change.)

(6) [For the 1989-1990 school year, 50%] Fifty percent of the formal observations must be scheduled by day and time of day, and 50% of the formal observations must be scheduled within a reasonable period of time designated by the local district and uniformly applied for all teachers. If a formal observation by a third appraiser from another campus is required, that observation must be scheduled by day and time of day. [For the 1990-1991 school year and upon the development and approval of instruments, processes, or procedures to be used for purposes of appraising levels three and four of the career ladder, all formal observations using the Texas Teacher Appraisal System shall be scheduled.]

(7)-(10) (No change.)

(11) For level one teachers who receive two appraisals, the supervisor shall conduct a pre-conference with the teacher prior to the supervisor's formal observation. The pre-conference shall be conducted within a reasonable period of time prior to the observation. Following each formal observation, an appraiser must conduct a post-observation conference with the teacher if the teacher's performance is judged less than meets expectations in one or more domains. Regardless of the teacher's performance, each teacher supervisor must conduct a post-observation conference after each formal observation. Appraisers other than the teacher's supervisor are encouraged to conduct post-observation conferences after all formal observations. Required post-observation conferences must be held within 10 working days of the formal observation. If there are extenuating circumstances, the 10 working day requirement may be extended to a maximum of 15

working days. At the conclusion of the first appraisal period, a conference will be held at the request of either the teacher or the appraiser.

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

(f) Summative appraisal.

(1) Each teacher must receive a summative conference at the end of the teacher's last appraisal period. In this conference, the teacher's supervisor will review the teacher's [completed assessment of] instructional goals and outcomes, inform the teacher of the domain performance scores and the overall summary performance score for the year, review the teacher's status relating to requirements for advancement and/or maintenance on the teacher career ladder, make recommendations regarding domains needing improvement, and address a professional growth plan as appropriate. The teacher's supervisor and the teacher shall also discuss teacher self-assessment aspects such as the goals of the individual teacher, campus planning, instructional strategies, and student outcomes during the summative conference.

(2)-(3) (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 February 17, 1992.

TRD-9202754

Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-9701

◆ ◆ ◆  
Subchapter D. Teacher Career  
Ladder

• 19 TAC §149.81

The Texas Education Agency (TEA) proposes an amendment to §149.81, concerning advanced academic training. The amendment will authorize the approval of sponsors of advanced academic training (AAT) rather than individual programs; discontinue the required pre-assessment and post-assessment of workshop participants; delete provisions that AAT be in addition to the required inservice education (staff development); and require approved sponsors to provide follow-up activities to stimulate participant utilization.

Dr. Richard Swain, associate commissioner for professional development, 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.

Dr. Swain and Criss Cloudt, director, policy planning and evaluation, 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 streamlining of procedures for AAT. 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 Criss Cloudt, Policy Planning and Evaluation, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9701. All requests for a public hearing on the proposed section submitted in accordance with the Administrative Procedure and Texas Register Act must be received by the commissioner of education not more than 15 calendar days after notice of a proposed change in the section has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code, §13.315, which provides the State Board of Education with the authority to specify the amount of classroom management training required at each level.

§149.81. Advanced Academic Training.

(a) General provisions. Advanced academic training is staff development based upon diagnosed needs or professional goals. Priority shall be given to strengthening needs identified through the appraisal and accreditation process. The purpose of advanced academic training is to improve classroom instruction for increased student performance. Such training [shall be in addition to the required inservice education and] must be highly structured to meet the requirements of the Texas Education Code, §13.315. A teacher must have prior district approval for any training to be considered for advanced academic training.

(b) (No change.)

(c) Sponsors and presenters.

(1) Each sponsor shall be approved by the Texas Education Agency based on the written statement of assurances. The statement of assurances shall be in a form prescribed by the commissioner of education. Workshops or classes must be sponsored by a school district, a college or university, an education service center, a professional organization, or a governmental agency. A program by a private firm must be sponsored by one of the entities in this subsection.

(2) It shall be the responsibility of the approved sponsor to assure that each presenter has [must have] documented expertise in the topic of the workshop or class. The qualifications of presenters shall be verified by the program sponsor.

(3) (No change.)

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

(f) Approval of Sponsors. Each sponsor shall be approved to provide advanced academic training based upon statements of assurance provided to the

**Texas Education Agency. Approved sponsors will receive documentation indicating the approved status. [Program approval.]**

[(1) Each program must be submitted to the Central Education Agency for approval prior to the scheduled dates of the training. This submission shall be on forms provided by the agency. The agency will review and approve each program based upon criteria in this section.

[(2) Within 30 days the program will be approved or returned. Providers of approved programs will receive documentation indicating the approved status.

[(3) Approved programs will be reviewed by the Central Education Agency at least every three years with selected on-site monitoring to be scheduled at any time. All programs will maintain approved status unless notified otherwise by the agency.

[(4) Each program must include:

[(A) pre-assessment of the knowledge/skill level of the participants related to the program topic;

[(B) demonstration of mastery or gain by the participants at the close of the program; and

[(C) follow-up activities to determine the participant's utilization of the newly acquired knowledge/skills and to provide technical assistance in implementing acquired techniques in the classroom.

[(5) Up to 50% of the advanced academic training required for advancement or maintenance on advanced levels of the career ladder may be for activities that are conducted outside of the regular school day and are linked to district goals and/or campus objectives such as developing curriculum materials and peer coaching. These activities will qualify for advanced academic training under the following conditions:

[(A) curriculum materials: those which address the scope and sequence of curriculum, revision or restructuring of curriculum, mastery of essential elements, or curriculum development which exceeds the essential elements; and

[(B) peer coaching: those that are designed to strengthen peer assistance/mentor relations for working with individuals such as student teachers, induction year teachers, or teachers new to a district.]

[(g) **Review of sponsors. Approved sponsors will be reviewed by the Texas Education Agency at least every five**

**years with the review and audit of approved sponsors scheduled at any time. All sponsoring agencies will maintain approved status unless otherwise notified by the agency.**

**(h) Follow-up activities. Each approved sponsor shall provide follow-up activities to determine the participants' utilization of the newly acquired knowledge/skills and to provide technical assistance in implementing acquired techniques in the classroom.**

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 February 17, 1992

TRD-9202752 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-9701

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**TITLE 25. HEALTH SERVICES**

**Part I. Texas Department of Health**

**Chapter 98. HIV and STD Control**

**Subchapter B. HIV Education Grant Program**

**General Provisions**

**• 25 TAC §98.67**

The Texas Department of Health (department) proposes an amendment to §98.67, concerning the State HIV Education, Prevention, and Risk Reduction Advisory Committee. The amendment will modify the existing "Texas Youth Commission" membership category to encompass local correctional facilities, such as jails.

Stephen Seale, Chief Accountant III, Budget Office, 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. Seale also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be to update membership requirements for the state HIV education, Prevention, and Risk Reduction Advisory Committee. There will be no effect on small or large businesses. There is no anticipated economic cost to persons who may be required to comply with the section as proposed. There will be no impact on local employment.

Comments on the proposal may be submitted to Charles E. Bell, M.D., Bureau Chief, Bureau of HIV and STD Control, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7463. Public comments will be accepted for 30 days after publication of the section in the *Texas Register*.

The amendment is proposed under the Health and Safety Code (Code), §85.044, which provides the Board of Health with the authority to establish an advisory committee to assist the board in the implementation of the state HIV Education, Prevention, and Risk Reduction Advisory Committee; §11.016, which provides the Board of Health with the authority to appoint advisory committees; and §12.001, which provides the board with the authority to adopt rules to implement its duties. The amendment will affect the Code; §85.044.

*§98.67. State HIV Education, Prevention, and Risk Reduction Advisory Committee.*

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

(d) Membership. The board shall appoint a 15-member statewide AIDS/HIV Education, Prevention, and Risk Reduction Advisory Committee which is representative of:

(1) (No change.)

(2) the Texas Youth Commission/local correctional facility;

(3)-(15) (No change.)

(e)-(h) (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 February 25, 1992.

TRD-9202796 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department Health

Earliest possible date of adoption: May 16, 1992

For further information, please call: (512) 458-7463

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**Subchapter C. Texas HIV Medication Program**

**General Provisions**

**• 25 TAC §98.112**

The Texas Department of Health (department) proposes new §98.112, concerning the Texas HIV Medication Program Advisory Committee. The new section implements the provisions of the Health and Safety Code, §85.066, which provides for the establishment of an advisory committee to assist the Board of Health and the department in the development of procedures and guidelines for the Texas HIV Medication Program. The committee also will make recommendations

for eligibility for participation, medication coverage, priority of treatment, and application process in the HIV Medication Program. The new section specifically covers its purpose, committee responsibilities and recommendations, membership, term of officers, officers, subcommittees, meetings, and public participation.

Stephen Seale, Chief Accountant III, Budget Division, has determined that for the first five-year period the new section is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section as proposed.

Mr. Seale also has determined that for each year of the first five year period the section is in effect the public benefit anticipated as a result of enforcing the section will be to establish membership, standards, and operating procedures for the Texas HIV Medication Advisory Committee. There is no anticipated economic cost to small or large businesses to comply with the section as proposed. There is no anticipated cost for persons affected by this section. There will be no effect on local employment.

Comments on the proposal may be submitted to Jim Allen, R.Ph., Director, Texas Department of Health, Division of Pharmacy, Texas HIV Medication Program, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7500. Comments will be accepted for 30 days after publication of the proposal in the *Texas Register*.

The new section is proposed under Health and Safety Code, §85.061, which provides the Texas Board of Health with the authority to establish an HIV Medication Program Advisory Committee; and §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The new section will affect the Health and Safety Code, Chapter 86, Subchapter C, concerning the HIV Medication Program.

#### §98.112. *Texas HIV Medication Advisory Committee.*

(a) Purpose. The purpose of the Texas HIV Medication Advisory Committee (committee) is to assist the Texas Board of Health (board) and the Texas Department of Health (department) in the development of procedures and guidelines for the HIV Medication Program (program) to provide HIV medications at the community level.

(b) Committee responsibilities. The responsibilities of the committee include the:

- (1) evaluation of the existing program and unmet needs;
- (2) review of the goals and targets of the program;
- (3) evaluation of ongoing program efforts;
- (4) definition of both short-range and long-range goals and objectives for medication needs; and

(5) development of criteria and standards for the HIV Medication Program.

(c) Committee recommendations. The department shall consider committee recommendations for eligibility for participation, medication coverage, priority of treatment, and application process.

(d) Membership. The board shall appoint an 11-member statewide HIV Medication Advisory Committee which is representative of:

(1) four physicians actively engaged in the treatment of adults with HIV infection;

(2) one pediatrician actively engaged in the treatment of infants and children with HIV infection;

(3) two persons with AIDS who must be diagnosed as having AIDS, ARC, or an HIV-related condition;

(4) two members representing public, non-profit hospitals that are currently involved in the delivery of services to persons with HIV infection;

(5) one pharmacist who must currently be practicing pharmacy publicly or privately and involved in the preparation and/or delivery of medication to HIV infected persons; and

(6) one social worker currently working with persons with HIV infection;

(e) Term. The members shall serve staggered three-year terms with alternately, four, four, and then three members' terms expiring each year in January. Initial appointments for one, two, and three-year terms will be determined by lottery. Members may be reappointed by the board to consecutive terms.

(f) Officers. The officers of the committee shall consist of a chairperson and a vice-chairperson and shall be selected at the committee's first regular meeting each year for reelection for one additional term. The chairperson shall be the presiding officer of the committee. The vice-chairperson shall assume the authority and duties of the chairperson in his or her absence.

(g) Subcommittees. The subcommittees of the committee shall be ad hoc, shall be appointed from the membership by the chairperson, and shall assume such powers and responsibilities as delegated to them by the chairperson.

(h) Meetings.

(1) Open meeting requirements. The committee shall post and hold all meetings in accordance with the Texas Open Meetings Act, Texas Civil Statutes, Article 6252-17.

(2) Regular meetings. The full committee shall meet at least two times per year. Notice of time, date, place, and pur-

pose of regular meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(3) Special meetings. Special meetings of the committee shall be held as needed and called by the chairperson. Notice of the time, date, place, and purpose of special meetings shall be provided to the members, by mail or telephone or both, at least seven days in advance of each meeting.

(4) Quorum. A majority of the committee's members constitutes a quorum for the transaction of business at any meeting. A majority is defined as more than one-half of the committee's membership. The committee may act only by majority vote of its members present and voting. Each member shall be entitled to one vote.

(5) Attendance. A record of attendance at each meeting shall be made. The board shall be notified of members who miss two consecutive meetings. A third consecutive absence from a regular meeting shall be sufficient grounds for membership termination by the board.

(6) Parliamentary procedures. Parliamentary procedures for all committee or subcommittee meetings are conducted in accordance with the latest edition of Roberts Rules of Order, except that the chairperson may vote on any action as any other member of the committee.

(7) Conflict of interest. Any committee member having a potential conflict of interest between his/her professional or financial affiliations and subject matter presented to the committee shall refrain from chairing the discussion and/or voting on the issue.

(8) Minutes. Minutes of all committee meetings will be prepared and transmitted to the membership for their review prior to subsequent meetings.

(9) Public participation. All requests from the public to participate in committee meetings shall be submitted to the committee chairperson. The agenda for each committee meeting shall include one or more items providing for public appearance before the committee. Written comments are encouraged and may be submitted to the committee for its consideration. The committee on its initiative may ask for public participation as needed and requested. Designation of time for public participation will be included on the agenda.

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 February 20, 1992.

Proposed date of adoption: April 25, 1992

For further information, please call: (512)  
458-7500

## Part XI. Texas Cancer Council

### Chapter 701. Policies and Procedures

#### • 25 TAC §701.3

The Texas Cancer Council proposes an amendment to §701.3, concerning policies and procedures. The amendment to this section is in response to changes in the composition of the Texas Cancer Council made by House Bill 7, enacted during the first called session of the 72nd Legislature. Current rules of the Texas Cancer Council specify the duties of the vice chairperson, but do not address how the vice chairperson is to be designated.

Emily F. Untermeyer, 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.

Ms. Untermeyer also has determined that for each year of the first years the section is in effect the public benefit anticipated as a result of enforcing the section will be to amend current rules regarding the designation of the vice-chairperson. 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 Emily F. Untermeyer, Executive Director, Texas Cancer Council, P.O. Box 12097, Austin, Texas 78711.

The amendment is proposed under the Health and Safety Code, Chapters 102.002 and 102.009, which provides the Texas Cancer Council with the authority to develop and implement the Texas Cancer Plan. Additionally, Texas Civil Statutes, Article 6252-13a, §4 provide the Texas Cancer Council with the authority to adopt rules governing council practice and procedures.

#### §701.3. Officers.

(a) (No change.)

(b) Vice chairperson. The vice chairperson shall perform the duties of the chairperson in case of absence of the chairperson. In case the office of chairperson becomes vacant, the vice chairperson will serve as chairperson until a successor is appointed.

(1) At the meeting held closest to August 31 of each year, the council shall elect a vice chairperson by majority

vote of those members present and voting. Nominations shall be from the floor.

(2) A vacancy in the office of vice chairperson may be filled by a majority vote of those members present and voting at the next council meeting.

(c) (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 February 21, 1992.

TRD-9202617

Emily F. Untermeyer,  
M.P.H.  
Executive Director  
Texas Cancer Council

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512)  
463-3190

## TITLE 28. INSURANCE

### Part I. Texas Department of Insurance

#### Chapter 3. Life, Accident, and Health Insurance and Annuities

##### Subchapter Y. Minimum Standards For Benefits For Long-Term Care Coverage Under Individual and Group Policies

#### • 28 TAC §§3.3830, 3.3837-3.3838

The State Board of Insurance of the Texas Department of Insurance proposes an amendment to §3.3830, and new §§3.3837-3.3838, concerning minimum standards for benefits for long-term coverage under individual and group policies, following passage of Article 13 of House Bill 62, Second Called Session of the 72nd Texas Legislature, creating the Insurance Code, Article 3. 70-12. The amendment and new sections will assure orderly implementation and effective disclosure of long-term insurance benefits and premiums by companies licensed to provide such coverages. The amendment to §3.3830 changes the requirements for replacement of long-term care coverages and includes questions to be included upon the taking of an application for long-term care coverage, as well as new disclosures which are required. New §3.3837 replaces the prior section addressing effective date with requirements for reporting agent activity with respect to lapses of long-term care coverages and replacement sales. New §3.3838 replaces the prior section addressing severability with filing requirements for advertising for long-term care coverages.

Rhonda Myron, deputy insurance commissioner for the life group, 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, and there will be no effect on local employment or the local economy.

Ms. Myron, 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 and administering the sections will be the more effective regulation of long-term care coverages, the achievement of greater uniformity of standards for benefits in long-term care coverages and standardization of required disclosures thereby resulting in availability and comparability of long-term care coverages which are in the best interests of insurance consumers of this state, and in harmony with the legislative directives in the Insurance Code, Article 3.70-12. The anticipated economic cost to persons who are required to comply with the proposed sections is the same as the cost of doing any accident and health insurance business. Many of the costs associated with the accident and health insurance business arise from the requirements of statute and not from these sections.

Comments on the proposal may be submitted to Rhonda Myron, Deputy Insurance Commissioner for the Life Group, Mail Code 106-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The amendment and new sections are proposed under the Insurance Code, Article 3.70-12, §§3(a), 3(b), 4(c), and 7; Article 1.04(b); and Texas Civil Statutes, Article 6252-13a, §§4 and 5. The Insurance Code, Article 3.70-12, §3(a) provides the board shall by rule establish specific standards for provisions of long-term care coverage, and standards for full and fair disclosure setting forth the manner, content, and required disclosures for the marketing and sale of long-term care coverages. Article 3.70-12, §3(b) provides that such rules are to include requirements no less favorable than the minimum standards adopted in any model laws or regulations relating to minimum standards for long-term care insurance. Article 3.70-12, §4(c) provides that the board adopt reasonable rules providing loss ratio standards applicable to rates charged for long-term care coverages, in a manner no less favorable to the holders of such policies than any model laws, rules, and regulations adopted in connection with minimum standards for benefits for long-term care coverage. Article 3.70-12, §7 provides that in addition to other rules required or authorized, the board may adopt reasonable rules necessary and proper to carry out the article and that such rules shall include requirements no less favorable than minimum standards for long-term care coverage adopted in any model laws or regulations relating to minimum standards for benefits for long-term care insurance. The Insurance Code, Article 1.04(b) provides the board to determine rules in accordance with the laws of this state. Texas Civil Statutes, Article 6252-13a, §4 authorize and require each state agency to adopt rules of practice setting forth the nature and requirement of available procedures; §5 prescribes the procedures for



adoption of rules by a state administrative agency.

**§3.3830. Requirements for Application Forms and Replacement Coverage**

(a) Individual and direct-response-solicited long-term care insurance application forms shall include questions [a question] designed to elicit information as to whether, as of the date of application, the applicant has another long-term care insurance policy or certificate in force or the proposed insurance is intended to replace any other accident and sickness or long-term care insurance policy presently in force. A supplementary application or other form to be signed by the applicant and agent, except where the coverage is sold without an agent, containing such questions [a question may be used. With regard to a replacement policy issued to a an employer, labor union or continuing care retirement community the following questions may be modified only to the

extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced; provided, however, that the certificate holder has been notified of the replacement. The following questions shall be included in the application.

(1) Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?

(2) Did you have another long-term care insurance policy or certificate in force during the last 12 months?

(3) Are you covered by Medicaid?

(4) Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)?

(b) Agents shall list any other health insurance policies and certificates

they have sold to the applicant and shall also:

(1) list policies and certificates sold which are still in force;

(2) list policies and certificates sold in the past five years which are no longer in force.

(c) Agents shall list any other health insurance policies or certificates the applicant has in force.

(d)[(b)] Upon a determination that a sale will involve replacement, an insurer or its agent, if that insurer is other than one using direct-response solicitation methods, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of such notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be provided in the following manner.



**NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL  
ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE**

(Insurance company's name and address)

**SAVE THIS NOTICE! IT MAY BE IMPORTANT  
TO YOU IN THE FUTURE.**

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with a [an individual] long-term care insurance policy or certificate to be issued by (Company Name) Insurance Company. Your new policy or certificate (coverage) provides 30 [10] days within which you may decide, without cost, whether you desire to keep the policy or certificate. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new coverage [policy].

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present coverage only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

**STATEMENT TO APPLICANT BY AGENT (OR OTHER REPRESENTATIVE):**

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

- (1) Health conditions which you may presently have (pre-existing conditions) may not be covered immediately or fully under the new coverage [policy]. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present coverage [policy].
- (2) State law provides that your replacement policy or certificate may not contain new pre-existing conditions or probationary periods. The insurer will waive any time periods applicable to pre-existing conditions or probationary periods in the new policy or certificate (coverage) for similar benefits to the extent such time was spent (depleted) under the original coverage.

(3)[(2)] You may wish to secure the advise of your present insurer or its agent regarding the proposed replacement of your present coverage [policy]. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

(4)[(3)] If, after due consideration, you still wish to terminate your present coverage [policy] and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on a application may provide a basis for the company to deny any future claims and to refund your premium as though your policy or certificate had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

\_\_\_\_\_  
(Signature of Agent, Broker or Other Representative)  
(Typed Name and Address of Agent)

The above "Notice to Applicant" was delivered to me on:

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Applicant's Signature)

(e)[(c)] Insurers using direct-response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy or certificate. The required notice shall be provided in the following manner.

**NOTICE TO APPLICANT REGARDING REPLACEMENT OF ACCIDENT  
AND SICKNESS OR LONG-TERM CARE INSURANCE**

(Insurance company's name and address)

**SAVE THIS NOTICE! IT MAY BE  
IMPORTANT TO YOU IN THE FUTURE**

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness or long-term care insurance and replace it with the long-term care insurance policy and certificate (if applicable) delivered herewith issued by (Company Name) Insurance Company. Your new policy or certificate (coverage) provides 30 [10] days within which you may decide, without cost, whether you desire to keep the policy or certificate. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new coverage [policy].[:]

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present coverage only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

- (1) Health conditions which you may presently have (pre-existing conditions) may not be covered immediately or fully under the new coverage [policy]. This could result in denial or delay in payment of benefits under the new coverage [policy], whereas a similar claim might have been payable under your present coverage [policy].
- (2) State law provides that your replacement policy or certificate may not contain new pre-existing conditions or probationary periods. Your insurer will waive any time periods applicable to pre-existing conditions or probationary periods in the new policy or certificate (coverage) for similar benefits to the extent such time was satisfied under the original coverage.
- (3)[(2)] You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present coverage [policy]. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (4)[(3)] (To be included only if the application is attached to the policy.) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, read the copy of the application attached to your new policy and be sure that all questions are answered fully and correctly. Omissions or material misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write to (Company Name and Address) within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

\_\_\_\_\_  
(Company Name)

[graphic]

(f) When replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy or certificate shall be identified by the insurer, name of the insured, and policy number or address including zip code. Such notice shall be made within five working days from the date the application is received by the replacing insurer or the date the policy is issued, whichever is sooner.

§3.3837. Reporting Requirements

(a) Every insurer shall maintain records, for each agent, of that agent's amount of replacement sales as a percentage of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percentage of the agent's total annual sales.

(1) Each insurer shall report by June 30 of every year the 10% of its agents with the greatest percentages of lapses and replacements as measured by this subsection.

(2) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(3) Every insurer shall report by June 30 of every year the number of lapsed policies as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the end of the preceding calendar year.

(4) Every insurer shall report by June 30 of every year the number of replacement policies sold as a percentage of its total annual sales and as a percentage of its total number of policies in force as of the preceding calendar year.

(b) For purposes of this section, "policy" shall mean only long-term care insurance coverages, and reporting requirements relate only to coverages that are delivered or issued for delivery in this state.

§3.3838. Filing Requirements for Advertising. A long-term care insurance policy shall not be deemed to meet the standards and requirements set forth in this subchapter unless the filing company has complied

with the requirements of the following paragraphs.

(1) Every insurer or other entity providing long-term care insurance or benefits in this state shall provide to the board for review a copy of any advertisement, as defined in §21.102 of this title (relating to Scope), used to promote a policy which is approved under the provisions of this subchapter. The copy of the advertisement shall be submitted to the board no later than 60 days prior to its first use. At the expiration of the 60-day period provided by this paragraph, any advertisement filed with the board shall be deemed acceptable, unless before the end of that 60-day period the board has notified the entity of its nonacceptance.

(2) All advertisements shall comply with all applicable federal and state laws and shall be submitted in accordance with §21.120 of this title (relating to Filing for Review). This section does not require prior approval of the advertisement. Nothing in this section relieves any person from otherwise complying with all applicable laws or from any sanction imposed by law.

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 February 26, 1992.

TRD-9202807

Linda von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Earliest date of adoption: April 3, 1992

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

◆ ◆ ◆  
Subchapter Y. Minimum Standards for Benefits for Long-Term Coverage Under Individual and Group Policies

• 28 TAC §3.3837 and §3.3838

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

The State Board of Insurance of the Texas Department of Insurance proposes the repeal of §3.3837 and §3.3838, concerning the effective date and severability of sections in this

subchapter. The proposed repeal of the sections enables the board simultaneously to propose new sections which replace these repealed sections with provisions which are part of a larger rulemaking effort to implement new legislation, House Bill 62, Second Called Session of the 72nd Legislature, which created the Insurance Code, Article 3.70-12. Notification appears elsewhere in this issue of the Texas Register of proposal of the new sections which would replace these sections proposed for repeal.

Rhonda Myron, deputy insurance commissioner for the life group, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals, and there will be no effect on the local employment or local economy.

Ms. Myron, also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be the implementation of legislative revisions of the Insurance Code. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Rhonda Myron, Deputy Insurance Commissioner for the Life Group, Mail Code 106-1A, Texas Department of Insurance, 333 Guadalupe Street, P.O. Box 149104, Austin, Texas 78714-9104.

The repeals are proposed under the Texas Insurance Code, Article 1.04, which provides the State Board of Insurance with the authority to determine policy and rules in accordance with the laws of this state; and under the Texas Insurance Code, Article 3.70-12, §7, which authorizes the board to promulgate rules to carry out the provisions of the article.

§3.3837. Effective Date.

§3.3838. Severability.

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 February 26, 1992.

TRD-9202808

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

Earliest date of adoption: April 3, 1992

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

## TITLE 34. PUBLIC FINANCE

### Part I. Comptroller of Public Accounts

#### Chapter 3. Tax Administration

##### Subchapter A. General Rules

###### • 34 TAC §3.7

The Comptroller of Public Accounts proposes new §3.7, concerning successor's liability. During the 70th Legislature, 1987, Second Called Session, §111.020 was added to the Tax Code. This provision made the purchaser of a business or stock of goods liable for tax, penalty, and interest or any other amounts owed the state. Before this section was added to the Tax Code, the successor's liability provisions were found only in Chapter 151. Section 111.020 has an effective date of July 21, 1987.

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 state or local government as a result of enforcing or administering the section. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

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 new information regarding tax responsibilities. 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.

###### *§3.7. Successor's Liability: Liability Incurred by Purchase of a Business.*

(a) A purchaser of any business or stock of goods is liable for payment of any amount owed the state by the seller under the Tax Code, Title 2. The purchaser must, at the time of purchase, withhold a sufficient amount from the purchase price to pay any amounts due. The amount withheld must equal all tax, penalty, and interest or any other amounts assessed or to be assessed against the seller. The purchaser shall not be liable for an amount greater than the purchase price of the business or stock of goods.

(b) A purchaser's duty to withhold the amount owed by the seller will continue until the seller presents to the purchaser or the purchaser otherwise receives a certificate from the comptroller stating that no tax is due. Failure of the purchaser to withhold and remit to the comptroller the required amount makes the purchaser liable for such amount to the extent of the purchase price.

(c) The purchase price shall include, but not be limited to, monetary consideration, assumption of debt, transfer of property, forgiveness of debt, or issuance of debt instruments.

(d) When determining if a "business" has been or will be sold, the comptroller will examine the transaction to determine what the parties to the transaction intended to buy and sell. The answer in each situation will depend on the type of business involved. A seller may have sold a "business" even when few assets were transferred. Depending on the type of business involved, a "business" may be sold if an owner sells:

- (1) a building, land, furniture, fixtures, inventory, and the right to use the seller's trade name; or
- (2) all the capital assets of a business; or
- (3) the name and goodwill of a business; or
- (4) all the inventory of a business; or
- (5) fixed assets and realty necessary to operate a similar business as the seller at the same location.

(e) Successor's liability may be incurred by a person purchasing a separate division, branch, or identifiable segment of a business. A separate branch, or identifiable segment of a business, is one that has income and expenses attributable to it that can be separately ascertained from the books of account or records of the business. The amount assessed against a purchaser of a separate division, branch, or identifiable segment of a business will be the amount of tax, penalty, and interest attributable to that division, branch, or identifiable segment, if that amount is known. If that amount is not known, it will be presumed to be the proportional amount of tax, penalty, and interest owed by the seller in the same proportion as the gross revenues of the separate division, branch, or identifiable segment compared to the total gross revenues of the business.

(f) A certificate stating the amount due or that no tax is due may be obtained in the following manner. The seller, the sell-

er's assignee, or purchaser must make a written request for the certificate before the sale of the business is completed. The comptroller must issue a certificate within 60 days after the records are made available by the seller for audit or within 60 days after receiving the written request for the certificate, whichever period expires later, but in any event not later than 90 days after receiving the written request. If any amount is found to be due, it must be paid before the certificate will be issued. Failure of the comptroller to timely issue the certificate will release the purchaser from any further obligation to withhold an amount from the purchase price.

(g) The seller must inform the comptroller in writing of the name and address of the purchaser and must file a final report immediately after the sale of the business.

(h) The collection, refund, and penalty provisions of the Tax Code, Title 2, Subtitle B, apply to payments required under successor's liability. Failure of a purchaser to pay the assessment of successor's liability in a timely fashion or to request a hearing thereon will result in a penalty of 10% as provided by the Tax Code, Title 2, Subtitle B, in addition to any amounts of penalty previously assessed against the seller. Successors cannot challenge the validity of the underlying liability of the predecessor.

(i) The sale of a business or stock of goods by a bankruptcy trustee or by the administrator, executor, or guardian in an estate or probate proceeding is not a sale by a vendor or former owner for purposes of this section and the purchaser will not incur liability hereunder.

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 February 21, 1992.

TRD-9202674

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: April 3, 1992

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

##### ◆ ◆ ◆ Subchapter V. Franchise Tax

###### • 34 TAC §3.555

The Comptroller of Public Accounts proposes new §3.555, concerning earned surplus: com-

putation. The new section sets out guidelines for determining reportable federal taxable income and the deductions allowed in computing earned surplus before apportionment pursuant to the Tax Code, §171.110.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no revenue impact on state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

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 from clarification of comptroller rules regarding legislative changes to the franchise tax. There is no significant 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.

### §3.555. Earned Surplus: Computation.

(a) Effective date. The provisions of this section apply to franchise tax reports originally due after January 1, 1992.

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

(1) Business loss—A negative amount after apportionment but before any deductions for solar energy devices under the Tax Code, §171.107, or investment in an enterprise zone under the Tax Code, §171.1015.

(2) Corporation—An entity subject to franchise tax under the Tax Code, §171.

(3) Dividends from a subsidiary, associate, or affiliate that does not transact a substantial portion of its business or maintain a substantial portion of its assets in the United States—Dividends treated as gross income from sources without the United States under the Internal Revenue Code, §861 and §862.

(4) Internal Revenue Code—The Internal Revenue Code of 1986 in effect for the tax year beginning on or after January 1, 1990, and before January 1, 1991.

(5) Schedule C special deductions—The special deductions allowed in computing federal taxable income as listed in column (c) of the 1991 Form 1120 of the Department of the Treasury Internal Revenue

Service. Any limitations on Schedule C deductions imposed for federal income tax purposes will apply in computing such deductions for earned surplus.

(c) Accounting methods. In computing earned surplus, a corporation is deemed to have made an election to use the same methods used in filing its federal income tax return.

(d) Jobs credit. If a corporation reduces its deduction for salaries and wages for federal income tax purposes in order to claim a jobs credit, the reduction will be disregarded in computing earned surplus.

(e) Consolidated income tax returns. For the purposes of this section, if a corporation joins in filing a consolidated federal income tax return, the corporation must compute its earned surplus as though no consolidated federal income tax return were filed. Therefore, taxable income, compensation, and other items must be computed as though a separate federal income tax return had been filed by the corporation. For example, the corporation may claim applicable Schedule C deductions (as limited for federal income tax purposes) on dividends received from members of the consolidated group with which the corporation filed a consolidated federal income tax return. If the comptroller determines that transactions among members of a group filing consolidated federal income tax returns are entered into primarily to avoid the franchise tax, the comptroller may distribute or allocate income and deductions as necessary to prevent such franchise tax avoidance.

(f) Deductions. In computing earned surplus for each reporting period, a corporation may take Schedule C deductions, deductions under the Internal Revenue Code, §§78 or 951-964, and other items deducted in computing earned surplus only to the extent each item is included in computing reportable federal taxable income.

(g) Business losses.

(1) A business loss which is carried forward to a report year must be deducted from apportioned taxable earned surplus after any allowable deductions for enterprise zone projects or solar energy devices.

(2) A business loss which is carried forward to a successive year must be applied to the extent of apportioned taxable earned surplus in that succeeding year.

(h) Deductions for solar energy devices and investments in enterprise zones.

(1) A corporation that elects to take a deduction from apportioned earned surplus for solar energy devices under the Tax Code, §171.107, or a deduction for investments in enterprise zones under the

Tax Code §171.1015, may not claim a deduction from taxable capital for such item.

(2) A deduction from apportioned earned surplus for solar energy devices or investments in enterprise zones may not reduce apportioned earned surplus below zero. Any unused deductions may not be carried over to a subsequent report.

(3) No other deduction is allowed in computing reportable federal taxable income with regard to amounts deducted from earned surplus under the Tax Code, §171.107 or §171.1015. For example, any depreciation or amortization of a solar energy device in computing reportable federal taxable income is not allowed if the deduction under Tax Code, §171.107, is claimed.

(i) Officer and director compensation. Regarding the add-back of compensation of officers or directors of corporations, managers of limited liability companies, and directors and executive officers of banking corporations see §3.558 of this title (relating to Earned Surplus: Officer and Director Compensation).

(j) Temporary credit on net taxable earned surplus.

(1) A corporation which qualifies and properly elects a temporary credit from net taxable earned surplus under Texas Tax Code, §171.111, may take the credit as a reduction of the tax due on earned surplus. See §3.559 of this title (relating to Earned Surplus: Temporary Credit).

(2) If the temporary credit is elect on a report, the corporation must pay an additional tax of 0.2% of net taxable capital in addition to the franchise tax due under the Tax Code, §171.002. This additional tax is added to tax otherwise due before the provisions of the Tax Code, §171.002(d), are applied. In other words, if the amount of tax due after adding this additional tax is less than \$100, then no tax is owned for the reporting period.

(k) Federal obligations. Dividends and interest received from federal obligations are not included in earned surplus or gross receipts for earned surplus purposes.

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 February 21, 1992.

TRD-9202675

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: April 3, 1992

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

## Subchapter CC. Waste Tire Recycling Fee

### • 34 TAC §3.721

The Comptroller of Public Accounts proposes new §3.721, concerning collection and reporting requirements. Senate Bill 1340, adopted by the 72nd Legislature, 1991, and amended by Senate Bill 2, adopted in the First Called Session, requires the comptroller to administer and enforce the collection of the waste tire recycling fee beginning January 1, 1992, imposed on the wholesale or retail sale of new tires not sold for resale. This new section provides for the collection and reporting of the fee. The effective date of the legislation is January 1, 1992.

Tom Plaut, chief revenue estimator, has determined that for the first five-year period the section is in effect there will be no revenue impact the state or local government. This section is adopted under the Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses.

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 new information regarding tax responsibilities. 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.

#### *§3.721. Collection and Reporting Requirements.*

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

(1) Dealer—A wholesaler, retailer, or any other person who sells or offers to sell new tires.

(2) Tire—A new automobile, van, bus, truck, trailer, semitrailer, truck tractor and semitrailer combination, or recreational vehicle tire that has a rim diameter equal to or greater than 12 inches but less than 26 inches.

(3) Sale for resale—A sale of a tire to a purchaser for the purpose of reselling the tire in the normal course of business in the form or condition in which it is acquired (i.e., as a separate item). A sale of

a tire that is attached to or becomes an integral part of a vehicle, trailer, or other equipment that is being sold, rented, or leased is not a sale for resale. The waste tire recycling fee is due on the sale prior to the tire becoming a part of this equipment.

(b) Collection and remittance of the fee.

(1) Every dealer must collect the fee on each sale of a new tire, unless specifically exempted by this section.

(2) The fee is not due on the sale of a vehicle, trailer, or other equipment that has a tire as an integral part of it.

(3) The amount of the fee due must be separately stated on the invoice, bill, or contract to the customer, and shall be identified as the Texas waste tire recycling fee.

(4) A dealer may not advertise, make public, indicate, or imply that the dealer will absorb, assume, or refund any portion of the fee.

(c) Report forms. The waste tire recycling fee is to be reported on the Texas battery sales fee/waste tire recycling fee report form as prescribed by the comptroller. The fact that the dealer does not receive the form or does not receive the correct form from the comptroller for the filing of the return does not relieve the dealer of the responsibility of filing a return and paying the required fee.

(d) Reporting period.

(1) Monthly filing. The waste tire recycling fee is due and payable on or before the 20th day of the month following the end of each calendar month. Every dealer also required to report the battery sales fee must file at the same time the waste tire recycling fee is filed. Returns must be filed on a monthly basis unless a dealer qualifies as a quarterly filer under paragraph (2) of this subsection.

(2) Quarterly filing. A dealer who owes an average, as computed for the year, of less than \$50 for a calendar month or less than \$150 for a calendar quarter is required to file a return and pay the fee on or before the 20th day of the month following the end of the calendar quarter. The battery sales fee liability is not included in determining the requirement for quarterly filing; however, a dealer required to file the battery sales fee return on a monthly basis must file the waste tire recycling fee return at the same time. The comptroller will notify a dealer when the report and payment may be submitted quarterly.

(e) Payment of the fee.

(1) On or before the 20th day of the month following each reporting period, every person subject to the fee shall file a

consolidated return for all businesses operating under the same fee payer number and remit the total fee due.

(2) Every dealer may retain \$.025 for each fee (i.e., tire) reported and paid on their return.

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

(f) Records required.

(1) Invoices or other records must be kept for at least four years after the date on which the invoices or records are prepared.

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

(g) Exemptions.

(1) Sales for resale are not subject to the fee.

(2) The sale of a tire that under the sales contract is shipped to a point outside Texas is not subject to the fee imposed by this section if the shipment is made by the seller by means of:

(A) the facilities of the seller;

(B) delivery by the seller to a carrier for shipment to a consignee at a point outside this state; or

(C) delivery by the seller to a forwarding agent for shipment to a location in another state of the United States or its territories or possessions.

(3) Exports beyond the territorial limits of the United States are not subject to the fee. Proof of export may be shown only by:

(A) a copy of a bill of lading issued by a licensed and certificated carrier showing the seller as consignor, the buyer or purchaser as consignee, and a delivery point outside the territorial limits of the United States;

(B) documentation provided by a licensed United States customs broker certifying that delivery was made to a point outside the territorial limits of the United States;

(C) formal entry documents from the country of destination showing that the tire was imported into a country other than the United States. For the country of Mexico, the formal entry document would be the pedimento de importaciones document with a computerized, certified number issued by Mexican customs officials; or

(D) a copy of the original airway, ocean, or railroad bill of lading issued by a licensed and certificated carrier which describes the items being exported and a copy of the freight forwarder's receipt if the freight forwarder takes possession of the property in Texas.

(4) There is no exemption provided for any organization or governmental agency, except as provided in paragraph (5) of this subsection.

(5) The United States, its instrumentalities, and agencies are exempted from the waste tire recycling fee.

(h) Replacements covered by a warranty or service contract.

(1) The replacement of a tire under a manufacturer's warranty, without an additional charge to the purchaser, is not the sale of a tire to the purchaser. This replacement, therefore, is not subject to the fee. If there is a charge to the customer for the replacement (such as a pro rata warranty adjustment), then the customer must pay the waste tire recycling fee.

(2) The replacement of a tire under an extended warranty or a service contract, for which the customer pays an extra charge, depends on the terms of the contract.

(A) If the replacement is free of charge to the customer, the dealer is responsible for paying the fee.

(B) If there is a charge to the customer for the replacement, the customer must pay the fee.

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 February 25, 1992.

TRD-9202784 Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Earliest possible date of adoption: April 3, 1992

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

## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### Part IX. Texas Commission on Jail Standards

#### Chapter 259. New Construction Rules

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

The Texas Commission on Jail Standards proposes the repeal of §§259.18, 259.54-259.57, 259.207, 259.238-259.241, 259.307, and 259.343-259.346, concerning design, construction, and furnishing requirements of new jail, new low-risk, and podular/direct supervision facilities. The repeal of these rules will allow for major revisions to these requirements made necessary by the enactment of House Bill 93 (72nd Legislature, 1991, Second Called Session). In addition, cumbersome language and duplicate information will be eliminated.

Jack E. Crump, executive director, has determined that for the first five-year period the repeals are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the repeals.

Mr. Crump also has determined that for each year of the first five years the repeals are in effect the public benefit anticipated as a result of enforcing the repeals will be to allow the adoption of new rules that encompass current legislation and that are more easily understood. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the repeals as proposed.

Comments on the proposal may be submitted to Jack E. Crump, Executive Director, 611 South Congress Avenue, Austin, Texas 78704, (512) 463-5505.

#### New Jail Design, Construction, and Furnishing Requirements

##### • 37 TAC §§259.18, 259.54-259.57

The repeals are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§259.18. Segregation.

§259.54. Single Cells.

§259.55. Multiple-Occupancy Cells.

§259.56. Dormitories.

§259.57. Day Rooms.

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 28, 1992.

TRD-9202512 Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

#### New Low Risk Design, Construction, and Furnishing Requirements

##### • 37 TAC §§259.207, 259.238-259.241

The repeals are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§259.207. Segregation.

§259.238. Single Cells.

§259.239. Multiple-Occupancy Cells.

§259.240. Dormitories.

§259.241. Day Rooms.

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 28, 1992.

TRD-9202514 Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505



## Podular/Direct Supervision Design, Construction, and Furnishing Requirements

- 37 TAC §§259.307, 259.343-259.346

The repeals are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

### §259.307. Segregation.

### §259.343. Single Cells.

### §259.344. Multiple-Occupancy Cells.

### §259.345. Dormitories.

### §259.346. Day Rooms.

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 28, 1992.

TRD-9202513 Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

◆ ◆ ◆  
The Texas Commission on Jail Standards proposes new §§259.18, 259.54-259.57, 259.207, 259.238-259.241, 259.307, and 259.343-259.346, concerning design, construction, and furnishing requirements for new jail, new low-risk, and podular/direct supervision facilities. In order to comply with the requirements of House Bill 93 (72nd Legislature, 1991, Second Called Session), provisions are made for adequate separation of different classification of inmates. The size, capacity, and contents of cells, dormitories, and day rooms are specified.

Jack E. Crump, executive director, 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. Crump 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 safe, secure, and suitable environment for jail inmates and staff. 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 Jack E. Crump, Executive Director, 611 South Congress Avenue, Austin, Texas 78704, (512) 463-5505.

## New Jail Design, Construction, and Furnishing Requirements

- 37 TAC §§259.18, 259.54-259.57

The new sections are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of jails.

### §259.18. Segregation.

(a) Jails shall provide separate cells and day rooms of varying capacities for inmates to provide adequate separation of different classifications of male and female inmates as required by the facility classification plan and Chapter 271 of this title (relating to the Classification and Separation of Inmates).

(b) Single occupancy cells shall be provided to house inmates classified in administrative, disciplinary, and medical segregation in a quantity to meet the following requirements.

(1) Facilities having an inmate capacity of 200 or less shall provide sufficient separation cells to accommodate not less than 10% of the jail capacity.

(2) Facilities having an inmate capacity of over 200 shall have a minimum of 20 separation cells and a sufficient number of single cells with adjacent day rooms to accommodate a total of at least 10% of the jail capacity. Dayrooms provided for these cells shall be arranged to accommodate not more than 12 inmates.

(c) The capacity of each cell, dormitory, and day room shall not exceed 20% of the jail capacity.

(d) Dormitories shall not exceed 40% of the jail capacity.

(e) Jail facilities initiated prior to May 1, 1992, which provide a sufficient number of single cells to accommodate at least 30% of the jail capacity and sufficient separation cells to comply with the facility classification plan and do not provide dormitory housing which exceeds 40% of the jail capacity are exempt from subsections (b) and (c) of this section.

§259.54. *Single Cells.* Single cells shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, toilet, lavatory capable of providing drinking water for the inmate, table, and seating.

§259.55. *Multiple-Occupancy Cells.* Multiple-occupancy cells shall accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate, one toilet, and one lavatory capable of providing drinking water.

§259.56. *Dormitories* Dormitories shall accommodate nine to 24 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof shall be provided in each dormitory.

§259.57. *Day Rooms.* All inmate living areas except special purpose cells shall be provided with day rooms. Day rooms shall accommodate not more than 24 inmates and shall not exceed the capacity limits of §259.18(c) of this title (relating to Segregation). Different classifications of inmate shall not be commingled in the same day room. Day rooms shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof shall be provided in each day room. A mirror shall be provided at each lavatory. A shower for each group of 12 inmates or increment thereof shall be provided in each day room. Each day room shall be suitably furnished with but not limited to seating and tables to accommodate the number of inmates to be confined therein and may provide dining facilities and other activities. A utility sink should be provided. Day rooms may be contiguous with inmate living areas. Convenient electrical receptacles shall be provided.

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 28, 1992

TRD-9202516 Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

## New Low-Risk Design, Construction, and Furnishing Requirements

### • 37 TAC §§259.207, 259.238-259.241

The new sections are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

#### §259.207. Segregation.

(a) Low-risk facility design shall provide adequate male-female segregation in accordance with the facility classification plan and Chapter 271 of this title (relating to the Classification and Separation of Inmates). Additional segregation is not required except for inmates whose classification may change due to administrative, disciplinary, or medical reasons.

(b) Low-risk facilities shall provide adequate single cells, separation cells, or holding cells for the holding of inmates for medical segregation or awaiting transfer to administrative or disciplinary segregation housing or shall provide written procedures for expeditious transfer or inmates to appropriate facilities. Cells used for this purpose shall be provided with a security perimeter (applicable to facilities initiated after May 1, 1992).

§259.238. *Single Cells* Single cells, if used, shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, toilet, lavatory capable of providing drinking water for the inmate, table, and seating.

§259.239. *Multiple-Occupancy Cells.* Multiple-occupancy cells shall accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space per each additional inmate. Each multiply-occupancy cell shall have a bunk for each inmate, one toilet, and one lavatory capable of providing drinking water.

§259.240. *Dormitories.* Dormitories shall accommodate nine to 24 inmates unless operated as a direct supervision unit and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. A dormitory operated as a direct supervision unit shall not exceed a capacity of 48 inmates. Dormitories shall have a bunk for each inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment

thereof shall be provided in each dormitory. More than 40% of the inmate capacity of the low-risk facility may be designed for dormitories.

§259.241. *Day Rooms.* All inmate living areas shall be provided with day rooms. Day room shall accommodate not more than eight inmates, but shall not accommodate more than 24 inmates unless operated as a direct supervision unit. Day rooms operated as a direct supervision unit shall not accommodate more than 48 inmates. Day rooms shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof shall be provided in each day room. A mirror shall be provided at each lavatory. A shower for each group of 12 inmate or increment thereof shall be provided in each day room. Each day room shall be suitably furnished with, but not limited to, seating and tables to accommodate the number of inmates to be confined therein and may provide for dining facilities and other activities. A utility sink should be provided. Day rooms may be contiguous with inmate living areas. Convenient electrical receptacles shall be provided.

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 28, 1992

TRD-9202515

Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

## Podular/Direct Supervision Design, Construction, and Furnishing Requirements

### • 37 TAC §§259.307, 259.343-259.346

The new sections are proposed under the Government Code, Chapter 511, which provide the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of jails.

#### §259.307. Segregation.

(a) Podular/direct supervision jails shall provide separate housing pods, consisting of single cells adjoining a common day room or dormitories with integral day

room area, for inmates of different classifications of male and female inmates as required by the facility classification plan and Chapter 271 of this title (relating to the Classification and Separation of Inmates). The use of single cell pods is encouraged to allow for the implementation of disciplinary remedies for minor infractions of facility rules as provided under Chapter 283 of this title (relating to Discipline and Grievances in County Jails).

(b) Single occupancy cells shall be provided to house inmates classified in administrative, disciplinary, and medical segregation. These cells may be managed in an indirect supervision mode. Quantity of single occupancy cells shall meet the following requirements.

(1) Facilities having an inmate capacity of 200 or less shall provide sufficient separation cells to accommodate not less than 10% of the jail capacity.

(2) Facilities having an inmate capacity of over 200 shall have a minimum of 20 separation cells and a sufficient number of single cells with adjacent day rooms to accommodate a total of at least 10% of the jail capacity. Day rooms provided for these cells shall be arranged to accommodate not more than 12 inmates.

(c) Capacity of any pod shall not exceed 48 inmates.

(d) Multiple-occupancy cells (two to eight inmate capacity) should not be used in podular/direct supervision pods.

(e) Podular/direct supervision facilities initiated prior to May 1, 1992, which provide sufficient number of single cells to accommodate at least 30% of the jail capacity and sufficient separation cells to comply with the facility classification plan and do not provide dormitory housing which exceeds 40% of the jail capacity are exempt from subsection (b) of this section.

§259.343. *Single Cells.* Single cells shall contain not less than 40 square feet of clear floor space exclusive of furnishings. They shall have a bunk, toilet, lavatory capable of providing drinking water, table, and seating.

§259.344. *Multiple-Occupancy Cells.* Multiple-occupancy cells should not be used in podular/direct supervision pods. Multiple-occupancy cells shall accommodate two to eight inmates and shall contain not less than 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space per each additional inmate. Each multiple-occupancy cell shall have a bunk for each inmate, one toilet, and one lavatory capable of providing drinking water.

§259.345. *Dormitories.* Dormitories shall accommodate nine to 48 inmates and shall contain not less than 40 square feet of clear floor space for one inmate, plus 18 square feet of clear floor space per each additional inmate. Dormitories shall have a bunk for each inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof shall be provided in each dormitory. Dormitories should be provided with a contiguous day room to comprise a housing pod.

§259.346. *Day Room.* All inmate living areas except special purpose cells shall be provided with day rooms. Day room shall accommodate not more than 48 inmate and shall not exceed the capacity limits of §259.18(c) of this title (relating to Segregation). Different classifications of inmates shall not be commingled in the same day room. Day rooms shall contain 40 square feet of clear floor space for one inmate plus 18 square feet of clear floor space for each additional inmate. A toilet and lavatory capable of providing drinking water for each group of eight inmates or increment thereof shall be provided in each day room. A mirror shall be provided in each lavatory. A shower for each group of 12 inmates or increment thereof shall be provided in each day room. Each day room shall be suitably furnished with but not limited to seating and tables to accommodate the number of inmates to be confined therein and may provide dining facilities and other activities. A utility sink should be provided. Day rooms may be contiguous with inmate living areas. Convenient electrical receptacles shall be provided.

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 28, 1992

TRD-9202511

Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

## Chapter 300. Fees and Payments

### Emergency Overcrowding Relief

#### • 37 TAC §§300.21-300.27

The Texas Commission on Jail Standards proposes new §§300.21-300.27 concerning payments to qualifying counties for certain inmates awaiting transfer to the Texas Department of Criminal Justice-Institutional Division

until September 1, 1995. In order to comply with the mandates of Government Code, Chapter 499, §499.124, the methods of determining eligible recipients, calculating the amount of payments, reporting the number of applicable inmates, and making appropriate payments are delineated. Costs of implementing and administering these sections were provided for by the 72nd Legislature, 1991, 2nd Called Session, through House Bill 93, Article 22.

Jack E. Crump, executive director, 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. Crump 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 overcrowding relief in the form of monetary payments to the counties incarcerating certain inmates awaiting transfer to the state prison system will be provided in a timely manner through proper documentation of 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 Jack E. Crump, Executive Director, Texas Commission on Jail Standards, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 463-5505.

The new sections are proposed under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

§300.21. *General.* The commission is mandated by the Government Code, Chapter 499, §499.124 (concerning Emergency Overcrowding Relief) to make payments to qualifying counties for certain inmates awaiting transfer to the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID), until September 1, 1995.

§300.22. *Qualifying County.* The term qualifying county shall mean a qualifying county as defined by the Government Code, Chapter 499, §499.126 (concerning the Definition of Qualifying County).

§300.23. *Method of Calculation.* Qualifying counties shall be paid based on percentages of a base number equal to the number of inmates confined in the jail on April 1, 1991, who were awaiting transfer to the TDCJ-ID as determined under the Government Code, Chapter 499, §499.123(a) (concerning Payment). The applicable percentages and calculations shall be as follows.

(1) From September 1, 1991 until August 31, 1993, the commission shall pay a qualifying county the sum of \$20 for each day of confinement for each inmate awaiting transfer in excess of 50% but less than or equal to 210% of the base number and the sum of \$30 for each day of confinement for each inmate awaiting transfer in excess of 210% of the base number.

(2) From September 1, 1993 until September 1, 1995, the commission shall pay a qualifying county the sum of \$20 for each day of confinement for each inmate awaiting transfer in excess of 25% but less than or equal to 210% of the base number and the sum of \$30 for each day of confinement for each inmate awaiting transfer in excess of 210% of the base number.

(3) The commission shall pay the sum of \$20 for each day of confinement for each inmate awaiting transfer to a qualifying county for which the base number is equal to zero.

(4) Percentage calculations shall be mathematically rounded up to whole integers. Payments shall be based on the number of inmates in excess of the rounded-up percentage requirements.

(5) Payments, when appropriate, will be made to qualifying counties for each calendar month.

#### §300.24. *Reports.*

(a) Each sheriff shall submit to the commission a report for each month indicating the number of inmates awaiting transfer confined in the jail on each day of the month.

(b) Each sheriff shall submit to the commission a list with the name, date of birth, date paper ready, and date transferred to TDCJ-ID or released for each inmate counted on the monthly report required by subsection (a) of this section. The list should be arranged in chronological order of the inmate paper ready date.

(c) Reports shall be delivered to the commission not later than five days after the last day of the reporting month.

(d) The sheriff shall certify over his signature that the information provided in each report is complete and accurate.

#### §300.25. *Payment Days.*

(a) Payment, when appropriate, will be made based on each day of confinement of each inmate awaiting transfer to TDCJ-ID including the day that all paper work and processing required for transfer is completed but not the day of release or transfer to another jail or TDCJ-ID.

(b) Payment under this heading will not be made to a qualifying county for any

inmate who is in the jail after having been transferred from another jail and for whom the commission has made payment under this heading or under the heading Transfer of Felony Backlog of this chapter.

(c) Payment may be based on an inmate who has been transferred to another jail when such transfer was a result of a remedial order by the commission pursuant to Chapter 297 of this title (relating to Compliance and Enforcement) or under the sending county's own initiative. Inmates transferred pursuant to this subsection shall not be reported as an inmate awaiting transfer by a receiving county under §300.24 of this title (relating to Reports).

**§300.26. Forms.** The commission adopts by reference Form Pay-1, *Monthly Emergency Overcrowding Payment Report*, and Form Pay-2, *Monthly Paper Ready Inmates Roster*. Copies of the forms are available at the offices of the Texas Commission on Jail Standards at 611 South Congress, Suite 200, Austin, Texas, 78704. Each sheriff shall utilize the referenced forms or similar forms, approved by the executive director, for submission of monthly reports.

**§300.27. Records.** Each sheriff shall maintain complete records of the information required under §300.24 of this title (relating to Reports) and make the records available to commission staff upon request for review.

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 27, 1992.

TRD-9202777

Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

## ◆ ◆ ◆ Transfer of Felony Backlog.

### • 37 TAC §§300.51-300.63

The Texas Commission on Jail Standards proposes new §§300.51-300.63 concerning the transfer of inmates awaiting transfer to the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID) from applicable county jails to appropriate facilities. In order to comply with the mandates of the Government Code, Chapter 499, §499.125, the definitions of appropriate county jails, facilities and inmates; methods of appealing, issuing, and amending administrative orders; determination of transfer limits, payment liability, and costs; adoption of reporting forms; and authority to order acceptance of inmates

are provided for. Costs of implementing and administering these sections were appropriated by House Bill 93, Article 22, 72nd Legislature, 1991, 2nd Called Session.

Jack E. Crump, Executive Director, 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. Crump 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 orderly transfer of inmates to appropriate facilities from applicable county jails will help prevent further lengthy and costly litigation involving overcrowding issues. Inmates involved will be provided with safe, secure, suitable and sanitary facilities. 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 Jack E. Crump, Executive Director, Texas Commission on Jail Standards, 611 South Congress Avenue, Suite 200, Austin, Texas 78704, (512) 463-5505.

The new sections are proposed under the Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

**§300.51. General.** The commission is mandated by the Government Code, Chapter 499, §499.125 (concerning the Transfer of Felony Backlog) to transfer inmates awaiting transfer to the Texas Department of Criminal Justice-Institutional Division (TDCJ-ID) from an applicable county jail to appropriate facilities.

**§300.52. Applicable County Jail.** A jail shall be considered an applicable county jail when the commission determines that a jail meets the following criteria:

(1) a state or federal court determines that conditions in a county jail are unconstitutional; and

(2) on or after October 1, 1991, the percentage of inmates in the jail awaiting transfer to the TDCJ-ID is 20% or more of the total number of inmates in the jail.

**§300.53. Appropriate Facility.** The executive director shall develop a list of facilities which are appropriate to house the transferred inmates following determination by the commission that a jail is an applicable county jail. An appropriate facility may include a jail, detention center, work camp, or correctional facility.

**§300.54. Administrative Order.** The commission shall issue to the sheriff and commissioners court (by and through the county

judge) of an applicable county jail upon determination by the commission that the jail meets the criteria of §300.52 of this title (relating to Applicable County Jail) a written administrative order to transfer felony backlog inmates to appropriate facilities.

**§300.55. Request for Hearing.** The sheriff or commissioners court of an applicable county jail to which the commission has issued an administrative order may, within 15 days after the date of the order, request a hearing upon any matter of fact or law with which he or the court disagrees. The request for hearing shall be in writing and shall comply with §297.8 of this title (relating to Request for Hearing). Upon receipt of a timely request for hearing, the commission shall conduct a hearing in accordance with Chapter 301 of this title (relating to Rules of Practice in Contested Cases).

**§300.56. Amendments to Administrative Orders.** The commission may review and amend an administrative order as necessitated by changes in the status of court orders, jail population, jail conditions, availability of appropriate facilities or other conditions, by commission action at a regular or special meeting.

**§300.57. Limits of Transfer.** The commission will determine the number of inmates who shall be transferred from an applicable county jail and the frequency of transfers, required to comply with this chapter and the Government Code, Chapter 499, §499.125 (concerning Transfer of Felony Backlog).

**§300.58. Reports.**

(a) The sheriff of an applicable county jail shall submit a report to the commission of transferred inmates on a form proscribed by the commission. The report shall be delivered to the commission not later than five days after the date of each transfer of inmates.

(b) The sheriff of a county for which an appropriate facility receiving transferred inmates is operated shall submit a report and billing statement to the commission representing the costs of maintenance of transferred inmates on a form proscribed by the commission. The report and billing statement shall be submitted not later than five days after the 1st and 15th-day of each month.

(c) Sheriffs may submit reports on forms produced by automated data processing equipment which provide required information when approved by the executive director. Such approved reports shall be considered forms proscribed by the commission.

(d) A county is not eligible for payment under this chapter if reports are not submitted by the sheriff or if information required by the form(s) is not complete.

**§300.59. Payments.** The commission is liable to a county operating a facility receiving transferred inmates for payment of the costs of maintenance of transferred inmates. The commission is liable to counties for the payment of costs of transportation of transferred inmates.

**§300.60. Determination of Costs.**

(a) The costs of maintenance shall be the actual costs, as determined by the agreement between the Texas Board of Criminal Justice and the county operating the appropriate facility receiving transferred inmates.

(b) The costs of transportation shall be the agreed cost between the transporting county and the commission. Such costs shall be determined and agreed upon by the commission and the transporting county prior to the movement of inmates. The cost of transportation may be adjusted as appropriate when evidenced by sufficient documentation and approved by the commission.

**§300.61. Felony Backlog Inmates.** This chapter is applicable only to the transfer of inmates confined in a jail who are awaiting transfer to the TDCJ-ID following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom all paperwork and processing required under the Code of Criminal Procedure, Article 42.09 §5(a), (concerning Commencement of Sentence and Delivery to Place of Confinement) for transfer have been completed.

**§300.62. Forms.** The commission adopts by reference *Inmate Transfer Roster* (form ITR-1) and *Transferred Inmate Maintenance Report* (form Trans-1). Copies of the forms are available at the offices of the Texas Commission on Jail Standards at 611 South Congress Avenue, Suite 200, Austin, Texas 78704.

**§300.63. Order to Accept Inmates.** The commission may order the sheriff and commissioners court (by and through the county judge) of a county to accept inmates transferred under this chapter when the commission determines that the housing of transferred inmates in a facility operated by or for the county is necessary in order to effectuate the mandated authority of the commission to transfer inmates in accordance with the Government Code, Chapter 499, §499.125 (concerning Transfer of Felony Backlog).

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 27, 1992.

TRD-9202778

Jack E. Crump  
Executive Director  
Texas Commission on Jail  
Standards

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-5505

◆ ◆ ◆  
**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**Part I. Texas Department of Human Services**

**Chapter 11. Food Distribution and Processing**

**Food Distribution Program**

◆ ◆ ◆  
• **40 TAC §11.108**

The Texas Department of Human Services (DHS) proposes an amendment to §11.108, concerning financial management in its Food Distribution and Processing chapter. The amendment cites the Human Resources Code, §33.006, which limits the amount of distribution charges that DHS can assess. Previously, the rule cited the federal authority to assess fees but did not cite the Human Resources Code, which limits the amount that can be assessed.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be a clearer understanding of the limitations on fee assessments in the Food Distribution Program. 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.

Questions about the content of the proposal may be directed to Marianne McDonald at (512) 450-3437 in DHS's Special Nutrition Programs Section. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-040, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

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

**§11.108. Financial Management.** DHS assesses distribution costs, processes claims, and handles program funds according to 7 Code of Federal Regulations, §250.15. The fees assessed must not exceed the amount allowed by the Human Resources Code, §33.006. DHS does not pursue a claim for a loss that does not exceed \$100 unless there is evidence of violation of federal or state statutes.

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 February 21, 1992.

TRD-9202669

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

Proposed date of adoption: May 1, 1992

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

◆ ◆ ◆  
**Chapter 72. Memoranda of Understanding with Other State Agencies**

**Memoranda [Memorandum] of Understanding for Long Term Care**

◆ ◆ ◆  
• **40 TAC §72.102**

The Texas Department of Human Services (DHS) proposes new §72.102, concerning the Long Term Care State Plan for the Elderly, in its Memoranda of Understanding with Other State Agencies chapter. Section 72.102 adopts by reference 40 Texas Administrative Code §251.13, Memorandum of Understanding between Texas Department on Aging, Texas Department of Human Services, Texas Department of Health, and Texas Mental Health and Mental Retardation, which was published as a proposed rule by the Texas Department on Aging (TDoA) in the February 7, 1992, issue of the *Texas Register* (17 TexReg 1076).

Senate Bill 377, 72nd Legislature, requires that the TDoA, DHS, the Texas Department of Health (TDH), and the Texas Department of Mental Health and Mental Retardation (TDMHMR) enter into a memorandum of understanding indicating their cooperative responsibilities with regard to the long term care state plan for the elderly; creating a Long Term Care Interagency Planning Committee; and indicating the frequency with which the plan will be reviewed and updated, if necessary.

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

Mr. Raiford also has determined that for each year of the first five years the section is in effect the public benefit anticipated as a result of enforcing the section will be improved interagency coordination and cooperation with regard to the accomplishment of the state's long term care plan for the elderly. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed section.

Questions about the content of the proposal may be directed to James E. Tennison at (512) 450-3151 in DHS's Health Care Services, Long Term Care Department. Comments on the proposal may be submitted to Nancy Murphy, Agency Liaison, Policy and Document Support-372, Texas Department of Human Services E-503, P.O. Box 149030, Austin, Texas 78714-9030, within 30 days of publication in the *Texas Register*.

The new section is proposed 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.

*§72.102. Long-Term Care State Plan for the Elderly.* The Texas Department of Human Services (DHS) adopts by reference 40 Texas Administrative Code §251.13, Memorandum of Understanding between Texas Department on Aging, Texas Department of Human Services, Texas Department of Health, and Texas Mental Health and Mental Retardation required by Senate Bill 377, 72nd Texas Legislature. The MOU indicates the agencies' cooperative responsibilities with regard to the long term care state plan for the elderly and establishes a Long Term Care Interagency Planning Committee which reviews and updates the state plan on a schedule and according to procedures determined by the committee.

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 February 21, 1992.

TRD-9202670

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

Proposed date of adoption: May 1, 1992

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



## Part IX. Texas Department on Aging

### Chapter 271. Multipurpose Senior Center Standards

#### Statutes and Regulations

##### • 40 TAC §271.9

The Texas Department on Aging proposes new §271.9, concerning federal reversionary interest in multipurpose senior centers. This policy establishes the protection of the federal reversionary interest in multipurpose senior centers which were acquired or constructed with Older American Act funds.

Charles Hubbard, director of finance and administration, 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. Hubbard 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 as follows. When federal Older American Act funds are used in acquisition or construction or a multipurpose senior center, that facility must continue to be used for the purpose for which it was acquired or the government shall be entitled to recover such funds. 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 Barbara Ellis, Program Specialist, Texas Department on Aging, P.O. Box 12786, Austin, Texas 78711.

The new section is proposed under the Human Resources Code, Chapter 101 which provides the Texas Department on Aging with the authority to promulgate rules governing the operations of this department.

*§271.9. Policy on Federal Reversionary Interest in Multipurpose Senior Centers.* According to the Older Americans Act of 1965, as amended, AOA Program Instruction AOA-PI-90-04 and ADA Program Instruction AOA-PI-91-04, the Texas Department on Aging is required to establish policies and procedures to protect federal Older Americans Act funds used to construct or purchase multipurpose senior centers. The following shall be the policy of the Texas Department on Aging with regard to protecting the federal reversionary interest in multipurpose senior centers.

(1) When Older Americans Act, Title III, funds have been used for the acquisition or construction of a multipurpose senior center facility, there remains a federal reversionary interest for 10 years after acquisition, or for 20 years after the completion of construction.

(2) The federal government is entitled to recovery of funds if:

(A) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

(B) the facility ceases to be used for the purposes for which it was acquired, within the above time periods.

(3) The United States shall be entitled to recover from the applicant or the owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such federal funds bore to the cost of the facility financed with the aid of such funds.

(4) The amount of recovery is the percentage of the current market value of the facility equal to the percentage of AOA funds contributed to the original cost of the facility.

(5) The value of the property shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

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 February 19, 1992.

TRD-9202612

Mary Sapp  
Executive Director  
Texas Department on  
Aging

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 444-2727

## Part XVIII. State Pension Review Board

### Chapter 601. General Provisions

##### • 40 TAC §§601.1, 601.20, 601.30, 601.40, 601.50

The State Pension Review Board proposes new §§601.1, 601.20, 601.30, 601.40, and 601.50, concerning the adoption of rules of the board. These rules are set forth for the purpose of interpreting and implement Vernon's Texas Codes Annotated, Government Code, Title 8, Chapter 801. The proposed rules direct the board to conduct regularly schedule meetings, to elect officers and to designate committees.

Rita Horwitz, executive director, 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.

Ms. Horwitz 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 outline procedures for board meetings, the election of officers, and the designation of committees. 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 Lynda Baker, State Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498.

The new sections are proposed under the Government Code, Title 8, Subtitle A, Chapter 801, §801.201, which provides the State Pension Review Board with the authority to adopt rules for the conduct of its business.

**§601.1. Purpose.** The rules and regulations of the State Pension Review Board are set forth for the purpose of interpreting and implementing Vernon's Texas Codes Annotated, Government Code, Title 8 Chapter 801, and to establish general policies.

**§601.20. Citations.** The rules and regulations shall be known, and may be cited as, rules of the board.

**§601.30. Severability.** If any provisions of these rules or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these rules which shall be given effect without the invalid provision or application, and to this end the provisions of these rules are declared to be severable.

**§601.40. Definitions.** The following words and terms, when used in these rules shall have the following meanings, unless the context clearly indicates otherwise.

**Board**—The State Pension Review Board.

**Executive director**—The executive head of the board employed to perform its administrative duties.

**Member**—A member of the board.

**§601.50. Office.** The board shall maintain an office as its official place of business, which shall be the board's office for its executive director, staff and records, in Austin.

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 February 21, 1992.

TRD-9202667

Rita Horwitz  
Executive Director  
State Pension Review  
Board

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-1736

## Chapter 603. Officers and Meetings

- 40 TAC §§603.1, 603.20, 603.30, 603.40, 603.50, 603.60

The State Pension Review Board proposes new §§603.1, 603.20, 603.30, 603.40, 603.50, and 603.60, concerning the adoption of rules of the board. These rules are set forth for the purpose of interpreting and implementing Vernon's Texas Codes Annotated, Government Code, Title 8, Chapter 801. The proposed rules direct the board to conduct regularly scheduled meetings, to elect officers, and to designate committees.

Rita Horwitz, executive director, 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.

Ms. Horwitz 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 outline procedures for board meetings, the election of officers, and the designation of committees. 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 Lynda Baker, State Pension Review Board, P.O. Box 13498, Austin, Texas 78711-3498.

The new sections are proposed under the Government Code, Title 8, Subtitle A, Chapter 801, §801.201, which provides the State Pension Review Board with the authority to adopt rules for the conduct of its business.

**§603.1. Person for Service of Process.** The name and address of the person designated by the board upon whom service of process may be served in judicial procedures against the board is the executive director at the address of the official place of business of the board.

**§603.20. Meetings and Notices Thereof.** At least three regular meetings shall be held each year and as many other meetings as may be necessary for the proper performance of the duties of the board. All meetings of the board shall be held in accordance with the Open Meetings Act (Texas Civil Statutes, Article 6252-17).

**§603.30. Officers.** The members of the board shall elect for each calendar year a chairman and vice chairman. The officers shall be elected at the last scheduled regular board meeting prior to the next calendar year and they shall take office the following January 1. The chairman of the board or the

vice chairman, in the chairman's absence, presides at the meetings of the board. While presiding, the chairman directs the order of the meeting, recognizes persons to be heard, limits time, and takes other action to clarify issues, and preserves order.

**§603.40. Quorum.** Five of the nine members of the board constitute a quorum.

**§603.50. Committees.** The chairman shall designate such committees as are necessary to consider various aspects of the board's work.

**§603.60. Roberts' Rules of Order.** Unless required otherwise by law or these rules, "Roberts' Rules of Order" shall be used in the conduct of business by this board.

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 February 21, 1992

TRD-9202668

Rita Horwitz  
Executive Director  
State Pension Review  
Board

Earliest possible date of adoption: April 3, 1992

For further information, please call: (512) 463-1736

## TITLE 43. TRANSPORTATION

### Part I. Texas Department of Transportation

#### Chapter 31. Division of Public Transportation

##### General

- 43 TAC §31.3

The Texas Department of Transportation proposes an amendment to §31.3, concerning definitions. The definitions of designated recipient and federally funded project are being amended to note the new name of the federal grantor agency and enabling legislation. Similarly, the definition of UMTA (Urban Mass Transportation Administration) is being replaced by one for FTA (Federal Transit Administration).

The amendment is necessary due to the recent passage of the Intermodal Surface Transportation Efficiency Act of 1991, effective December 18, 1991, which necessitates the promulgation of amendments to rules describing the administration of federal public transportation programs.

Richard G. Christie, 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. Christie has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed section.

Mr. Christie 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 more consistent application in the administration of public transportation grant programs. 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 Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

The Texas Department of Transportation will also conduct a public hearing, pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, to receive data, comments, views, and/or testimony concerning the proposed amendment to §31.3. The public hearing will be held on March 19, 1992, at 10 a.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing. However, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with pertinent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. The deadline for written comments on April 6, 1992.

The amendment is proposed under Texas Civil Statutes, Article 6666, 6663b, and 6663c which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state and federal public transportation programs.

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

**Designated recipient**—An authority, a municipality that is not included in an authority, a local governmental body, or a nonprofit entity providing rural public transportation services, that receives federal public transportation money through the department or the Federal Transit [federal Urban Mass Transportation] Administration, or its successor.

**Federally funded project**—A public transportation project which is being funded in part under the provisions of the Federal Transit Act [Urban Mass Transportation

Act of 1964], as amended (49 United States Code, §1601, et seq) the Federal-Aid Highway Act of 1973, as amended (23 United States Code, §101, et seq), or other federal program for funding public transportation.

**FTA—The Federal Transit Administration, an agency of the United States Department of Transportation.**

**[UMTA—The Urban Mass Transportation Administration an agency of the United State Department of Transportation.]**

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 February 26, 1992.

TRD-9202818

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: April 3, 1992

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

## Federal Programs

### • 43 TAC §§31.16, 31.21, 31.26, 31.31, 31.36

The Texas Department of Transportation proposes amendments to §§31.16, 31.21, 31.26, 31.31, and 31.36, concerning §3 grant program; §8 planning and technical studies; §9 grant program; §16(b)(2) grant program; and §18 grant program. Each program description is being amended to note the new name of the federal enabling legislation. In §31.31, references to handicapped are being replaced by disabled to conform to recent federal statutes. To comply with provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA) of also being amended to address the eligibility of public bodies for funding under the §16(b)(2) grant program.

The ISTEA similarly requires the establishment of a funding set-aside for intercity bus transportation in §31.36, with 5.0% of the fiscal year 1992 federal apportionment to be reserved for that purpose unless the governor certifies that other resources are adequate. This set-aside increases in succeeding years to a maximum of 15% in fiscal year 1994 and beyond.

Another change in §31.36 would address a concern expressed by nonurbanized transit operators regarding the need for more equitable funding for service expansions. The amendment would authorize awards based on population and the relative growth of the system's service area. Such expansions are to be funded by a 2 1/2% set-aside, not to exceed \$500,000 per year.

Federal companion regulations to the ISTEA also require revisions to the formula adjustment process in subsection (c)(3)(B) of §31.36 to address the effects of the creation or dissolution of urbanized areas through the

decennial census. A related amendment describes situations in which a transit system voluntarily eliminates one or more counties from their authorized service area. Subsection (c)(3)(C) of §31.36 is also being revised to eliminate a confusing reference to assumptions regarding the contractors' capital budget needs.

The amendments are necessary due to the recent passage of the Intermodal Surface Transportation Efficiency Act of 1991, effective December 18, 1991, which necessitates the promulgation of amendments to rules describing the administration of federal public transportation programs.

Richard G. Christie, director of public transportation, has determined that for the first five-year period the sections are in effect there will be limited fiscal implications for state or local government as a result of enforcing or administering the sections. The proposed subsection (c)(1) of §31.36 would make available \$325,712 for intercity bus services in the state during fiscal year 1993, with the amount available in succeeding years dependent on federal appropriations. The proposed subsection (c)(3) of §31.36 would provide between \$312,500 and \$500,000 per year in additional funding for the expansion of rural services. The proposed changes in subsection (c)(3)(B) of §31.36 would result in a loss of approximately \$125,000 in §18 funding for Denton County. However, other federal funds are now available to the urbanized areas of Denton and Lewisville which are expected to offset that reduction.

Mr. Christie has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed sections.

Mr. Christie 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 consistent application in the administration of public transportation grant programs. 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 Richard G. Christie, Director of Public Transportation, Attention: Margot Massey, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701-2483.

The Texas Department of Transportation will also conduct a public hearing, pursuant to the Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a, §5, to receive data, comments, views, and/or testimony concerning the proposed amendments. The public hearing will be held on March 19, 1992, at 10 a.m., in the first floor hearing room of the Dewitt C. Greer State Highway Building, 125 East 11th Street, Austin.

Any interested person may appear and offer comments or testimony, either orally or in writing. However, questioning of witnesses will be reserved exclusively to the presiding authority as may be necessary to ensure a complete record. While any person with perti-



nent comments or testimony will be granted an opportunity to present them during the course of the hearing, the presiding authority reserves the right to restrict testimony in terms of time or repetitive content. The deadline for written comments is April 6, 1992.

The amendments are proposed under Texas Civil Statutes, Articles 6666, 6663b, and 6663c, which provide the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically to administer the state public transportation fund and state and federal public transportation programs.

### *§31.16. Section 3 Grant Program.*

(a) Purpose. The Federal Transit Act [Urban Mass Transportation Act of 1964], §3, as amended (49 United States Code, §1602), authorizes the secretary of the United States Department of Transportation to make discretionary grants or loans for capital projects that meet the criteria prescribed by FTA [UMTA].

(b) (No change.)

### *§31.21. Section 8 Planning and Technical Studies.*

(a) Purpose. The Federal Transit Act [Urban Mass Transportation Act of 1964], §8, as amended (49 United States Code, §1607), authorizes the secretary of the United States Department of Transportation to contract for and make grants for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies.

(b) (No change.)

### *§31.26. Section 9 Grant Program.*

(a) Purpose. The Federal Transit Act [Urban Mass Transportation Act of 1964], §9, as amended (49 United States Code, §1607), authorizes the secretary of the United States Department of Transportation to make capital and operating grants for public transportation projects in urbanized areas.

(b) Eligible recipients. Section 9 funds for urbanized areas of 200,000 or more population are dispensed by FTA [UMTA] directly to eligible recipients designated by the governor. Section 9 funds for urbanized areas with populations of less than 200,000 may be dispensed by the governor or may be dispensed by FTA [UMTA] directly to eligible recipients designated by the governor.

### *§31.31. Section 16(b)(2) Grant Program.*

(a) Purpose. The Federal Transit Act [Urban Mass Transportation Act of 1964], §16(b)(2), as amended (49 United

States Code, §1612), authorizes the secretary of the United States Department of Transportation to make capital grants or loans for the provision of transportation services meeting the special needs of elderly and disabled [handicapped] persons. The department has been designated by the governor to administer the §16(b)(2) program.

(b) Eligible recipients. Private, non-profit organizations or associations are eligible to receive §16(b)(2) funds through the department. **Public bodies that coordinate services for the elderly and disabled, or any public body that certifies to the department that nonprofit organizations in the area are not readily available to carry out the services, may also receive §16(b)(2) funds through the department.**

### *§31.36. Section 18 Grant Program.*

(a) Purpose. The Federal Transit Act [Urban Mass Transportation Act of 1964], §18, as amended (49 United States Code, §1614), authorizes the secretary of the United States Department of Transportation to make grants for public transportation projects in nonurbanized areas. The department has been designated by the governor to administer the §18 program.

(b) Eligible recipients. State agencies, local public bodies, private nonprofit organizations, Indian tribes and groups, and operators of public transportation services are eligible to receive §18 funds through the department. [Private for-profit operators of public transportation services may participate in the program through contracts with eligible recipients.]

(c) Formula allocation. As part of its administration of the §18 program, the department is charged with ensuring that there is a fair and equitable distribution of program funds within the state (FTA [UMTA] Circular 9040.1B, Chapter 1, §4). Effective September 1, 1989, the department will allocate §18 funds to local contractors in the following manner.

(1) Unless the governor certifies to the secretary of the United States Department of Transportation that the intercity bus service needs of the state are being adequately met, the department will reserve not less than 5.0% of the fiscal year 1992 §18 federal apportionment for the development and support of intercity bus transportation. The percentage to be reserved for intercity bus transportation will rise to 10% in fiscal year 1993 and 15% in fiscal year 1994 and beyond unless the governor certifies that such expenditures are not necessary. If it is determined that all or a portion of the set-aside monies are not required for intercity bus service, those funds shall be applied to the formula apportionment process described in paragraph (4) of this subsection.

(2)(1) A portion of the annual §18 federal apportionment will be reserved for the establishment of nonurbanized public transportation services by entities that have not previously received §18 funding [systems] in areas currently not served by a §18 system. The amount to be reserved will be determined by the department no later than June 1 of each year and shall be based on current planning estimates by the department. The department will establish a maximum amount to be allocated to each new system [project] authorized under this paragraph. The balance available under this paragraph will be reviewed by the department at periodic intervals during the fiscal year and amounts released to contractors described in paragraph (4)(2) of this subsection as deemed appropriate. New systems [Projects] to be funded under this paragraph may be approved by the department at any time during the fiscal year. Once a new system has been in operation for at least six months, it will become subject, for the next full fiscal year, to the funding allocation process described in paragraph (4)(2) of this subsection.

(3) A portion of the annual §18 federal apportionment will be reserved for the expansion of services into contiguous counties by entities that currently receive §18 funding. The amount to be reserved will be 2.5% of the total federal funds available for the §18 program in that fiscal year or \$500,000, whichever is less.

(A) Subject to the conditions outlined in subparagraphs (B)-(D) of this paragraph, funds will be awarded to eligible recipients as follows.

(i) Totals will be calculated for each contractor requesting authority to expand to contiguous counties, taking the sum of the factors described in subclauses (I) and (II) of this clause and dividing the total by two.

(I) Nonurbanized population. Using the latest census figures available from the state data center, the nonurbanized population for the counties to be added to each contractor's service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors requesting funds under this paragraph to determine the nonurbanized population factor for each contractor.

(II) Square mileage. Using the department's database, the square mileage (by county) for the counties to be added to each contractor's service area will be calculated. Each contractor's subtotal will then be divided

by the total for all contractors requesting funds under this paragraph to determine the square mileage factor for each contractor.

(ii) The resulting aggregate factor will then be multiplied by the total §18 funds reserved for such expansion.

(iii) The product of the latter calculation is the total expansion award for each eligible recipient.

(B) The awards made to any recipient under this paragraph shall not exceed 10% of the funds allocated to that recipient under paragraph (4) of this subsection. The total funding reserved for this paragraph will be reduced as necessary to comply with this criterion.

(C) A recipient of funds under this paragraph must provide one-way passenger trips within the counties added to their service area in a percentage equal to or greater than the percentage that the additional counties' population represents of the recipient's total service area population.

(D) If it is determined that all or a portion of the set-aside monies are not required for expansion, those funds shall be applied to the formula apportionment process described in paragraph (4) of this subsection.

(4)[(2)] The balance of the annual §18 federal apportionment will be allocated to existing §18 contractors on a formula basis as described in subparagraphs (A)-(C) of this paragraph. Upon the contractor's completion of and compliance with all application requirements, rules, and regulations applicable to the §18 program, the department and the contractor will negotiate a contract. All such contracts shall have an effective date of September 1 and shall be for a 12-month period unless otherwise authorized by the department. Formula allocations for the next fiscal year will be announced by the department no later than June 1. The formula contains two demographic factors and three performance factors, with the allocations computed as follows.

(A) Unadjusted totals will be calculated for each contractor, taking the sum of the factors described in clauses (i)-(v) of this subparagraph for the contractor and dividing the total by five. The resulting aggregate factor will then be multiplied by the total §18 funds determined by the department to be available for projects to be funded under this paragraph. The product of the latter calculation is the unadjusted formula total for each contractor.

(i) Nonurbanized population. Using the latest census figures available from the state data center, the nonurbanized population for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the nonurbanized population factor for each contractor.

(ii) Square mileage. Using the department's database, the square mileage (by county) for each contractor's authorized service area will be calculated. Each contractor's subtotal will then be divided by the total for all contractors to determine the square mileage factor for each contractor.

(iii) Vehicle miles per cost. Using the most recent four quarterly reports submitted by each contractor, the contractor's average vehicle miles travelled per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the vehicle miles per cost factor for each contractor. For contractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(iv) Revenues per expenses (revenue recovery ratio). Using the most recent four quarterly reports submitted by each contractor, the contractor's average revenue collected per administrative and operating cost will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the revenues per expenses factor for each contractor. For contractors that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(v) Passenger trips per nonurbanized population. Using the most recent four quarterly reports submitted by each contractor and the population data described in clause (i) of this subparagraph, the contractor's average one-way passenger trips per service area population will be calculated. Each contractor's average will then be divided by the total for all contractors to determine the passenger trips per nonurbanized population factor for each contractor. For systems that have been in operation for less than 12 months but at least six months, extrapolated totals will be calculated using the available reports.

(B) Based on the relative size of the federal apportionment and the relative number of §18 formula contractors in comparison to the preceding fiscal year, the department will adjust the formula totals derived in subparagraph (A) of this paragraph, subject to the exceptions outlined

in clauses (i)-(iii) of this subparagraph. The adjustments will be based on a comparison of the preliminary formula totals to the §18 grant funds available to each contractor during the preceding 12 months, including any monies awarded under paragraph (3) of this subsection. As contractors enter their second and following years of formula funding, this will be a comparison to the previous year's allocation. The commission will determine an appropriate allocation base and cap and all preliminary formula amounts derived in subparagraph (A) of this paragraph will be adjusted to fall within that range. (For example, if contractor X's unadjusted total represented 87% of the previous year's expenditures and the annual funding base was established at 90%, contractor X's allocation would be increased to 90%. Similarly, if contractor Y's unadjusted total represented 125% of the previous year's expenditures and the annual funding cap was established at 110%, contractor Y's allocation would be reduced to 110%.) If the federal apportionment remains substantially unchanged from fiscal year 1990, the base will be no less than 95% and the cap will be as high as feasible given the available funding. Any reserve funds described in paragraphs (1)-(3) [paragraph (1)] of this subsection that are released for allocation under this paragraph will be awarded on a percentage basis to the existing contractors at the lowest funding levels relative to the base. Similarly, any funds allocated under this paragraph that are not obligated by December 1 of the fiscal year of allocation will be awarded on a percentage basis to the other existing contractors at the lowest funding levels relative to the base. Exceptions to the adjustment process are as follows.

(i) In cases where the federal decennial census establishes a new urbanized area within the authorized service area of a §18 contractor, the §18 formula allocation to that system will be reduced by the same percentage that the new urbanized area's population represents of the total population for the counties within the contractor's previously authorized service area.

(ii) In cases where the federal decennial census abolishes an urbanized area within a county that is part of the authorized service area of a §18 contractor, the §18 formula allocation to that system will be increased by the same percentage as the increase in the nonurbanized population for the contractor's authorized service area. If there is not a §18 contractor currently serving that area, the former urbanized area is eligible for funding under paragraph (2) of this subsection. This process shall apply in the first funding year after the federal census is officially certified by the United States Department of Commerce

or as directed by the United States Department of Transportation. In subsequent years, the adjustment process described in this subparagraph shall be used.

(iii) In cases where a §18 contractor eliminates one or more counties from their previously authorized service area, the §18 formula allocation to that system will be reduced by the same percentage that the population of the counties to be eliminated represents of the total population for the counties within the contractor's previously authorized service area. This process shall apply in the first funding year after the request for a reduction in the service

area is received by the department. In subsequent years, the adjustment process described in this subparagraph shall be used.

(C) Each [For the purposes of the calculations in subparagraph (B) of this paragraph, the department will assume that 10% of each contractor's formula allocation will be dedicated for capital items. However, each] contractor will indicate in its annual application budget the amounts [actual amount] to be allotted to the capital, administrative, and operating categories [category]. Under no circumstances shall administrative expenses exceed 30% of the

total (federal §18 dollars plus match) sum of administrative and net operating funding.

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 February 26, 1992.

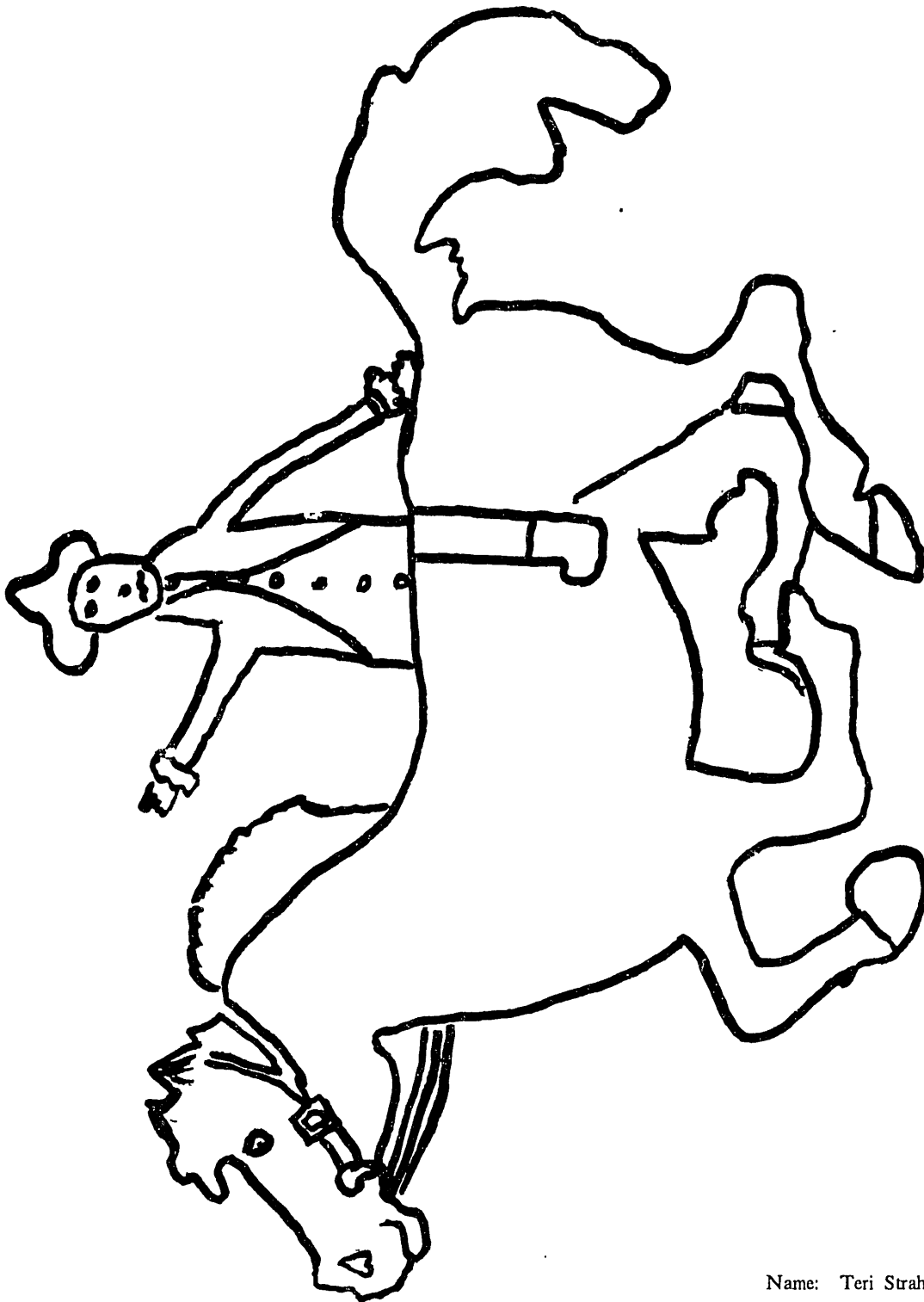
TRD-9202819

Diane L. Northam  
Legal Administrative  
Assistant  
Texas Department of  
Transportation

Earliest possible date of adoption: April 3, 1992

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

◆ ◆ ◆



Name: Teri Strahan

Grade: 4

School: Kuehnle Elementary School, Klein ISD

# Withdrawn Sections

An agency may withdraw proposed action or the remaining effectiveness of emergency action on a section by filing a notice of withdrawal with the *Texas Register*. The notice is effective immediately upon filing or 20 days after filing. If a proposal is not adopted or withdrawn six months after the date of publication in the *Texas Register*, it will automatically be withdrawn by the office of the Texas Register and a notice of the withdrawal will appear in the *Texas Register*.

## TITLE 19. EDUCATION Part II. Texas Education Agency

### Chapter 61. School Districts

#### Subchapter G. School Facilities

- 19 TAC §§61.91-61.94

The Texas Education Agency has withdrawn from consideration for permanent adoption proposed new §§61.91-61.94 which appeared in the January 31, 1992, issue of the *Texas Register* (17 TexReg 781). The effective date of this withdrawal is March 17, 1992.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202750 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Effective date: March 17, 1992

For further information, please call: (512) 463-9701



### Chapter 67. Instructional Resources

#### Subchapter A. State Textbook Program

#### State Adoption, Acquisition, and Custody of Textbooks

- 19 TAC §67.85

The Texas Education Agency has withdrawn from consideration for permanent adoption a proposed amendment to §67.85 which appeared in the January 31, 1992, issue of the *Texas Register* (17 TexReg 782). The effective date of this withdrawal is March 17, 1992.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202749 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Effective date: March 17, 1992

For further information, please call: (512) 463-9701



## TITLE 25. HEALTH SER- VICES

### Part I. Texas Department of Health

#### Chapter 130. Code Enforcement Registry

- 25 TAC §§130.1-130.17

The Texas Department of Health (department) withdraws the emergency effectiveness of new §§130.1-130.17, effective 20 days after the filing date of this notice. The text of the emergency new sections was published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7283).

Issued in Austin, Texas, on February 25, 1992.

TRD-9202787 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective Date: March 16, 1992

Filed: February 25, 1992

For further information, please call: (512) 834-6628



### Chapter 145. Long Term Care

#### Subchapter E. Procedures on Long-Term Care Facilities

- 25 TAC §145.91

The Texas Department of Health withdraws the proposed amendment to §145.91, which was published in the November 8, 1991, issue of the *Texas Register* (16 TexReg 6381).

Issued in Austin, Texas, on February 25, 1992.

TRD-9202795 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: February 25, 1992

Filed: February 25, 1992

For further information, please call: (512) 458-7709



### Chapter 325. Solid Waste Management

#### Subchapter M. Solid Waste Technician Training and Certification Program

- 25 TAC §§325.381,  
325.384-325.389

The Texas Department of Health has withdrawn proposed amendments to §§325.381, and 325.384-325.389, concerning the state's Solid Waste Technician Training and Certification Program. The text of the amendments appeared in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6260). The effective date of this withdrawal is immediately upon filing.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202792 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: February 25, 1992

Filed: February 25, 1992

For further information, please call: (512) 834-6625



- 25 TAC §§325.382, 325.383,  
325.390, 325.391

The Texas Department of Health has withdrawn the proposed repeal of existing §§325.382, 325.383, 325.390, and 325.391, concerning the state's Solid Waste Technician Training and Certification Program. The proposed repeals appeared in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6260). The effective date of this withdrawal is immediately upon filing.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202793 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: February 25, 1992

Filed: February 25, 1992

For further information, please call: (512) 834-6625



• 25 TAC §§325.382, 325.383,  
325.390, 325.392

The Texas Department of Health has withdrawn proposed new §§325.382, 325.383, and 325.390-325.392, concerning the state's Solid Waste Technician Training and Certification Program. The text of the new sections appeared in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6260). The effective date of this withdrawal is immediately upon filing.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202794      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: February 25, 1992

Filed: February 25, 1992

For further information, please call: (512)  
834-6625



Subchapter Z. Waste Minimi-  
zation and Recyclable Mate-  
rials

Newsprint Recycling

• 25 TAC §§325.1171-325.1176

The Texas Department of Health (department) has withdrawn the proposed new §§325.1171-325.1176 in Subchapter Z of the Municipal Solid Waste Management Regulations, concerning newsprint recycling. The proposed new sections appeared in the November 5, 1991, issue of the *Texas Register* (16 TexReg 6267). The effective date of this withdrawal is February 25, 1992.

Issued in Austin, Texas, on February 25, 1991.

TRD-9202791      Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective Date: February 5, 1992

Filed: February 25, 1992

For further information, please call: (512)  
834-6625



# 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 16. ECONOMIC REGULATION

### Part I. Railroad Commission of Texas

#### Chapter 3. Oil and Gas Division

##### Conservation Rules and Regulations

###### • 16 TAC §3.50

The Railroad Commission of Texas adopts amendments to 16 TAC §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, without changes to the proposed text as published in the January 21, 1992, issue of the *Texas Register* (17 TexReg 457). The amendments to 16 TAC §3.50 provide the procedure for implementing the Tax Code, §202.052 and §202.054, as amended by Senate Bill Number 1105, which grants 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 amendments define terms and set the standard for qualification, approval and certification for the severance tax incentive. The Railroad Commission has not fully analyzed the potential severance tax implications.

One commenter recommended that the rule should provide that projects may be approved as "new and district" if a new technological method is applied to a project which began active operation prior to September 1, 1989.

The commission disagrees. These types of new methods may qualify as expansions of existing projects, if so, the incremental increase in oil production caused by these new methods would be given the tax reduction.

One commenter suggested that the definition of "expanded enhanced recovery project or expansion" be changed to allow the addition of injection or producing wells.

The commission disagrees because the addition of new injection wells would be covered in change of injection pattern. The addition of new producing wells is not an enhanced recovery project, but is only infill drilling.

One commenter suggested that the Form H-12 (New or Expanded Enhanced Oil Recovery Project and Area Designation Approval Application) be amended to eliminate the re-

quirement that operators supply the estimated value and amount of oil and gas reserves recoverable.

This comment does not concern the proposal.

One commenter suggested that the proposal be amended to permit interim certification of the designated area, so that operations may be commenced prior to the sometimes lengthy full certification process.

The commission disagrees. During the last year, properly filed applications for project approval and certification took an average of approximately 15 days to be fully certified.

The following commenters expressed general support for the proposal, although they suggested changes to various provisions: Marathon Oil Company and Texas Mid-Continent Oil & Gas Association.

The amendment is adopted under the Texas Natural Resources Code, §§81.052, 85.046, and 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.

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

Issued in Austin, Texas, on February 24, 1992.

TRD-9202811

Nolan Ward  
Hearings Examiner,  
General Law-Legal  
Division  
Railroad Commission of  
Texas

Effective date: March 18, 1992

Proposal publication date: January 21, 1992

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



## Chapter 15. Alternative Fuels Research and Education Division

### The General Rules of Practice and Procedure

#### • 16 TAC §15.1, §15.2

The Railroad Commission of Texas adopts new §15.1 and §15.2, concerning definitions to be used under the chapter and registration of loading racks with the commission, with changes to the proposed text as published in the November 12, 1991, issue of the *Texas Register* (16 TexReg 6526).

The commission is adopting the new sections in response to House Bill 2505, which amends Chapter 113 of the Texas Natural Resources Code to create an Alternative Fuels Research and Education Fund in the state treasury. Monies from the fund will be used by the commission to conduct research and educate the public regarding the use of LPG. Although House Bill 2505 refers to research and education regarding "LPG and other alternative fuels," it also restricts the use of funds to activities relating to the specific fuel from which the fee was derived. Because all of the funds collected under this chapter will derive from the LPG industry, they will be used solely for research and education regarding LPG.

New §15.1 sets out definitions applicable to the newly created division. Section 15.2 requires that loading racks be registered with the commission on an annual basis.

Comments concerning these sections were submitted by the Gas Processors Association, the Texas LP-Gas Association, and 10 other persons involved in the LPG industry. These comments and the commission's responses to them are briefly summarized below. No requests for public hearing were received.

Several of the comments received concerned aspects of the rules not particular to any one section. For example, one commenter suggested that the present rulemaking be expanded to address the establishment of advisory committees as authorized by House Bill 2505. The commission disagrees with this suggestion. The present rulemaking concerns only the fees required to be collected under the statute. The issue of the establishment of advisory committees will be addressed separately.

Two commenters also requested that their facilities be exempted from responsibility for collecting and remitting the fee. The commis-

sion will not address these individual requests for exemption in the rules themselves. Due to the complexity of the transactions involved, all exemption requests will be considered on a case-by-case basis.

Another commenter recommended that all references to the term "alternative fuels" be stricken from the rules. This commenter argued that House Bill 2505 was passed solely for the benefit of the Texas LPG industry, and that the use of the broader term "alternative fuels" is misleading. The commission disagrees. The term "alternative fuels" reflects the language of the statute, and therefore it has not been deleted from the rules.

With regard to §15.1, the majority of the comments received concerned the proposed definition of loading rack operator, which includes not only the person or entity controlling the day-to-day operations of a loading rack facility, but alternatively, the person or entity invoicing the first sale of odorized LPG delivered into a cargo container at a loading rack. Numerous commenters expressed support for the definition as proposed. These commenters felt that the expansion of the definition to include the person or entity invoicing the first sale more accurately reflects the actual workings of the LPG industry, and will greatly reduce the administrative burden placed on those required to remit the fee. One commenter also suggested that the definition as proposed will prevent third-party loading racks, who are not parties to an actual sale of LPG, from being forced to assume any bad debt resulting from the seller's failure to pay the fee.

On the other hand, several commenters expressed the opposite view, urging that the definition be limited to those persons or entities controlling the day-to-day operations of a loading rack facility. These commenters noted that the definition as proposed will significantly increase the number of persons required to report and remit the fee and suggested that this will place an undue administrative burden on the Alternative Fuels Research and Education Division of the commission. The commenters also expressed concern that the proposed definition creates loopholes for avoiding the fee, and that enforcement under the definition will be difficult, if not impossible.

After careful consideration of both viewpoints, the commission has chosen to leave the definition of loading rack operator as proposed. Comments received indicate that, due to the nature and complexity of LPG sales transactions, any benefit gained by relieving the person or entity actually invoicing the first sale of odorized LPG delivered into a cargo container at a loading rack facility from responsibility for reporting and remitting the fee would be outweighed by the resulting administrative burden on loading rack facilities.

Therefore, although the proposed definition of loading rack operator will create additional administrative and enforcement difficulties for the commission, the commission is of the opinion that these difficulties are more easily surmountable than those that would be created by the more limited definition proposed by the commenters.

For purposes of clarification and consistency, the commission has amended the proposed definition of loading rack operator. In the second sentence of the definition, the phrase "first purchase of LPG" has been replaced in two instances with the phrase "first sale of odorized LPG."

In addition, in response to comment, the proposed definition of first sale has been amended. The commission has added the phrase "within the State of Texas" to the definition of first sale in order to clarify that the fee will be collected on all first sales of odorized LPG delivered into a cargo container at a loading rack facility located in the State of Texas, regardless of the origin of the gas.

With regard to §15.2, the commission has amended the second sentence of that section to require all loading rack operators to register with the commission on or before May 1st of each year. The section as proposed required registration on or before January 1st of each year. In addition, for the sake of increased clarity, the reference to Division Form Number 6 in §15.2 has been changed to AFRED Form Number 6.

The new sections are adopted under the Texas Natural Resources Code, §113. 246, which authorizes the commission to promulgate rules and standards necessary for the administration, collection, reporting, and payment of fees payable or collected under Chapter 113, Subchapter I of the Code.

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

**Cargo container**—Any receptacle mounted on a transport vehicle, including a bobtail or semi-trailer, designed and used for the transportation or storage of liquefied petroleum gas, excluding the vehicle's motor fuel tank.

**Commission**—The Railroad Commission of Texas.

**Division**—The Alternative Fuels Research and Education Division of the Railroad Commission of Texas.

**First sale**—The first transaction within the State of Texas in which ownership of odorized liquefied petroleum gas transfers from seller to purchaser.

**Liquefied petroleum gas (LPG)**—Any material that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons: propane, propylene, normal butane, isobutane or butylenes.

**Loading rack**—Any material handling facility where LPG is loaded into cargo containers, including but not limited to gas processing plants, refineries, underground and aboveground bulk storage facilities, pipeline terminals, and unattended LPG dispensing facilities.

**Loading rack operator**—The owner or any person or entity controlling the day-to-day operations of the facility. When this person or entity is not the person or entity invoicing the first sale of odorized LPG

dispensed into a cargo container at a loading rack, then the person or entity invoicing the first sale of odorized LPG dispensed into a cargo container at a loading rack shall be considered the loading rack operator.

**§15.2. Loading Rack Registration.** All loading racks operating within the State of Texas must be registered with the commission. On or before May 1st of each year, each loading rack operator shall file with the commission AFRED Form Number 6, Loading Rack Registration. It shall be the responsibility of the operator to notify the commission of any changes in registration information, and failure to properly register may subject the operator to civil penalties under §15.27 of this chapter (relating to Civil Penalties).

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

Issued in Austin, Texas, on February 24, 1992.

TRD-9202809

Nolan Ward  
Hearings Examiner, Legal  
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Railroad Commission of  
Texas

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Proposal publication date: November 12, 1991

For further information, please call: (512) 463-7013

◆ ◆ ◆  
• 16 TAC §§15.21-15.27

The Railroad Commission of Texas adopts new §§15.21-15.27, concerning the administration, collection, reporting, and payment of fees due on the first sale of odorized liquefied petroleum gas (LPG), as well as penalties associated with failure to comply with the applicable statute or commission rules. Sections 15.21-15.25 are adopted with changes to the proposed text as published in the November 12, 1991, issue of the *Texas Register* (16 TexReg 6526). Section 15.26 and §15.27 are adopted without changes and will not be republished.

The commission is adopting the new sections in response to House Bill 2505, which amends Chapter 113 of the Texas Natural Resources Code to create an Alternative Fuels Research and Education Fund in the state treasury. Monies from the fund will be used by the commission to conduct research and educate the public regarding the use of LPG. Although House Bill 2505 refers to research and education regarding LPG and other alternative fuels, it also restricts the use of funds to activities relating to the specific fuel from which the fee was derived. Because all of the funds will be derived from the LPG industry, they will be used solely for research and education regarding LPG.



New §15.21 establishes a fee on the first sale of odorized LPG and prescribes the amount of the fee to be collected. The procedure for reporting and remitting the fees is described in §15.22, and §15.23 sets out the allowable exemptions. Section 15.24 and §15.25 concern application for refunds, both from the loading rack operator and from the commission. Administrative penalties for failure to report as required are covered in §15.26, and §15.27 sets out civil penalties that may result from failure to comply with Chapter 113 of the Texas Natural Resources Code or commission rules.

Comments concerning these sections were submitted by the Gas Processors Association, the Texas LP-Gas Association, and 10 other persons involved in the LPG industry. These comments and the commission's responses to them are briefly summarized below. No requests for public hearing were received.

With regard to §15.21, one commenter suggested that the language in proposed §15.21(b) was confusing in light of the expanded definition of loading rack operator. The commission agrees and has deleted the second half of the first sentence of §15.21(b) beginning with the word "regardless." The second sentence has been deleted as well.

In addition, the commission has reworded §15.21(c)(9) for the sake of increased clarity. The substance of the subsection has not been altered.

The commission has also amended §15.22. The phrase "into a cargo container" has been added after the word "delivered" in both the first and second sentences of that section to clarify the commission's use of the word "delivered" and to reflect the wording of the statute.

Also, §15.23(b) has been amended in response to comment. A commenter suggested that the exemption forms referenced in §15.23(b) should be eliminated. The commenter contended that because the information included on the exemption forms is already required on bills of lading, the exemption forms are redundant. The commission agrees in part. Companies that already retain bills of lading containing the required information should not be required to keep on file commission forms containing identical information. However, the commission has no guarantee that all companies retain such complete bills of lading. Therefore, the commission has amended §15.23(b) to allow companies to use either the commission's exemption forms or other forms specifically approved by the commission. Bills of lading fall in the latter category. They may be used, but must be approved in writing in advance by the commission.

Another commenter recommended that Division Form Number 2, Load Exemption, which is referenced in §15.23(b), be revised to include additional information. The commission agrees with this recommendation and intends to revise the form. However, the forms themselves are not a part of this rulemaking and any amendments to them will be made at a later date.

In regard to the forms, however, the commission has changed each reference to Division Form Number 2 in the rules to read AFRED Form Number 2 for the sake of increased clarity.

The new sections are adopted under Texas Natural Resources Code, §113.246, which authorizes the commission to promulgate rules and standards necessary for the administration, collection, reporting, and payment of fees payable or collected under Chapter 113, Subchapter I of the Code.

#### *§15.21. Fee on Delivery of Odorized LPG.*

(a) Each operator of an LPG loading rack, upon delivery of odorized LPG into any cargo container, shall collect a fee on the first sale of said odorized LPG.

(b) The loading rack operator shall be responsible for collecting the fee from the first purchaser of the odorized LPG.

(c) The amount of the fee shall be computed on the net amount of odorized LPG delivered into the cargo container in accordance with the following fee schedule:

(1) \$7.50 for each delivery of less than 1,500 gallons;

(2) \$9.00 for each delivery of 1,500 gallons or more but less than 1,800 gallons;

(3) \$10 for each delivery of 1,800 gallons or more but less than 2,000 gallons;

(4) \$12.50 for each delivery of 2,000 gallons or more but less than 2,500 gallons;

(5) \$13.50 for each delivery of 2,500 gallons or more but less than 2,700 gallons;

(6) \$25 for each delivery of 2,700 gallons or more but less than 5,000 gallons;

(7) \$37.50 for each delivery of 5,000 gallons or more but less than 8,000 gallons;

(8) \$50 for each delivery of 8,000 gallons or more but less than 12,000 gallons;

(9) For each delivery of 12,000 gallons or more, \$25 for each increment of 5,000 gallons, and \$25 for any remainder of less than 5,000 gallons.

*§15.22. Report and Remittance of Fees.* On or before the 25th day of each month, each loading rack operator shall file a report and remit to the commission all fees due on odorized LPG delivered into a cargo container in the previous month. Fees are due to the commission on all gas delivered into a cargo container in the previous month, regardless of whether the fees were

actually collected from first purchasers in that month. The report shall be prepared on AFRED Form Number 1, Loading Rack Operators Report of Fees Collected, and must be returned to the Alternative Fuels Research and Education Division of the commission postmarked on or before the deadline for filing. Late filings or failure to file as required will subject the operator to additional fees or penalties as set out in §15.26 and §15.27 of title (relating to Penalty For Failure To Report As Required; and Civil Penalties).

#### *§15.23. Exemptions.*

(a) No fee shall be collected on any deliveries of odorized LPG destined for export out of the State of Texas if the LPG is in continuous movement to a destination outside the state.

(b) Purchasers or representatives of purchasers claiming an exemption under this section must complete the appropriate form and return it to the loading rack operator making the exempt delivery. AFRED Form Number 2, Load Exemption, or another form specifically approved in advance in writing as equivalent by the Division, shall be completed by any purchaser certifying that a particular load of LPG is exempt from the fee. AFRED Form Number 4, Blanket Exemption, or another form specifically approved in advance in writing as equivalent by the division, shall be completed by any purchaser obtaining an exemption for all LPG purchased. Each loading rack operator shall keep all exemption forms filed with him/her on file and available for commission inspection for a period of four years.

*§15.24. Loading Rack Refunds.* Any purchaser who pays a fee to a loading rack operator on a load of LPG that is exempt under §15.23 of this title (relating to Exemptions) may apply to the loading rack operator for a refund of the amount paid. To apply for the refund, the purchaser must complete AFRED Form Number 5, Request for Refund, and return it to the loading rack operator who collected the fee. Any loading rack operator who is required to refund a fee to a purchaser as a result of the purchaser having returned AFRED Form Number 5 shall report the amount of the refund on Schedule A of AFRED Form Number 1. All amounts refunded and reported in this manner may be deducted from the total amount of fees collected to arrive at the total amount of fees to be remitted to the commission. All refund amounts reported must be supported by refund request forms kept on file and available for commission inspection by the loading rack operator for a period of four years.

**§15.25. Commission Refund.** Any operator of a loading rack may petition the commission for refund of fees remitted to the commission in error. Any operator seeking a refund must complete AFRED Form Number 3, Fee on First Sale of Odorized LPG Refund Request, and return it to the Alternative Fuels Research and Education Division of the commission. The reason for the refund and supporting documentation must accompany the request.

**§15.26. Penalty For Failure To Report as Required.**

(a) Loading rack operators filing a report or remitting fees later than the 25th day of the month in which fees are due, but within 30 days of the deadline, shall remit a penalty in the amount of 5.0% of the amount of fees originally due and payable.

(b) Loading rack operators filing a report or remitting fees more than 30 days after the deadline shall remit a penalty in the amount of 10% of the amount of fees originally due and payable.

(c) An additional penalty of 75% of the amount of the fees and penalties due and payable will be added to the above-mentioned penalties if the failure to file a report or to remit the fees collected is determined to be the result of fraud or an intent to evade the provisions of the Texas Natural Resources Code, Annotated §§113.241-113.245 or commission rules.

**§15.27. Civil Penalties.**

(a) Any person who violates the provisions of the Texas Natural Resources Code, §§113.241-113.245 or the rules of the commission implementing those provisions forfeits to the state a civil penalty in an amount not less than \$25 and not more than \$200.

(b) At the request of the commission, the Attorney General is empowered to sue in a court of competent jurisdiction to collect any fee or penalty due under the provisions of the Texas Natural Resources Code, §§113.241-113.250.

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

Issued in Austin, Texas, on February 24, 1992.

TRD-9202810 Nolan Ward  
Hearings Examiner, Legal  
Division-General Law  
Railroad Commission of  
Texas

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For further information, please call: (512) 463-7013

## Part II. Public Utility Commission of Texas Chapter 23. Substantive Rules Records and Reports

### • 16 TAC §23.12

The Public Utility Commission of Texas adopts an amendment to §23.12, concerning financial records and reports, with changes to the proposed text as published in the September 27, 1991, issue of the *Texas Register* (16 TexReg 5303).

The section prescribes the uniform system of accounts that every public utility must keep and specifies those financial and operating reports that must be filed by telephone and electric utilities. The section also establishes reporting requirements for mergers and for the sales of property of stock.

The following submitted comments in response to the September 27, 1991, *Texas Register* publication: Houston Lighting & Power Company (HL&P); Office of Public Utility Counsel (OPUC); Southwestern Bell Telephone company (SWB); Southwestern Public Service Company (SPS); Texas Association of Long Distance Telephone Companies (TEXALTEL); and Texas Telephone Association (TTA). Central Telephone Company of Texas (Centel) filed a letter of concurrence in the comments filed by TTA.

OPUC did not oppose the proposed amendments.

TEXALTEL urged the commission to modify the proposed definition of Class A and Class B telephone utilities in §23.12(a)(1)(A) to delete the word "regulated" from the phrase "utilities with regulated annual operating revenues." TEXALTEL expressed concern that inclusion of the word "regulated" could impede the commission from evaluating the existence of possible cross-subsidies between the regulated and unregulated business operations of local exchange companies operating in Texas. TEXALTEL's comments are apparently based on the belief that the commission requires the filing only of that information required by the Federal Communications Commission (FCC). Clearly, the commission is not dependent upon FCC reports for information. Nothing in this rule prevents the commission from imposing additional reporting requirements or seeking additional information. The definition is consistent with the current classifications used by FCC. By adopting a definition consistent with the FCC classification scheme, the commission establishes a system of accounts consistent with that established by the FCC, as required by the Public Utility Regulatory Act, §27(a). Consequently, no change is made based on TEXALTEL's comments.

TTA comments that §23.12(b)(1)(C) be revised to limit annual reporting to those utilities subject to the reporting requirements of the Securities and Exchange Commission (SEC). Despite the broad language of its proposed revision, TTA's comments reflected concerns only about the imposition of reporting requirements on holding companies, particularly private-owned utility holding companies. The

commission declines to adopt TTA's suggestion in its entirety, as it is interested in obtaining annual reports from all utilities subject to its jurisdiction, as well as utility holding companies subject to SEC reporting requirements. The commission, however, modifies the subparagraph to exclude from the reporting requirements of §23.12(b)(1)(C) utility holding companies not subject to annual reporting to the SEC.

HL&P proposed that §23.12(b)(2) be revised to require that the commission approve instructions to the earnings reports, and that such approval occur only after interested persons have been permitted to comment on the instructions contained in those reports. The commission currently conducts industry workshops and otherwise solicits comments prior to substantively revising either the instructions or schedules contained in the earnings report. HL&P did not comment that these informal mechanisms are inadequate. Moreover, obtaining commission approval may impose significant delay in implementing necessary revisions. No change is made to this paragraph based on HL&P's comment.

SPS and TTA proposed elimination of the semi-annual earnings report, as required by §23.12(b)(2). SPS characterized the semi-annual earnings report as redundant. TTA argued that preparation of the semi-annual report was burdensome, as most telephone companies operate on a fiscal year ending December 31. The commission proposed no change to the frequency of the filing of these reports. The semi-annual filing requirement ensures that the commission, at minimal cost, has access to current earnings information and can effectively monitor earnings. Additionally, to the extent the semi-annual reports indicate a need for the commission's general counsel to formally inquire into a utility's rates, the filing of such reports minimizes the regulatory lag associated with such action. Consequently, the commission declines to make the recommended changes.

HL&P recommended that §23.12(b)(3) be revised to be excluded from filing requirements those exhibits and documents incorporated by reference in commission (SEC) reports, as well as certain other reports and registration statements. HL&P suggested that such information be made available upon request. Though HL&P stated that the information can be voluminous, it did not quantify its claim. The commission serves as a public repository for information relating to a utility's operations. Adoption of HL&P's proposal would restrict the information available for public review and hinder understanding of those documents filed. The commission declines to adopt this recommendation.

SWB, SPS, and TTA opposed the proposed deletion of §23.12(b)(5), noting that this provision protects utilities from the requirement to file information that is already on file with the commission. The commission agrees with SWB, SPS, and TTA and reinstates this provision as §23.12(b)(4).

No party filed comments on the proposed deletion of the last sentence of §23.12(b)(1)(B)(i). That sentence was to have been revised, rather than deleted, to reflect the current classification scheme used by the

Federal Energy Regulatory commission (FERC). In the absence of comments supporting the deletion, the sentence is reinstated, with appropriate revisions.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce the rules reasonably required in the exercise of its powers and jurisdiction.

### §23.12. Financial Records and Reports.

(a) Uniform system of accounts. Every public utility shall keep uniform accounts as prescribed by the commission of all business transacted. The classification of utilities, index of accounts, definitions, and general instructions pertaining to each uniform system of accounts as amended from time to time shall be adhered to at all times, unless provided otherwise by these rules, or specifically permitted by the commission.

(1) Classification. For the purposes of accounting and reporting to the commission, each public utility shall be classified as follows.

(A) Telephone utilities.

(i) Class A: utilities with annual regulated operating revenues exceeding \$100 million.

(ii) Class B: utilities with annual regulated operating revenues less than \$100 million.

(B) Electric utilities.

(i) Major: utilities that had in each of the last three consecutive years sales or transmission service that exceeded any one or more of the following:

(I) one million megawatt-hours of total sales;

(II) 100 megawatt-hours of sales for resale;

(III) 500 megawatt-hours of gross interchange out; or

(IV) 500 megawatt-hours of wheeling for others (deliveries plus losses).

(ii) Nonmajor: utilities that are not classified as "major" as defined in this subparagraph.

(2) System of accounts. For the purpose of accounting and reporting to the commission, each public utility shall maintain its books and records in accordance with the following prescribed uniform system of accounts.

(A) (No change.)

(B) Electric utilities.

(i) Major: uniform system of accounts as adopted and amended by the Federal Energy Regulatory commission for major utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes.

(ii) Nonmajor: uniform system of accounts as adopted and amended by the Federal Energy Regulatory commission for nonmajor utilities or other commission-approved system of accounts as will be adequately informative for all regulatory purposes.

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

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

(b) Financial and operating reports. The following financial and operating reports shall be filed with the commission.

(1) Annual reports.

(A) Telephone utilities: Each Class A and B telephone utility shall file with the commission the same annual report as is required of such utility by the Federal Communications commission or United States Department of Agriculture-Rural Electrification Administration. Such annual reports shall be filed on the same dates as required to be filed by the Federal Communications commission or the United States Department of Agriculture-Rural Electrification Administration, whichever is applicable.

(B) Electric utilities.

(i) Each major electric utility shall file with the commission the same annual report required by the Federal Energy Regulatory commission or United States Department of Agriculture-Rural Electrification Administration. Such annual reports shall be filed with the commission on the same dates as required to be filed by the Federal Energy Regulatory commission or United States Department of Agriculture-Rural Electrification Administration, whichever is applicable. Major electric utilities which are not required to file such reports shall file with the commission an annual report on the form prescribed by the Federal Energy Regulatory commission.

(ii) Each nonmajor electric utility shall file with the commission the same annual report as is required of such utility by the Federal Energy Regulatory commission or United States Department of Agriculture-Rural Electrification Adminis-

tration. Such annual reports shall be filed with the commission on the same dates as required to be filed by the Federal Energy Regulatory commission or United States Department of Agriculture-Rural Electrification Administration, whichever is applicable.

(C) Each utility holding company subject to annual reporting to the Securities and Exchange commission and each utility shall file with the commission three copies of its annual report to shareholders, customers, or members. Unless included in the annual report to shareholders, customers, or members, each utility shall file concurrently with the filing of such report three copies of any audited financial statements that may have been prepared on its behalf.

(2) Semi-annual and annual earnings reports. Each utility shall file with the commission an earnings report providing the information required by the commission to enable it to properly monitor telephone and electric utilities within the state. Each utility shall report information related to 12 months of operations as specified in the instructions to the reports. Each utility shall file three copies of the commission-prescribed earnings report and shall electronically transmit one copy of the report no later than the dates prescribed in §23.11 of this title (relating to General Reports).

(A) Telephone utilities.

(i) Investor-owned utilities. Each investor-owned telephone utility shall file earnings reports on a semi-annual and annual basis.

(ii) (No change.)

(B) Electric utilities.

(i) Investor-owned utilities. Each investor-owned electric utility shall file earnings reports on a semi-annual and annual basis.

(ii) (No change.)

(3) Securities and exchange commission reports. Each utility and utility holding company subject to reporting requirements of the Securities and Exchange Commission shall file three copies of each required report with the commission. Three copies of each such report including 10-Ks, 10-Qs, 8-Ks, annual reports, and registration statements filed with the Securities and Exchange Commission shall be submitted to the commission no later than 15 days from the initial filing date with the Securities and Exchange Commission.

(4) Duplicate Information. A utility shall not be required to file with the

commission forms or reports which duplicate information already on file with the commission.

(c)-(d) (No change.)

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202782

Mary Ross McDonald  
Secretary of the  
Commission  
Public Utility Commission  
of Texas

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Proposal publication date: September 27, 1991

For further information, please call: (512) 458-0100

## Customer Service and Protection

### • 16 TAC §23.56

The Public Utility Commission of Texas adopts an amendment to §23.56, concerning the components of the dual-party relay service, with changes to the proposed text as published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6896).

The section provides for the establishment of a statewide telecommunications dual-party relay service (DPRS) for the hearing-impaired and speech-impaired using special equipment such as telecommunications devices for the deaf (TDDs), computers, and operator translations. The section requires that the DPRS provide interstate service while reimbursement through the universal service fund (USF) is allowed for interstate service. The section also sets out a detailed methodology for separating intrastate and interstate costs and for calculating intrastate and interstate assessments.

The following submitted comments in response to the November 29, 1991, *Texas Register* publication: Texas Exchange Carrier Association (TECA), Southwestern Bell Telephone Company (SWBT); Texas Telephone Association (TTA); Central Telephone Company of Texas (Centel); and an individual from Hickory Creek, Texas. Centel concurred with the comments of TTA.

SWBT, TTA, Centel, and the individual expressed their support of the proposed amendment to provide full interstate calling capability to the hearing impaired. The individual emphasized the fact that under the current system, "[c]ommunications parity is not being achieved...because while the caller can call out, return calls from the other party from another state cannot be made." He cited three negative ramifications of this, specifically: the potential for life-threatening situations; the inability for business people to efficiently conduct business outside of the state; and the inability for doctors and other professionals

who may be located out-of-state to communicate with their clients.

In its comments SWBT expressed support for the "temporary" funding of interstate relay service by the USF. SWBT, TTA, and Centel supported the proposed methodology for separating interstate and intrastate costs, with some modifications. The proposed amendments provide for the recovery of relay service expenses incurred by the administrator of the USF (the administrator) and the commission for the interstate and intrastate jurisdictions according to an allocation of these expenses based on the ratio of intrastate or interstate calls to total calls. Many of the parties contended that any expenses incurred by the administrator or the commission that can be separately identified as specific to the provision of the interstate or intrastate portion of the relay service should be directly assigned to the cost of that service and not allocated based on calling patterns.

SWBT stated that while it believes that, in general, the method of allocating the expenses incurred by the administrator in proposed subsection (h)(1)(A)(ii) and (h)(1)(B)(ii) (now subsection (h)(1)(A)(iii) and (h)(1)(B)(iii)) is "fair and equitable", any expenses incurred by the commission and the administrator specifically for the provision of interstate service should be allocated totally; to the cost of that portion of the service.

In particular, SWBT points out that the expenses which will be incurred by the administrator to implement the interstate assessment process should be assigned fully to the cost of interstate service: "To allocate these expenses based upon the ratio of interstate calls to total calls, overburdens the intrastate portion of the service and ultimately the customers of the local exchange carriers (LECs). LEC ratepayers should not be expected to pay for over 90% of the cost of implementing interstate relay service."

Similarly, TTA and Centel supported the methodology proposed, provided that expenses incurred by the administrator that can be identified as specific to the provision of interstate or intrastate service are assessed accordingly. TTA recommended the addition of clarifying language in proposed subsection (h)(1)(A)(ii) and (h)(1)(B)(ii) (now subsection (h)(1)(A)(iii) and (h)(1)(B)(iii)), to allow for the recovery of 100% of any and all costs that can be specifically attributed to the start-up and provisioning of a portion of the service from the proper jurisdiction. TTA stated that while the commission staff has not indicated any intent to pass through any portion of specifically identifiable expenses to the wrong entity, this should be clearly stated in the rule to alleviate any possible ambiguity.

TECA, the current administrator of the USF, indicated that it has the capability to identify the precise costs it incurs in the administration of interstate and intrastate relay service. Furthermore, "percentages may not properly reflect the jurisdictional costs incurred by TECA." To address this, TECA recommended modifications to subsection (h)(1)(A) and (h)(1)(B), which would allow for the specific identification and recovery of intrastate and interstate costs incurred by the administrator.

The commission agrees with the parties that any costs incurred that can be specifically attributed to the provision of intrastate or interstate service should be allocated totally to the cost of that portion of the service. In particular, all expenses that can be separately identified as being associated with the implementation of interstate service will be fully assigned to the cost of the interstate portion of the service. The commission has added language into subsection (h)(1)(A)(i) and (h)(1)(B)(i) that will allow for the direct assignment of implementation expenses, where possible, to the proper portion of the service. Since TECA has indicated that it is able to separately identify costs incurred in the ongoing provision of the service, the commission has incorporated language similar to that suggested by TECA into subsection (h)(1)(A)(iv) and (h)(1)(B)(iv). While the commission may be able to separately identify its costs associated with the start-up of interstate service, the commission lacks TECA's capability to distinctly identify the costs associated with the provision of the interstate and intrastate portions of the relay service on an ongoing basis. Thus, with the exception of any separately identifiable implementation costs, the commission will allocate its expenses to the intrastate and interstate costs of the relay service based on the ratio of intrastate and interstate calls to total calls.

TECA emphasized that interstate data and funds should not be commingled with the existing intrastate relay program. To this effect, TECA proposed the issuance of separate interstate billing statements and the separate receipt of interstate and intrastate funds. TECA pointed out that separate accounting will facilitate a smooth transfer of funds and records when an interstate funding mechanism is set in place by the Federal Communications Commission (FCC). TECA suggested the addition of language to subsection (d)(3), concerning scope of the dual-party relay service, to ensure that, "interstate records and funds will at no time be commingled with intrastate."

The commission recognizes TECA's concern and agrees that separate accounts will ease the transition to the interstate funding system to be set up by the FCC. The commission has modified the language proposed by TECA to provide for separate funds and records for the interstate and intrastate portions of the service and inserted it into subsection (d)(3).

Regarding the LEC intrastate assessment calculations, the commission proposed a change to subsection (h)(4), concerning division of LEC assessment among LECs. The new language paralleled that used to describe the calculation of assessments to other telecommunications utilities. The change would not have altered the amount of the individual LEC assessment percentages. TECA commented that it believed this change would require revisions to the TECA billing programs and reports. TECA estimated it would take three weeks to implement and test the revisions, with an approximate cost of \$4,000. Because of this cost impact, TECA recommended that the existing LEC intrastate assessment calculation remain essentially unchanged, with some minor modifications and proposed language to this effect.

The commission proposed this revision in order to bring the language used to describe the LEC assessment methodology into parity with that used for other telecommunications utilities. While the proposed revision may appear to change the assessment methodology, the actual calculation used to determine assessments to each LEC remains the same. The language merely describes the LEC assessment methodology in such a way as to mirror that used for assessments to other telecommunications utilities. Thus, TECA will not be required to make any changes to their programs or reports; it may continue to use the same procedures, programs, and reports currently used to calculate the LEC assessments.

Additionally, TECA pointed out that presently, the LECs do not furnish TECA with interstate local switching access minutes of use (MOUs). Since the proposed revisions to the rule require that interstate assessments be made based on interstate local switching MOUs, but do not add the requirement that LECs provide TECA with this information, TECA suggested language to be added to subsection (h)(6)(A), relating to the interstate assessment procedure for other telecommunications utilities, which would require that LECs report interstate local switching access MOUs to TECA.

The commission concurs with TECA in that the rule should require LECs to supply this information, and has adopted TECA's suggested language in subsection (h)(6)(D). Additionally, in subsection (h)(5)(D), the commission has added the requirement that LECs supply TECA with monthly reports showing intrastate local switching access MOU. Although this requirement is set forth in §23.53, concerning universal service fund, it has not previously been included in §23.56.

TECA indicated that it would take approximately eight weeks to implement and thoroughly test interstate DPRS programs. In addition, the programmer to be hired must be notified three weeks in advance. To address this concern, the commission has factored in an implementation period during which the administrator and the DPRS carrier will be able to set up for the provision of interstate service. A date certain of May 1, 1992, by which the DPRS carrier must begin providing full interstate capability, has been added to subsection (d) (2)(K). This period will give the parties sufficient time to implement any modifications necessary to provide interstate service and develop appropriate administrative procedures.

TECA commented on several other items for consideration, specifically: the necessity of amending the TECA/PUC contract to address the interim administration of interstate DPRS billing by TECA; a recommendation that the interim interstate billing performed by TECA be audited by a firm appointed by the commission; the handling of implementation costs of the interstate service incurred by TECA prior to the issuance of interstate billing; and whether TECA will be required to publish interstate DPRS administrative procedures.

The commission will consider amending the TECA/PUC contract to address the interim administration of interstate DPRS billing and

whether TECA will be required to issue interstate DPRS Administrative Procedures separately from this proceeding. Section 23.53, the universal service fund, provides for the annual audit of the USF administrator. At the time the commission executes the USF audit contract, it will take into consideration TECA's recommendation regarding an audit of the interim interstate DPRS billing performed by TECA. Expenses incurred for the implementation or provision of the interstate relay service may not be submitted prior to the May 1992 report due date established by the administrator of the USF. The commission has added language to this effect to subsection (g)(4) of the rule.

The amendment is adopted under Texas Civil Statutes, Article 1446c, §16(a), which provide the Public Utility Commission of Texas with the authority to make and enforce the rules reasonably required in the exercise of its powers and jurisdiction.

#### §23.56. *Statewide Dual-Party Relay Service.*

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

(d) Dual-party relay service. The dual-party relay service shall provide the hearing-impaired and speech-impaired with access to the telecommunications network in Texas equal to that provided other customers.

(1) (No change.)

(2) Components of the dual-party relay service. The dual-party relay service shall consist of the following:

(A)-(I) (No change.)

(J) capability for callers to be able to place calls through the dual-party relay service from locations other than their primary location and utilize alternate billing arrangements;

(K) capability of providing both inbound and outbound interstate service, to begin on or before May 1, 1992, except as provided in paragraph (3) of this subsection; and

(L) other service enhancements proposed by the relay service carrier and approved by the commission.

(3) Scope of the dual-party relay service. The interstate service capability set forth in paragraph (2)(K) of this subsection shall be required as a component of the dual-party relay service only while reimbursement through the universal service fund is allowed for interstate service. The cost of providing interstate service will be reimbursed through the universal service fund until the earlier of July 26, 1993, or the time when the hearing-impaired or

speech-impaired in Texas are provided interstate service through a service other than the statewide dual-party relay service. However, if federal funding is made available to the universal service fund for the purpose of funding the interstate service, the dual-party relay service may continue to provide interstate service after July 26, 1993. Separate funds and records therefore shall be maintained for the intrastate and interstate portions of the service.

(4) Rates and charges. The following rates and charges shall apply to the dual-party relay service.

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

(C) Interstate long distance charges. The rates for interstate service provided to users of the dual-party relay service shall be set by contract between the commission and the relay service carrier. The calling or called party shall bear one-half of the total charges established by this contract.

(D) Access charges. Local exchange carriers shall not impose access charges on calls that make use of this service and which originate and terminate within the same toll-free local calling scope.

(E) Billing and collection services. Upon request by the relay service carrier, local exchange carriers shall provide billing and collection services in support of this service at just and reasonable rates.

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

(g) Recovery of costs through the universal service fund.

(1) The relay service carrier will be reimbursed from the universal service fund for the costs of the service that are not paid by the calling or the called party. These costs may include a return on the investment required to provide the service and the cost of unbillable and uncollectible calls placed through the service, provided that the cost of unbillable and uncollectible calls shall be subject to a reasonable limitation as determined by the commission, based on recommendations made by commission staff after reviewing such costs that are submitted for reimbursement. The relay service carrier shall submit a monthly report to the commission justifying its claims for reimbursement under the contract. Upon approval by the commission, the universal service fund administrator as defined by §23.53(c)(1)(A) of this title (relating to universal service fund) shall make a disbursement in the approved amount.

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

(4) Expenses incurred for the implementation and provision of interstate relay service, as provided in subsection (d)(2)(K) of this section, may not be submitted prior to the May 1992 report due date established by the administrator.

(h) Universal service fund assessment.

(1) Cost of the service.

(A) The cost of the intrastate portion of the service is the sum of:

(i) any separately identifiable start-up expenses incurred in the implementation of the intrastate portion of the service;

(ii) the amount paid to the relay carrier for the provision of intrastate calls based on the contracted rate per minute of service;

(iii) an allocated portion of the expenses incurred by the commission based on the ratio of intrastate calls to total calls, such ratio to be calculated annually at the same time that the commission reviews the assessment percentages;

(iv) the expenses incurred by the administrator on behalf of the commission for the provision of the intrastate portion of the service; and

(v) any amount established as a reserve for such contingencies as late payments and uncollectibles.

(B) The cost of the interstate portion of the service is the sum of:

(i) any separately identifiable start-up expenses incurred in the implementation of the interstate portion of the service;

(ii) the amount paid to the relay carrier for the provision of interstate calls based on the contracted rate per minute of service;

(iii) an allocated portion of the expenses incurred by the commission based on the ratio of interstate calls to total calls, such ratio to be calculated annually at the same time that the commission reviews the assessment percentages;

(iv) the expenses incurred by the administrator on behalf of the commission for the provision of the interstate portion of the service; and

(v) any amount established as a reserve for such contingencies as late payments and uncollectibles.

(2) Funding for the intrastate portion of the service. The cost of the intrastate portion of the service shall be assessed to local exchange carriers (LECs) and other

telecommunications utilities based on the "assessment percentages" established in subparagraph (A) of this paragraph. As used herein, the term assessment percentages means the proportion of the intrastate dual-party relay service cost which is to be recovered from the LECs and the proportion which is to be recovered from other telecommunications utilities.

(A) In setting the appropriate intrastate assessment percentages for funding of the intrastate portion of the service, the commission shall consider the aggregate calling pattern of the users of the intrastate portion of the service.

(i) The intrastate assessment percentage assigned to the LECs will be based on:

(I) local calls completed through the relay service; and

(II) a share of the intrastate toll calls completed through the relay service that represents the LECs' carriage of intraLATA toll calls.

(ii) The intrastate assessment percentage assigned to other telecommunications utilities will be based on a share of the intrastate toll calls completed through the relay service that represents the other telecommunications utilities' carriage of intrastate toll calls.

(B) The commission shall review the assessment percentages annually and adjust the assessment percentages as found appropriate hereunder. Notification of the new assessment percentages will be made by publishing such assessment percentages in the *Texas Register*. The commission staff will notify the administrator of the universal service fund of the new assessment percentages.

(3) Funding for the interstate portion of the service. One hundred percent of the cost of the interstate portion of the service shall be assessed to other telecommunications utilities.

(4) Division of LEC assessment among LECs.

(A) The administrator shall establish an assessment rate to apply to LECs. This rate shall be calculated by dividing the cost assessed to LECs as set forth in paragraph (2) of this subsection for the current period by the total number of basic local service access lines as of December 31 of the previous year.

(B) The assessment to each LEC shall be the number of that LEC's

basic local service access lines as of December 31 of the previous year multiplied by the LEC assessment rate for the period.

(5) Division of other telecommunications utilities' intrastate assessment among other telecommunications utilities.

(A) The Administrator shall establish an intrastate assessment rate to apply to other telecommunications utilities. This rate shall be calculated by dividing the cost assessed to other telecommunications utilities as set forth in paragraph (2) of this subsection for the current period by the total intrastate local switching access minutes of use (MOU) as set forth in subparagraph (B) of this paragraph for the current period.

(B) Intrastate local switching access MOU are all minutes for which telecommunications utilities are billed the local switching rate element (e.g., LS1, LS2) from the LEC's intrastate access service tariff. These minutes shall include sent paid, sent collect, and originating 800 service. For services not billed the local switching rate element, intrastate local switching access MOU will be the assumed MOU as defined in the LEC's intrastate access service tariff multiplied by the number of intrastate voice grade equivalents billed to that telecommunications utility.

(C) The intrastate assessment to each other telecommunications utility shall be the amount of that utility's intrastate access MOU multiplied by the intrastate assessment rate for the period.

(D) LECs shall submit monthly reports to the administrator showing intrastate local switching access MOU for other telecommunications utilities.

(6) Division of other telecommunications utilities' interstate assessment among other telecommunications utilities.

(A) The administrator shall establish an interstate assessment rate to apply to other telecommunications utilities. This rate shall be calculated by dividing the cost assessed to other telecommunications utilities as set forth in paragraph (3) of this subsection for the current period by the total interstate local switching access minutes of use (MOU) as set forth in subparagraph (C) of this paragraph for the current period.

(B) Interstate local switching access MOU are all minutes for which telecommunications utilities are billed the local switching rate element (e.g., LS1, LS2) from the LEC's interstate access service tariff. These minutes shall include sent paid, sent collect, and originating 800 service.



For services not billed the local switching rate element, interstate local switching access MOU will be the assumed MOU as defined in the LEC's interstate access service tariff multiplied by the number of interstate voice grade equivalents billed to that telecommunications utility.

(C) The interstate assessment to each other telecommunications utility shall be the amount of that utility's interstate access MOU multiplied by the interstate assessment rate for the period.

(D) LECs shall submit monthly reports to the administrator showing interstate local switching access MOU for other telecommunications utilities.

(i)-(m) (No change.)

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202788 Mary Ross McDonald  
Secretary of the  
commission  
Public Utility commission of  
Texas

Effective date: March 17, 1992

Proposal publication date: November 29, 1991

For further information, please call: (512) 458-0100

◆ ◆ ◆  
**TITLE 19. EDUCATION**  
**Part II. Texas Education**  
**Agency**  
**Chapter 75. Curriculum**  
**Subchapter E. Well-Balanced**  
**Curriculum**

◆ ◆ ◆  
**• 19 TAC §75.141**

The Texas Education Agency adopts an amendment to §75.141, concerning well balanced curriculum, without changes to the proposed text as published in the November 26, 1991, issue of the *Texas Register* (16 TexReg 6842). The section is being amended to comply with Senate Bill 608, 72nd Legislature, Regular Session, requirements that school districts with existing prekindergarten programs comply with applicable Texas Department of Human Services' minimum standards for child care facilities. The bill requires that districts with existing prekindergarten programs comply with the applicable standards by September 1, 1994. Districts with new prekindergarten programs must comply with the requirements as of September 1, 1991.

Justification for the amendment will be compliance with Senate Bill 608, 72nd Legisla-

ture, Regular Session, requirements that school districts with existing prekindergarten programs comply with applicable Texas Department of Human Services' minimum standards for child care facilities.

The amendment will function by providing policy guidelines that help school districts ensure compliance with applicable child care licensing standards.

Comments were received regarding adoption of the amendment from various school districts and associations. A description of these comments and the agency's responses follow. No changes were made as a result of these comments.

Comment: Cypress-Fairbanks ISD requested clarification whether the proposed rules in subsection (g)(3)(J)(v) regarding safety standards would put undue limitations on indoor play areas which are used during bad weather.

Response: No change was made as a result of the comment because the rule text specifically states the safety requirements for play areas and the agency does not consider them to place undue limitations on indoor play areas.

Comment: Austin ISD expressed concern that some of the standards will require additional purchases of equipment; additional employee instruction; and renovations of buildings, and may have cost implications for local school districts.

Response: The agency responded by letter to the district explaining the anticipated costs related to these areas. In general, the agency believes that the cost implications are considered minimal for the implementation of health, safe, quality prekindergarten programs. In each case, there may be more than one appropriate way to adhere to the standard without substantial cost. It would be difficult to consider any prekindergarten program adequate without such minimal attention to the physical needs of three- and four-year-old children.

Comment: The Texas Association of School Administrators expressed the following concerns: In subsection (g)(3)(B) who may serve as a director of the facility?

Response: The director need not be an additional staff person; a teacher or principal might serve as the director.

Comment: In subsection (g)(3)(C) would districts be required to have several staff members on campus that meet the state qualifications?

Response: Only one person per campus would be required to be certified in first aid and CPR at a cost of \$15-20 per campus for each certification.

Comment: In the same subsection, the requirements for establishing procedures and rules for emergency release of students will require staff time and paperwork at additional district expense.

Response: Emergency release procedures are essential to ensure the safety of young children. The lack of such safeguards would make school districts legally vulnerable.

Comment: In subsection (g)(3)(D) who will train school district employees on child care standards?

Response: Districts will provide child care training just as training is provided to other grade level personnel to ensure effective programming. Training could be arranged to be provided by an outside source.

Comment: Is a staff/child ratio of 1:1 required in clause (g)(3)(E)(iii)?

Response: Aides are considered staff members. The information obtained regarding each child's needs will be invaluable in readying children for school learning. This clause does not imply that a 1:1 teacher/student ratio is required.

Comment: Subsections (g)(3)(F)-(J) seem to imply a school districts.

Response: Quality prekindergarten programs must provide equipment and furnishings that are developmentally appropriate and adequate.

Comment: Subsection (g)(3)(K) seems to imply that all school districts offering a three-year-old prekindergarten program must have a fenced play yard.

Response: The standards on sanitation, safety, and animals are minimal to help ensure keeping children from physical harm. The standard regarding animals does not require fencing.

Comment: The requirement of a rest period in subsection (g)(3)(L) will limit the time of instruction in a three-hour program.

Response: The standard providing a rest period is for those children who are in a full-day program.

Comment: The standard on discipline and guidance in subsection (g)(3)(M) should remain a local option between the school districts and parents. It is appropriate that the state dictate discipline policy?

Response: The state has the responsibility to ensure that all children are treated in a humane and appropriate manner. Furthermore, to ensure compliance with the Texas Family Code statutes related to child abuse the minimal standards are appropriate.

Comment: How can schools realistically clean and disinfect clothing on a daily basis, as required in subsection (g)(3)(N)?

Response: Cleanliness of bedding and diaper changing procedures are minimal to a health environment and do not require cleaning and disinfecting clothing, only the area where diapers are changed. Existing programs' failure to respond to these requirements would be irresponsible.

Comment: Houston ISD requested clarification whether the standards were applicable to campuses or classrooms; toilet facilities inside each classroom; the effect on the staff/pupil ration.

Response: The standards are applicable to campuses, not to specific classrooms. Therefore, toileting facilities are not required to be inside each classroom. The manner in which staff are deployed throughout various

prekindergarten classrooms to ensure learning is a local decision. The use of trained volunteers may substantially reduce program costs and increase parent and community involvement in prekindergarten programs.

Comment: Sorocco IDS expressed concerns about the costs for additional individuals trained in CPR and the development and implementation of emergency release plans.

Response: The cost of first aid and CPR certification is approximately \$15-20 per person certificate. Other persons on campus could be certified to ensure that someone would be present in case of an emergency. If local procedures for emergency release of children by parent to a stranger verify the information listed in the standard, then the local procedures meet the standard and additional procedures are not required. The standard is essential, however, to ensure the safety of those children in school districts that may not have such a procedure.

Comment: The State Board Liaison for Region IV Education Service Center supported the standards but submitted cost data for existing programs to ensure that the agency was aware of the costs associated with implementing the standards

Response. The agency is aware that staffing and facilities are cost concerns for school districts; however, in order to provide developmentally appropriate prekindergarten programs, child/staff ratio and furnishings and equipment should be appropriate to the ages of the children.

The amendment is adopted under the Texas Education Code, §21.136, as amended by Senate Bill 608, 72nd Legislature, Regular Session, which directs the State Board of Education to adopt rules for providing coordination between public school prekindergarten programs and child care licensing facilities.

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

Issued in Austin, Texas, on February 17, 1992.

TRD-9202758 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Effective date: March 17, 1992

Proposal publication date: November 26, 1991

For further information, please call: (512) 463-9701

## Chapter 89. Adaptations for Special Populations

### Subchapter B. Remedial and Compensatory Instruction

#### • 19 TAC §89.41

The Texas Education Agency (TEA) adopts an amendment to §89.41 concerning reme-

dial and compensatory instruction, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7151). The section is being amended at the request of the State Board of Education to incorporate the principles of accelerated learning as the goal of compensatory and remedial programs.

Justification for the amendment will be implementation of the principles of accelerated learning as the goal of compensatory and remedial programs.

The amendment will function by clearly delineating in state policy the goals and school district responsibilities relative to state compensatory education programs

No comments were received regarding adoption of the amendment

The amendment is adopted under the Texas Education Code, §21 557, which provides the State Board of Education with the authority to adopt standards for school districts compensatory and remedial instructional 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 February 17, 1992.

TRD-9202756 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Effective date: March 17, 1992

Proposal publication date: December 13, 1991

For further information, please call: (512) 463-9701

## Chapter 137. Teacher Education

### Subchapter M. 1987 Program Requirements for Preparation of School Personnel for Initial Certificates and Endorsements

#### • 19 TAC §137.559

The Texas Education Agency (TEA) adopts an amendment to §137.559 concerning endorsements, without changes to the proposed text as published in the December 13, 1991, issue of the *Texas Register* (16 TexReg 7151). The amendment deletes the use of the Language Proficiency Instrument (LPI) to assess oral proficiency of persons seeking a bilingual endorsement, and removes the requirement to take the College Level Examination Program (CLEP) Test for assessing written proficiency in Spanish for bilingual teachers. It is the contention of the agency that to some extent, the skills measured on the CLEP Test overlap those on the Examination for the Certification of Educators in Texas (ExCET) Bilingual Test. In addition, the State Board of Education recently adopted

the Texas Oral Proficiency Test (TOPT) for assessing oral proficiency of persons who will teach Spanish or French as another language and who use Spanish in a bilingual classroom setting.

Justification for the amendment will be the consolidation of testing instruments for measuring the oral proficiency of teachers providing instruction in Spanish, and the elimination of duplicate testing requirements currently in effect

The amendment will function by measuring the oral proficiency of all teacher who use Spanish in the classroom by the same test, and eliminating the duplication of skills testing by deleting the requirement for the CLEP Test.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Texas Education Code, §13.031(c), which provides the State Board of Education with the authority to adopt rules under which the Commission on Standards for the Teaching Profession shall recommend standards for teacher education and certification for certified personnel in public school districts operating elementary and/or secondary schools

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

Issued in Austin, Texas, on February 17, 1992.

TRD-9202757 Criss Cloudt  
Director, Policy Planning  
and Evaluation  
Texas Education Agency

Effective date: March 17, 1992

Proposal publication date: December 13, 1991

For further information, please call: (512) 463-9701

## TITLE 22. EXAMINING BOARDS

### Part II. State Board of Barber Examiners

#### Chapter 51. Practice and Procedure

##### The Board

#### • 22 TAC §51.1

The State Board of Barber Examiners adopts an amendment to §51.1, concerning the schedule of regular meetings and examinations, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 19)

The amendment provides that the board shall conduct regular meetings quarterly on the Tuesday following examinations.

The amendment provides reduced expenses for the conduct of board business



No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202640 Jo King McCoy  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

## Barber Colleges, Schools, and Students

### • 22 TAC §51.12

The State Board of Barber Examiners adopts an amendment to §51.12, concerning inspection of a new barber school or college, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 19).

The amendment provides for more convenient inspections at times when two of the four qualified board members may not be available and students will be able to enroll at an earlier time.

New schools will be able to operate sooner and students will be allowed to begin schooling earlier.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202641 Jo King McCoy  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.13

The State Board of Barber Examiners adopts an amendment to §51.13, concerning inspection of barber school or college when ownership changes, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 19).

The amendment provides for more convenient inspections at times when two of the four qualified board members may not be available.

New owners of schools will be able to operate sooner and students can resume training.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202642 Jo King McCoy  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.14

The State Board of Barber Examiners adopts an amendment to §51.14, concerning hours and days schools or colleges are open, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 20).

The amendment calls for information needed in the board office to be able to contact the owner or manager of a school or college.

The board will have the information available to interested callers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202643 Jo King McCoy  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.15

The State Board of Barber Examiners adopts an amendment to §51.15, concerning barber chairs per student, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 20).

The amendment make sure each student has a chair for practice.

This will provide quicker service to customers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202644 Jo King McCoy  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.16

The State Board of Barber Examiners adopts an amendment to §51.16, concerning equipment for students, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 20).

The amendment changes some language to make the rule more effective and updates required and optional equipment

The students will have necessary equipment to provide advertised services.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202645 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.17

The State Board of Barber Examiners adopts an amendment to §51.17, concerning specialty equipment in barber school or college, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 21).

The amendment adds needed items to school or college equipment.

The amendment will provide safety and protection of the public.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202646 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.19

The State Board of Barber Examiners adopts an amendment to §51.19, concerning absence of teachers without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 21).

The amendment for change of wording is for stricter enforcement.

The amendment will make sure students are supervised by a licensed teacher.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provides the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202647 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.20

The State Board of Barber Examiners adopts an amendment to §51.20, concerning applications for enrollment in barber school or college, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 21).

The amendment for change of wording is for stricter enforcement. The addition of doctor of osteopathic medicine is to comply with changes in the barber law made by the 71st Legislature, 1989.

The updating of records will be of benefit to the public.

No comments were received regarding adoption of the amendments.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202648 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.21

The State Board of Barber Examiners adopts amendments to §51.21, concerning deadline for enrollment applications to be in the office, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 21).

The amendment for change of wording is for stricter enforcement.

After requirements of §51.20 have been met and the enrollment information has been received, a student certificate with picture is

mailed to the school. Customers will know that a student has been approved to study and practice barbering in the school.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202649 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.22

The State Board of Barber Examiners adopts an amendment to §51.22, concerning the first day a student attends barber school, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 21).

The amendment for a change of wording is to be specific about the first date of enrollment.

Customers will know how long a student has been enrolled in a course of study and practice when the student certificate is displayed.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28a, which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202650 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.25

The State Board of Barber Examiners adopts an amendment to §51.25, concerning

reenrollment of a student in the same school or transfer from another school, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 22).

The amendment by a change of wording shows a better picture of what actually takes place, especially when students transfer from one school to another.

There will be current information on the student certificate displayed at the student's work station.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202651 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.26

The State Board of Barber Examiners adopts an amendment to §51.26, concerning student progress reports, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 22).

The amendment changes wording and adds a provision for computer printouts instead of handwritten or typed reports.

School owners who are already using computers will save time and the reports could be mailed to the office sooner.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202652 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.27

The State Board of Barber Examiners adopts the repeal of §51.27, concerning deduction or increase of hours for barber students, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 22).

The repeal is on the advice of the attorney general's office that destruction of a student's record is contrary to the provisions of the Texas Record Act.

Students will not be deprived of the time and expense spent in barber school.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202624 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.29

The State Board of Barber Examiners adopts an amendment to §51.29, concerning curriculum for each course taught in barber schools, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 22).

The amendment is to comply with Senate Bill 430 passed by the legislature in 1991.

The curriculum may have more diversity as submitted by the school owners/teachers and the students would be able to provide more services to the public.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel

and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 20, 1992.

TRD-9202625 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.35

The State Board of Barber Examiners adopts an amendment to §51.35, concerning services that may be given by a barber's technician, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 22).

The amendment defines a barber's technician and clarifies wording in the barber law passed in 1989.

A barber's technician will be able to provide more services to patrons.

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202626 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
Examinations and Licensing

• 22 TAC §51.53

The State Board of Barber Examiners adopts the repeal of §51.53, concerning barbers from other states or countries, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 23).

The repeal is to comply with Senate Bill 430 passed by the legislature in 1991.

Barbers from other states or countries will be issued a Texas barber license without having to wait for the next scheduled examination after application is made.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992

TRD-9202627 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.56

The State Board of Barber Examiners adopts the repeal of §51.56, concerning eligibility for examination, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 23).

The repeal is to comply with Senate Bill 430 passed by the legislature in 1991.

The repeal provides that the board may administer the written examination after a student has completed 1,000 hours of the 1,500 hour course.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992

TRD-9202628 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.57

The State Board of Barber Examiners adopts an amendment to §51.57, concerning a current health certificate as part of the application for examination, without changes to the proposed text as published in the January 3,

1992, issue of the *Texas Register* (17 TexReg 23)

The amendment adds wording from the barber law as amended by the 71st Legislature, 1989

Doctors of osteopathic medicine will be allowed to sign health certificates

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202629 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.59

The State Board of Barber Examiners adopts the repeal of §51.59, concerning deadline for completing examination, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 24).

The repeal is on the advice of the attorney general's office that destroying a student's record is contrary to the provisions of the Texas Record Act.

Students will not be deprived of the time and expense spent in barber school.

No comments were received regarding adoption of the repeal.

The repeal is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202630 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.63

The State Board of Barber Examiners adopts an amendment to §51.63, concerning failure of examination, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 24).

The amendment is needed because of the turn-around time for receiving grades from national testing.

The students will not be required to return to school

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business

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

Issued in Austin, Texas, on February 20, 1992

TRD-9202631 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

◆ ◆ ◆  
• 22 TAC §51.85

The State Board of Barber Examiners adopts an amendment to §51.85, concerning reciprocal/endorsement licensing of barbers from other states or countries, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 24).

The amendment is to comply with Senate Bill 430 passed by the legislature in 1991

Barbers from other states or countries will be able to obtain a barber license without taking an examination

No comments were received regarding adoption of the amendment

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business

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

Issued in Austin, Texas, on February 20, 1992

TRD-9202632 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

## Barber Shops

### • 22 TAC §51.92

The State Board of Barber Examiners adopts an amendment to §51.92, concerning displaying a barber pole, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 25).

The amendment changes the word "shall" to "may", because barber poles are not only too expensive but difficult to find.

The board has agreed that a decal or painting on a window or door is acceptable.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202633 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.94

The State Board of Barber Examiners adopts an amendment to §51.94, concerning regulation of dress in shops and schools, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 25).

The amendment is necessary to include specialty shops that have been added since the rule was adopted in 1985.

The amendment will provide a sanitary condition for the consumer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202634 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.95

The State Board of Barber Examiners adopts an amendment to §51.95, concerning other businesses in a barber shop or specialty shop, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 25).

The amendment is to add the specialty shops added in the barber law since the rule was made in 1986.

The amendment will provide a sanitary condition for the consumer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202635 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.96

The State Board of Barber Examiners adopts an amendment to §51.96, concerning animals being prohibited in a barber shop, specialty shop or school, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 25).

The amendment is to include specialty shops and schools.

The amendment will provide a sanitary environment for the consumer.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the au-

thority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202636 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

### • 22 TAC §51.97

The State Board of Barber Examiners adopts new §51.97, concerning booth rental permits, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 25).

The new section is necessary because some barbers are individual contractors who pay their own taxes instead of paying the shop owner a percentage of their earnings.

The individual permit holders will be responsible for violations instead of the shop owner.

No comments were received regarding adoption of the new section.

The new section is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202637 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

## Advertising

### • 22 TAC §51.101

The State Board of Barber Examiners adopts an amendment to §51.101, concerning advertisements in the yellow pages of telephone directories, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 26)

The amendment is necessary to add a barber school.

Interested persons will be able to find the name and address of barber schools.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202638 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

## ◆ ◆ ◆ Personnel-Qualifications and Duties

### • 22 TAC §51.121

The State Board of Barber Examiners adopts an amendment to §51.121, concerning educational requirements for a barber inspector, without changes to the proposed text as published in the January 3, 1992, issue of the *Texas Register* (17 TexReg 26).

The amendment is necessary in order to have better qualified inspectors.

The inspectors will be better qualified to communicate with the barbers and consumers.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 8407a, §28(a), which provide the Board of Barber Examiners with the authority to adopt rules and regulations for the transaction of business.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202639 Jo King McCrorey  
Executive Director  
State Board of Barber  
Examiners

Effective date: March 13, 1992

Proposal publication date: January 3, 1992

For further information, please call: (512) 835-2040

## TITLE 25. HEALTH SERVICES

### Part I. Texas Department of Health

#### Chapter 127. Registry for Providers of Health-Related Services

##### • 25 TAC §127.2, §127.4

The Texas Department of Health (department) adopts amendments to §127.2 and §127.4 without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7436).

The amendments remove the occupation of dispensing opticians from the list of occupations approved by the Texas Board of Health under the Health and Safety Code, §12.014, to be placed on the registry. Section 12.014 allows only providers who are not otherwise licensed, registered or certified to be placed on the registry. The Opticians' Registry Act, Texas Civil Statutes, Article 4551-1 allows dispensing opticians to become registered by the department. Accordingly, it will no longer be necessary to have dispensing opticians on the registry.

No comments were received regarding adoption of the amendments.

The amendments are adopted under the Health and Safety Code, §12.014, which provides the Texas Board of Health (board) with the authority to adopt rules establishing a registry of providers of health-related services; §12.001 which provides the board with the authority to adopt rules for the performance of every duty imposed by law on the board, the department, and the commissioner of health; and the Opticians' Registry Act, Texas Civil Statutes, Article 4551-1, which provides the department with the authority to adopt rules to register dispensing opticians.

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202790 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: March 17, 1992

Proposal publication date: December 20, 1991

For further information, please call: (512) 834-6628

## ◆ ◆ ◆ Chapter 129. Opticians' Registry

### • 25 TAC §§129.1-129.5, 129.7-129.13

The Texas Department of Health (department) adopts new §§129.1-129.5 and

129.7-129.13 concerning the opticians' registry. Sections 129.1, 129.2, 129.5, 129.7, 129.8, and 129.10-129.13 are adopted with changes to proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7300). Sections 129.3, 129.4, and 129.9 are adopted without changes and will not be republished.

The new sections implement the Opticians' Registry Act (Act), Texas Civil Statutes, Article 4551-1, §5. The registration of opticians provided for in the Act, will safeguard public health, safety, and welfare by providing a means by which the public can identify providers of ophthalmic dispensing services and products that meet minimum standards of competence. The regulation of dispensing opticians will create a means to better serve the public.

Comments received by the department and the department's responses are as follows.

Comment: Concerning §129.1(a), the word "voluntary" should be added to the subsection to comply with the Act.

Response: The department agrees and has added the suggested language.

Comment: Concerning §129.2, the Board of Health clarified the definition of "Council" by stating that it is a nine member advisory council.

Comment: Concerning §129.2, the Board of Health deleted the definition of "Ophthalmic dispenser".

Comment: Concerning §129.5(b)(2), the phrase "registered spectacle dispensing optician" should be used instead of "registered spectacle dispenser."

Response: The department agrees and has made the change.

Comment: Concerning §129.5(c)(2), a recent photograph should be interpreted as one taken within six months instead of two years.

Response: The department agrees and has added language to show that photographs should be taken within six months prior to application.

Comment: Concerning §129.5(d), the examination should be in the area in which the person is actively engaged.

Response: The department agrees and has made the appropriate change.

Comment: Concerning §129.5(e)(3)(B), the number of days required for processing an examination fee should be more than 15 days.

Response: The department agrees and has changed the number of days to 80.

Comment: Concerning §129.5(e)(4), the names of the designated examinations should appear in the rule.

Response: The department agrees and has added new paragraph (4) to identify the required examinations.

Comment: Concerning §129.7(g)(1)-(2), the title "ophthalmic dispenser" should be removed to comply with the Act

Response: The department agrees and has removed the title "ophthalmic dispenser".

Comment: Concerning §129.11(c)(2), the telephone number should be removed because of frequent changes.

Response: The department agrees and has removed the telephone number.

In addition to making changes as a result of comments received, the department made editorial changes for clarification to §§129.1(a), 129.2 (definition of "Act"), 129.5(c)(1)(D), 129.8(b)(3)-(4), 129.8(d)(3), 129.10(b)-(d), 129.11(c)(3), 129.12(c)(1), 129.12(d)(1), and 129.13(c)-(d). Concerning the editorial change to §129.10(d) the department deleted the last sentence because it is repeated verbatim in §129.10(e).

Pearle, Inc. of Dallas, Texas was the commenter. The commenter was not totally for or against the sections, but had recommendations and suggestions regarding changes.

The new sections are adopted under the Opticians' Registry Act, Texas Civil Statutes, Article 4551-1, §5, which provide the Board of Health with the authority to adopt rules to register opticians, and the Health and Safety Code, §12.001 which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health. The sections will affect Texas Civil Statutes, Article 4551-1, §5.

#### §129.1. Purpose and Construction.

(a) Purpose. This chapter implements the provisions of the Opticians' Registry Act, Texas Civil Statutes, Article 4551-1, concerning the voluntary registration and regulation of dispensing opticians by providing a means by which the public can identify providers of ophthalmic dispensing services and products that meet minimum standards of competence.

(b) Construction. These sections cover definitions; organization, administration and operation of the Advisory Council; fees; application procedures and requirements; applicant eligibility and registration; examination; renewal of registration certificates; requirements for continuing education; name or address changes; procedures for violations, complaints, investigation of complaints, and disciplinary actions; registration of applicants with criminal backgrounds; and professional and ethical standards.

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

Act—The Opticians' Registry Act (Act), Texas Civil Statutes, Article 4551-1.

Administrator—The department employee designated as the administrator of registration activities authorized by the Act.

Applicant—A person who applies for registration under the Act.

Board—The Texas Board of Health. Commissioner—The commissioner of the Texas Department of Health.

Consumer—An individual receiving services or obtaining a product from a registered dispensing optician.

Contact lens dispensing—The fabrication, ordering, mechanical adjustment, dispensing, sale, and delivery to the consumer of contact lenses prescribed by and dispensed in accordance with a prescription from a licensed physician or optometrist, together with appropriate instructions for the care and handling of the lenses. The term does not include the taking of any measurements of the eye or the cornea or evaluating the physical fit of the contact lenses, unless that action is directed or approved by a licensed physician.

Contact lens prescription—A written specification by a licensed physician or optometrist for therapeutic, corrective, or cosmetic contact lenses that states the refractive power of the product and other information as required by:

(A) the physician or the Texas State Board of Medical Examiners; or

(B) the optometrist or the Texas Optometry Board.

Council—The nine member Advisory Council of the Opticians' Registry.

Department—The Texas Department of Health.

Dispensing optician—A person who provides or offers to provide spectacle or contact lens dispensing services or products to the public.

Dual application—An application by one person as both a registered spectacle dispensing optician and a registered contact lens dispenser.

Examination—A qualifying test administered to eligible applicants by the department or its designee.

Registered contact lens dispenser—A person properly registered under the Act as a contact lens dispenser.

Registered spectacle dispensing optician—A person properly registered under the Act as a spectacle dispensing optician.

Registration certificate—A document issued by the department to a qualified person authorizing that person to represent that he or she is registered under the Act.

Spectacle dispensing—The design, verification, fitting, adjustment, sale, and delivery to the consumer of fabricated and finished spectacle lenses, frames, or other ophthalmic devices, other than contact lenses, prescribed by and dispensed in accordance with a prescription from a licensed physician or optometrist. The term includes:

(1) prescription analysis and interpretation;

(2) the taking of measurements of the face, including interpupillary distances, to determine the size, shape, and specification of the spectacle lenses or frames best suited to the wearer's needs;

(3) the preparation and delivery of work orders to laboratory technicians engaged in grinding lenses and fabricating spectacles;

(4) the verification of the quality of finished spectacle lenses;

(5) the adjustment of spectacle lenses or frames to the intended wearer's face; and

(6) the adjustment, repair, replacement, reproduction, or duplication of previously prepared spectacle lenses, frames, or other specially fabricated optical devices, other than contact lenses. Spectacle prescription—A written specification by a licensed physician or optometrist for therapeutic or corrective lenses that states the refractive power of the product and other information as required by the physician or optometrist.

#### §129.5. Application Procedures and Requirements for Registration.

(a) Purpose. The purpose of this section is to set out the application procedures and registration requirements of applicants for examination and registration.

(b) General.

(1) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official Texas Department of Health (department) forms.

(2) Applications may be submitted for registration as a registered contact lens dispenser, a registered spectacle dispensing optician, or both.

(3) The department will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.

(4) An application not completed within 30 days after the date of the department's notice of deficiency may be voided.

(c) Required application materials.

(1) The application form shall contain:

(A) specific information regarding personal data, social security number, birth month and day, place of employment, preferred mailing address and

telephone number, other registrations and licenses held, misdemeanor and felony convictions, educational and training background, and work experience;

(B) a statement that the applicant has read the Opticians' Registry Act (Act) and this chapter and agrees to abide by them;

(C) a statement that the applicant shall return to the department any registration certificate(s) or identification card(s) upon the expiration, revocation, or suspension of the registration;

(D) a statement that the applicant understands that fees submitted in the registration process are nonrefundable unless the processing time is exceeded without good cause as set out in subsection (g) of this section;

(E) a statement that the applicant understands that materials submitted in the registration process become the property of the department and are not returnable;

(F) a statement that the information in the application is truthful and that the applicant understands that providing false and misleading information on items which are material in determining the applicant's qualifications may result in the voiding of the application, the failure to be granted any registration, or the revocation of any registration issued;

(G) the signature of the applicant which has been dated and notarized; and

(H) a statement that if issued a registration certificate, the registrant shall keep the department advised of his or her current mailing address.

(2) An applicant shall submit a full-face photo of a minimum size of one and one-half inches by one and one-half inches signed on the reverse side with the applicant's signature as it appears on the application. The photograph must have been taken within six months prior to application.

(3) An applicant shall submit documentation satisfactory to the department, that he or she has completed seven classroom hours.

(A) The hours must have been completed within three years prior to the date of the application.

(B) The hours must be offered or approved by the American Board of Opticianry or the National Contact Lens Examiners.

(C) If applying for dual registration the applicant must have completed fourteen classroom hours offered or approved by the American Board of Opticianry or the National Contact Lens Examiners.

(D) Documentation may include a transcript, diploma, certificate or other official or certified document.

(4) Proof of having passed the prescribed examination shall be attached to the application form if the applicant has already completed the examination.

(d) Application for time-limited waiver. A person who has been actively engaged in spectacle dispensing or contact lens dispensing for a period of three years prior to September 1, 1991, is entitled to a certificate of registration without examination in the area in which the person was actively engaged if the person:

(1) applies to the department for registration on the department forms not later than August 31, 1992; and

(2) pays the registration fee set by the department in §129.4 of this title (relating to Fees.).

(e) Examinations.

(1) Purpose. The purpose of this subsection is to establish rules governing the procedures for examination of applicants for registration as a spectacle dispensing optician or contact lens dispenser.

(2) Frequency. Examinations will be administered for the department at least once each year by a designee of the department.

(3) Requirements.

(A) The administrator shall notify an applicant when all requirements for registration have been met except the taking and passing of the required examination. The department shall forward an examination registration form to each approved applicant as soon as the application has been approved.

(B) An applicant who wishes to take a scheduled examination must complete the examination registration form which must be received by the department with the required fee at least 80 days prior to the date of the examination. All fees shall be paid to the department if the applicant is taking the examination solely for registration purposes. The fee shall be paid to the

designee of the department if the applicant is taking the examination for registration purposes and to obtain private certification.

(C) The examination for registration shall be a written examination approved by the department. A designee of the department shall administer and grade examinations and report to the department if the applicant has passed or failed the examination.

(D) If an applicant has already successfully completed the required examination, the applicant shall not be required to be re-examined, provided the applicant furnishes the department a copy of the test results indicating that the applicant passed the examination.

(E) An applicant who fails two successive examinations may not reapply until the applicant completes all remedial work as prescribed by the department.

(4) Required examination.

(A) The examination administered by the American Board of Opticianry, or its successor, is the examination for registered spectacle dispensing opticians.

(B) The examination administered by the National Contact Lens Examiners, or its successor, is the examination for registered contact lens dispensers.

(f) Determining eligibility. The department shall receive and approve or disapprove all applications for registration as registered spectacle dispensing opticians or registered contact lens dispensers or both. The administrator shall be responsible for reviewing all applications.

(1) Notices of application approval, disapproval, or deficiency shall be in accordance with subsection (g) of this section.

(2) An application for a registration shall be disapproved if the applicant has:

(A) not met the requirements in this section;

(B) failed to pass the examination prescribed by the department as set out in subsection (e) of this section;

(C) failed to or refused to properly complete or submit any application form, endorsement, or fee or deliberately presented false information on any form or document required by the department;



(D) violated any provision of the Act or this chapter; or

(E) been convicted of a felony or misdemeanor as set out in §129.12 of this title (relating to Registration of Applicants With Criminal Backgrounds).

(3) If after review, the department determines that the application should not be approved, the administrator shall give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The notice shall be in accordance with §129.11 of this title (relating to Violations, Complaints, Investigation of Complaints, and Disciplinary Actions).

(g) Application processing.

(1) Time periods. The department shall comply with the following procedures in processing applications for registration and renewal.

(A) The following periods of time shall apply from the date of receipt of an application until the date of issuance of a written notice that the application is complete and accepted for filing or that the application is deficient and additional specific information is required. A written notice stating that the application has been approved may be sent in lieu of the notice of acceptance of a complete application. The time periods are as follows:

(i) letter of acceptance of application for registration—20 working days;

(ii) letter of application or renewal deficiency—20 working days; and

(iii) issuance of registration renewal—10 working days.

(B) The following periods of time shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The time periods for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with the law and of the opportunity for a formal hearing. An application is not considered complete until the required examination has been successfully completed by the applicant. The time periods are as follows:

(i) letter of approval for examination—20 working days;

(ii) initial letter of approval for registration—30 days;

(iii) letter of denial of registration—30 days; and

(iv) issuance of registration renewal—10 working days.

(2) Reimbursement of fees.

(A) In the event an application is not processed in the time periods stated in this subsection, the applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the administrator. If the administrator does not agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request will be denied.

(B) Good cause for exceeding the time period is considered to exist if the number of applications for registration and registration renewal exceeds by 15% or more the number of applications processed in the same calendar quarter the preceding year; another public or private entity relied upon by the department in the application process caused the delay; or any other condition exists giving the department good cause for exceeding the time period.

(3) Appeal. If a request for reimbursement is denied by the administrator, the applicant may appeal to the commissioner of the department for a timely resolution of any dispute arising from a violation of the time periods. The applicant shall give written notice to the commissioner at the address of the department that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time period. The administrator shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time period. The commissioner shall provide written notice of the commissioner's decision to the applicant and the administrator. An appeal shall be decided in the applicant's favor if the applicable time period was exceeded and good cause was not established. If the appeal is decided in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

(4) Contested cases. The time periods for contested cases related to the denial of registration or registration renewals are not included within the time periods stated in this subsection. The time period for conducting a contested case hearing runs from the date the department receives a written request for a hearing and ends when the decision of the department is final and appealable. A hearing may be completed within one to four months, but may extend for a long period of time depending on the particular circumstances of the hearing.

#### §129.7. Issuance of Certificate of Registration.

(a) Issuance of certificate. The Texas Department of Health (department) shall issue a certificate of registration and a registration identification card containing a registration number and expiration date to each qualified applicant.

(b) Certificate and identification card. Any certificate of registration or identification card issued remains the property of the department and shall be surrendered on demand of the department.

(c) Display of certificate. The certificate shall be displayed in a prominent location in the primary office or place of employment of the registrant. A current identification card shall be carried by the registrant.

(d) Reproduced or altered certificates/cards. The certificate or identification card shall not be reproduced or altered in any manner.

(e) Duplicate replacement certificates. Duplicate replacement certificates will be issued by the department upon written request from a registrant and payment of the appropriate duplicate certificate fee. The request shall include a statement detailing the loss or destruction of the original certificate or identification card or be accompanied by the damaged certificate or card.

(f) Individual or dual registration. A certificate of registration shall be issued for a contact lens dispenser or a spectacle dispensing optician. In the event an individual is registered as a contact lens dispenser and a spectacle dispensing optician, he or she shall be issued two certificates.

(g) Titles.

(1) A registered dispensing optician may refer to himself or herself as a registered dispensing optician, a registered spectacle dispenser, or a registered spectacle dispensing optician.

(2) A registered contact lens dispenser may refer to himself or herself as a registered contact lens technician or a registered contact lens dispenser.

(3) A registrant may not use abbreviations or other letters to represent that the person is registered.

(h) Expiration of initial registration. The initial registration certificate is valid through the registrant's next birth month.

#### §129.8. Renewal of Registration.

(a) Purpose. The purpose of this section is to establish the rules governing renewal of registration certificates.

(b) General.

(1) When issued, a registration certificate is valid through the registrant's next birth month.

(2) A registrant must renew the registration certificate annually.

(3) Each registrant is responsible for renewing the registration certificate before the expiration date indicated on the face of the certificate and shall not be excused from paying the late registration fee. Failure to receive notification from the Texas Department of Health (department) prior to the expiration date of the registration certificate will not excuse failure to apply for renewal or late renewal.

(4) The department will not renew the registration of a registrant who is in violation of the Opticians' Registry Act (Act) or this chapter at the time of application for renewal.

(5) The department shall not renew a license if renewal is prohibited by the Education Code, §57.491.

(6) Notices of renewal approval, disapproval or deficiency shall be in accordance with §129.5(i) of this title (relating to Application Procedures).

(c) Registration renewal.

(1) At least 30 days prior to the expiration date of a person's registration, the department will send notice to the registrant at the address in the department's records of the expiration date of the registration and the total renewal fee, the continuing education report form, and the renewal form.

(2) The renewal form for each registrant shall require the provision of the preferred mailing address, primary employment address and telephone number, and a statement of all misdemeanor and felony offenses for which the registrant has been convicted.

(3) A registrant has submitted all renewal application materials when the registrant has mailed the renewal form, the required renewal fee and the continuing education report form to the department prior to the expiration date of the registration. The postmark date shall be considered as the date of mailing.

(4) The department shall issue to a registrant who has met all requirements for renewal, a renewed registration card and identification card.

(d) Late renewal.

(1) The department shall inform a person who has not renewed a registration within 30 days following the expiration of the registration of the amount of the late registration fee required for renewal and the date the registration expired.

(2) A person whose registration has expired for not more than 180 days may renew the registration by submitting to the department the registration renewal form, the completed continuing education report form, and the late registration fee. The renewal will be accepted and is effective if it is mailed to the department not more than 180 days after the expiration date of registration and is complete. The postmark date shall be considered as the date of mailing.

(3) A person whose registration has been expired for more than 180 days may not renew. The person may obtain a new registration by complying with the then-current requirements and procedures for obtaining a registration.

(4) If a registrant fails to timely renew his or her registration because the registrant is or was on active duty with the armed forces of the United States of America serving outside the State of Texas, the registrant may renew the registration pursuant to this paragraph.

(A) Renewal of the registration may be requested by the registrant, the registrant's spouse, or an individual having power of attorney from the registrant. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(B) Renewal may be requested before or after expiration of the registration.

(C) A copy of the official orders or other official military documentation showing that the registrant is or was on active duty serving outside the State of Texas shall be filed with the department along with the renewal form.

(D) A copy of the power of attorney from the registrant shall be filed with the department along with the renewal form if the individual having the power of attorney executes any of the documents required in this paragraph.

(E) A registrant renewing under this paragraph shall pay the renewal fee, but not the late registration fee.

(F) A registrant renewing under this paragraph shall not be required to submit any continuing education hours if continuing education is required to be shown for the renewal.

(e) Expiration of registration.

(1) A person whose registration has expired may not refer to himself or herself by any of the titles listed in

§129.7(g) of this title (relating to Issuance of Certificate of Registration).

(2) A person who fails to renew a registration is required to surrender the registration certificate and identification card to the department after 180 days from expiration of the registration or upon demand.

§129.10. Change of Name or Address.

(a) The purpose of this section is to set out the responsibilities and procedures for name and address changes.

(b) The registrant shall notify the Texas Department of Health (department) of changes in name, preferred mailing address, or place of business or employment within 30 days of such change.

(c) Any change shall submitted in writing to the administrator and include the name, old address, and new address.

(d) Before any new registration certificate or identification card will be issued by the department, notification of a name change must be forwarded to the administrator and shall include a duly executed affidavit and a copy of a marriage certificate, court decree evidencing such change, or a Social Security card reflecting the new name.

(e) The registrant shall return any previously issued certificate or identification card and remit the appropriate replacement fee as set out in §129.4 of this title (relating to Fees).

§129.11. Violations, Complaints, Investigation of Complaints, and Disciplinary Actions.

(a) Purpose. The purpose of this section is to set out:

(1) violations and prohibited actions under the Optician's Registry Act (Act) and this chapter;

(2) procedures concerning complaints alleging violations of the Act or this chapter; and

(3) Texas Department of Health (department) actions against a person when violations have occurred.

(b) Compliance with the Act. A registrant or applicant must comply with the Act and this chapter.

(c) Filing of complaints.

(1) Any person may complain to the department alleging that a registered dispensing optician or another person has violated the Act or this chapter.

(2) A person wishing to file a complaint against a registered dispensing optician or another person shall notify the

department. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the administrator's office. The mailing address is Opticians' Registry, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183.

(3) Upon receipt of a complaint, the administrator shall send to the complainant an acknowledgment letter and the department's complaint form, which the complainant must complete and return to the administrator before further action can be taken. If the complaint is made by a visit to the administrator's office, the form may be given to the complainant at that time; however, it must be completed and returned to the Texas Department of Health (department) before further action can be taken.

(4) Anonymous complaints may be accepted by the department if the complainant provides sufficient information.

(d) Investigation of complaints.

(1) The department may investigate any complaint.

(2) If the administrator determines that the complaint does not come within the department's jurisdiction, the administrator shall advise the complainant and, if possible, refer the complainant to the appropriate governmental agency for handling such a complaint.

(3) The department shall, at least as frequently as quarterly, notify the parties to the complaint of the status of the complaint until its final disposition.

(4) If the administrator determines that there are insufficient grounds to support the complaint, the program administrator shall dismiss the complaint and give written notice of the dismissal to the registrant or person against whom the complaint has been filed and to the complainant.

(5) If the administrator determines that there are sufficient grounds to support the complaint, the administrator may propose to deny, suspend, revoke, probate, or not renew a registration.

(e) Disciplinary actions.

(1) The department may deny an application or registration renewal or suspend or revoke a registration or impose probation for any violation of the Act or this chapter.

(2) Prior to institution of formal proceedings to revoke or suspend a registration, the department shall give written notice to the registrant of the facts or conduct alleged to warrant revocation or suspension, and the registrant shall be given an opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(3) If denial, revocation, suspension, or probation of a registration is proposed, the department shall give written notice to the registrant or applicant that the applicant or registrant must request, in writing, a formal hearing within 10 days of receipt of the notice. The notice shall state the basis for the proposed action. Receipt of the notice is presumed to occur on the tenth day after the notice is mailed to the last address known to the department unless another date is reflected on a United States Postal Service return receipt.

(4) If no timely request for a hearing is received, the applicant or registrant is deemed to have waived the hearing and be in agreement with the allegations and proposed action.

(5) The formal hearing shall be conducted in accordance with the department's formal hearing procedures in Chapter 1 of this title (relating to the Texas Board of Health) and §129.12 of this title (relating to Registration of Applicants With Criminal Backgrounds), if applicable.

(6) If the applicant or registrant fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the allegations and proposed action and to have waived the right to a hearing.

(7) If the hearing is waived, the application or registration shall be denied, suspended, revoked, or probated by an order of the commissioner of health.

(f) Suspension, revocation, or nonrenewal.

(1) If the department suspends a registration, the suspension shall remain in effect until the administrator or the department determines that the reason for suspension no longer exists or for the period of time stated in the order. The administrator or the department shall investigate prior to making a determination.

(2) During the time of suspension, the suspended registrant shall return his or her registration certificate and identification card to the department.

(3) If a suspension overlaps a registration renewal date, the suspended registration holder may comply with the renewal procedures in this chapter; however, the department may not renew the registration until the administrator determines that the reason for suspension no longer exists or the period of suspension is completed.

(4) If the department revokes or does not renew a registration, a person may reapply for a registration by complying with the requirements and procedures in this chapter at the time of reapplication. The department may refuse to issue a registra-

tion if the reason for revocation or nonrenewal continues to exist.

(5) Upon revocation or nonrenewal, a registration holder shall return the registration certificate and identification card to the department.

*§129.12. Registration of Applicants With Criminal Backgrounds.*

(a) This section sets out the guidelines and criteria on the eligibility of persons with criminal backgrounds to obtain registration as spectacle dispensers or contact lens dispensers.

(b) Criminal convictions which directly relate to the occupation of dispensing opticians shall be considered by the Texas Department of Health (department) as follows.

(1) The department may suspend or revoke an existing registration, disqualify a person from receiving a registration, or deny to a person the opportunity to be examined for a registration because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities under that registration.

(2) In considering whether a criminal conviction directly relates, the department shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a registration as a spectacle dispensing optician or a contact lens dispenser;

(C) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a registered spectacle dispensing optician or a registered contact lens dispenser.

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an inability or a tendency for the person to be unable to perform or to be unfit for registration:

(1) the misdemeanor of violating the Opticians' Registry Act (Act);

(2) a conviction relating to deceptive business practices;

(3) a misdemeanor or felony of offense involving moral turpitude;

(4) the misdemeanor of practicing medicine or optometry without a license;

(5) a misdemeanor or felony of offense under various titles of the Texas Penal Code:

(A) Title 5 concerning offenses against the person;

(B) Title 7 concerning offenses against property;

(C) Title 9 concerning offenses against public order and decency;

(D) Title 10 concerning offenses against public health, safety, and morals; and

(E) Title 4 concerning offenses of attempting or conspiring to commit any of the offenses in this subsection; and

(6) other misdemeanors and felonies which indicate an inability or tendency for the person to be unable to perform as a registrant or to be unfit for registration if action by the department will promote the intent of the Act, this chapter, and Texas Civil Statutes, Article 6252-13c.

(d) Procedures for revoking, suspending, or denying a registration to a per-

son with a criminal background shall be as follows.

(1) The administrator shall give written notice to the person that the department proposes to deny the application or suspend or revoke the registration in accordance with the provisions of §129.11(e) of this title (relating to Violations, Complaints, Investigations of Complaints, and Disciplinary Actions.).

(2) If the department denies, suspends, or revokes an application or registration under this section, the administrator shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for review of the evidence presented to the department and its decision;

(C) that the person, must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable; and

(D) of the earliest date that the person may appeal.

*§129.13. Professional and Ethical Standards.*

(a) The purpose of this section is to establish the professional and ethical stan-

dards to be followed by a registered spectacle dispensing optician or a registered contact lens dispenser.

(b) A registrant shall not misrepresent any professional qualifications or credentials.

(c) A registrant shall not provide any information that is false, deceptive, or misleading to the Texas Department of Health (department).

(d) A registrant shall provide all information required by the Opticians' Registry Act (Act) or this chapter to be submitted to the department.

(e) A registrant shall not consume alcohol or take controlled substances not prescribed by a licensed physician during the hours the registrant is available to dispense spectacles or contact lenses.

(f) A registrant shall not use false, misleading, or deceptive advertising.

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

Issued in Austin, Texas, on February 25, 1992

TRD-9202789

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Proposal publication date December 17, 1991

For further information, please call: (512) 834-6628

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*§129.10. Change of Name or Address.*

(a) The purpose of this section is to set out the responsibilities and procedures for name and address changes.

(b) The registrant shall notify the Texas Department of Health (department) of changes in name, preferred mailing address, or place of business or employment within 30 days of such change.

(c) Any change shall be submitted in writing to the administrator and include the name, old address, and new address.

(d) Before any new registration certificate or identification card will be issued by the department, notification of a name change must be forwarded to the administrator and shall include a duly executed affidavit and a copy of a marriage certificate, court decree evidencing such change, or a Social Security card reflecting the new name.

(e) The registrant shall return any previously issued certificate or identification card and remit the appropriate replacement fee as set out in §129.4 of this title (relating to Fees).

*§129.11. Violations, Complaints, Investigation of Complaints, and Disciplinary Actions.*

(a) Purpose. The purpose of this section is to set out:

(1) violations and prohibited actions under the Optician's Registry Act (Act) and this chapter;

(2) procedures concerning complaints alleging violations of the Act or this chapter; and

(3) Texas Department of Health (department) actions against a person when violations have occurred.

(b) Compliance with the Act. A registrant or applicant must comply with the Act and this chapter.

(c) Filing of complaints.

(1) Any person may complain to the department alleging that a registered dispensing optician or another person has violated the Act or this chapter.

(2) A person wishing to file a complaint against a registered dispensing optician or another person shall notify the department. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the administrator's office. The mailing address is Opticians' Registry, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756-3183.

(3) Upon receipt of a complaint, the administrator shall send to the complainant an acknowledgment letter and the department's complaint form, which the complainant must complete and return to the administrator before further action can be taken. If the complaint is made by a visit to the administrator's office, the form may be given to the complainant at that time; however, it must be completed and returned to the Texas Department of Health (department) before further action can be taken.

(4) Anonymous complaints may be accepted by the department if the complainant provides sufficient information.

(d) Investigation of complaints.

(1) The department may investigate any complaint.

(2) If the administrator determines that the complaint does not come within the department's jurisdiction, the administrator shall advise the complainant and, if possible, refer the complainant to the appropriate governmental agency for handling such a complaint.

(3) The department shall, at least as frequently as quarterly, notify the parties to the complaint of the status of the complaint until its final disposition.

(4) If the administrator determines that there are insufficient grounds to support the complaint, the program administrator shall dismiss the complaint and give written notice of the dismissal to the registrant or person against whom the complaint has been filed and to the complainant.

(5) If the administrator determines that there are sufficient grounds to support the complaint, the administrator may propose to deny, suspend, revoke, probate, or not renew a registration.

(e) Disciplinary actions.

(1) The department may deny an application or registration renewal or suspend or revoke a registration or impose probation for any violation of the Act or this chapter.

(2) Prior to institution of formal proceedings to revoke or suspend a registration, the department shall give written notice to the registrant of the facts or conduct alleged to warrant revocation or suspension, and the registrant shall be given an opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(3) If denial, revocation, suspension, or probation of a registration is proposed, the department shall give written

notice to the registrant or applicant that the applicant or registrant must request, in writing, a formal hearing within 10 days of receipt of the notice. The notice shall state the basis for the proposed action. Receipt of the notice is presumed to occur on the tenth day after the notice is mailed to the last address known to the department unless another date is reflected on a United States Postal Service return receipt.

(4) If no timely request for a hearing is received, the applicant or registrant is deemed to have waived the hearing and be in agreement with the allegations and proposed action.

(5) The formal hearing shall be conducted in accordance with the department's formal hearing procedures in Chapter 1 of this title (relating to the Texas Board of Health) and §129.12 of this title (relating to Registration of Applicants With Criminal Backgrounds), if applicable.

(6) If the applicant or registrant fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the allegations and proposed action and to have waived the right to a hearing.

(7) If the hearing is waived, the application or registration shall be denied, suspended, revoked, or probated by an order of the commissioner of health.

(f) Suspension, revocation, or nonrenewal.

(1) If the department suspends a registration, the suspension shall remain in effect until the administrator or the department determines that the reason for suspension no longer exists or for the period of time stated in the order. The administrator or the department shall investigate prior to making a determination.

(2) During the time of suspension, the suspended registrant shall return his or her registration certificate and identification card to the department.

(3) If a suspension overlaps a registration renewal date, the suspended registration holder may comply with the renewal procedures in this chapter; however, the department may not renew the registration until the administrator determines that the reason for suspension no longer exists or the period of suspension is completed.

(4) If the department revokes or does not renew a registration, a person may reapply for a registration by complying with the requirements and procedures in this chapter at the time of reapplication. The department may refuse to issue a registra-

tion if the reason for revocation or nonrenewal continues to exist.

(5) Upon revocation or nonrenewal, a registration holder shall return the registration certificate and identification card to the department.

**§129.12. Registration of Applicants With Criminal Backgrounds.**

(a) This section sets out the guidelines and criteria on the eligibility of persons with criminal backgrounds to obtain registration as spectacle dispensers or contact lens dispensers.

(b) Criminal convictions which directly relate to the occupation of dispensing opticians shall be considered by the Texas Department of Health (department) as follows.

(1) The department may suspend or revoke an existing registration, disqualify a person from receiving a registration, or deny to a person the opportunity to be examined for a registration because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities under that registration.

(2) In considering whether a criminal conviction directly relates, the department shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a registration as a spectacle dispensing optician or a contact lens dispenser;

(C) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a registered spectacle dispensing optician or a registered contact lens dispenser.

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an inability or a tendency for the person to be unable to perform or to be unfit for registration:

(1) the misdemeanor of violating the Opticians' Registry Act (Act);

(2) a conviction relating to deceptive business practices;

(3) a misdemeanor or felony offense involving moral turpitude;

(4) the misdemeanor of practicing medicine or optometry without a license;

(5) a misdemeanor or felony offense under various titles of the Texas Penal Code:

(A) Title 5 concerning offenses against the person;

(B) Title 7 concerning offenses against property;

(C) Title 9 concerning offenses against public order and decency;

(D) Title 10 concerning offenses against public health, safety, and morals; and

(E) Title 4 concerning offenses of attempting or conspiring to commit any of the offenses in this subsection; and

(6) other misdemeanors and felonies which indicate an inability or tendency for the person to be unable to perform as a registrant or to be unfit for registration if action by the department will promote the intent of the Act, this chapter, and Texas Civil Statutes, Article 6252-13c.

(d) Procedures for revoking, suspending, or denying a registration to a person with a criminal background shall be as follows.

(1) The administrator shall give written notice to the person that the department proposes to deny the application or suspend or revoke the registration in accordance with the provisions of §129.11(e) of this title (relating to Violations, Complaints, Investigations of Complaints, and Disciplinary Actions.).

(2) If the department denies, suspends, or revokes an application or registration under this section, the administrator shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, Texas, for review of the evidence presented to the department and its decision;

(C) that the person, must begin the judicial review by filing a petition with the court within 30 days after the department's action is final and appealable; and

(D) of the earliest date that the person may appeal.

**§129.13. Professional and Ethical Standards.**

(a) The purpose of this section is to establish the professional and ethical standards to be followed by a registered spectacle dispensing optician or a registered contact lens dispenser.

(b) A registrant shall not misrepresent any professional qualifications or credentials.

(c) A registrant shall not provide any information that is false, deceptive, or misleading to the Texas Department of Health (department).

(d) A registrant shall provide all information required by the Opticians' Registry Act (Act) or this chapter to be submitted to the department.

(e) A registrant shall not consume alcohol or take controlled substances not prescribed by a licensed physician during the hours the registrant is available to dispense spectacles or contact lenses.

(f) A registrant shall not use false, misleading, or deceptive advertising.

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202789

Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: March 17, 1992

Proposal publication date: December 17, 1991

For further information, please call: (512) 834-6628

**Chapter 130. Code Enforcement Registry**

**• 25 TAC §§130.1-130.17**

The Texas Department of Health (department) adopts new §§130.1-130.17, concerning the code enforcement registry. Sections 130.2, 130.4-130.15 and are 130.17 adopted with changes to the proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7283). Sections 130.1, 130.3, and 130.16 are adopted without changes and will not be republished.

The new sections implement the provisions of Texas Civil Statutes, Article 4447bb, concerning the registration of code enforcement officers. This registration is intended to safe-

guard public health, safety, and welfare by providing a means by which the public can identify code enforcement officers that meet minimum standards of competence. The regulation of code enforcement officers will create a means to better serve the public. The sections define terms commonly used in the profession and set standards for registration as a code enforcement officer. The sections further require code enforcement officers to meet minimum state licensing standards for work experience and require the officers to take an approved code enforcement training program. The department is responsible for the review and processing of the registration of code enforcement officers and code enforcement officers-in training.

Comments received by the department concerning the proposal and the department's responses are as follows.

COMMENT: Concerning §130.2, the definition of "CEAT" should be removed from the section since there will be different designees every several years.

RESPONSE: The department agrees and has removed the definition.

COMMENT: Concerning §130.2, the definition of "code enforcement officer" should be redefined for clarification.

RESPONSE: The department disagrees because the department is not authorized to change the definition as stated in the Texas Civil Statutes, Article 4447bb.

COMMENT: The Board of Health clarified the definition of "Committee" by stating that it will be a five-member committee.

COMMENT: Concerning §130.4(a)(7), the words "department administered" should be removed since the department will not be administering the re-examinations.

RESPONSE: The department agrees and has deleted the words.

COMMENT: Concerning §130.5(d)(5), the phrase, "the successful completion of the", should be added for clarification.

RESPONSE: The department agrees and has added the phrase.

COMMENT: Concerning §130.5(d)(6), the phrases, "full-time" and "if applying", should be added for clarification.

RESPONSE: The department agrees and added the phrases.

COMMENT: Concerning §130.7(b), the language concerning the training program exemption should be clarified.

RESPONSE: The department agrees and has added the additional language.

COMMENT: Concerning §130.8(a), the phrase "administration for" should be removed for clarification.

RESPONSE: The department agrees and has removed the language.

COMMENT: Concerning proposed §130.8(b)(4)(A), subparagraph (A) should be moved up to combine with the opening sentence of paragraph (4); proposed subparagraph (B) should be renumbered as

paragraph (5); and the remaining paragraphs should be renumbered accordingly.

RESPONSE: The department agrees and made the change.

COMMENT: Concerning §130.8(c), the department should change the content of a sentence for clarification.

RESPONSE: The department agrees and has added language to clarify the sentence.

COMMENT: Concerning proposed §130.8(c), paragraphs (1) and (2) should be deleted since this information may or may not apply

RESPONSE: The department agrees and has deleted the paragraphs.

COMMENT: Concerning §130.10(c)(1), a more exact reference on the location of information in the paragraph should be included.

RESPONSE: The department agrees and has expanded the reference to include the exact location of the information referenced in the paragraph.

COMMENT: Concerning §130.11(d), the word "notarized" is redundant and should be replaced by the article "a".

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning §130.12(b)(2), the paragraph should be deleted since it is repeated in §130.11(b)(2).

RESPONSE: The department agrees and has deleted the paragraph. The remaining paragraphs have been renumbered accordingly.

COMMENT: Concerning §130.12(f)(5), the words "or any penalty fee" should be deleted since it is repetitive.

RESPONSE: The department agrees and has made the change.

COMMENT: Concerning the title of §130.13, the title should be changed to redefine the sections that follow.

RESPONSE: The department agrees and has changed the title.

In addition to changes made as a result of comments received, the department made a number of editorial changes for clarification. Sections 130.2, 130.6, 130.13, 130.14, 130.15, and 130.17 were changed in that the statutory reference of "Acts 1991, 72nd Legislature, Chapter 796 (House Bill 1257)" has been replaced by the new statutory reference of "Texas Civil Statutes, Article 4447bb". The department made other minor editorial changes for clarification to §130.5(d)(4), §130.6(d)(2)(B), §130.6(c)(1), §130.6(d)(2)(B), §130.7(c)(1), §130.8(a), §130.8(b)(3) and (4), §130.9(c)(6), §130.10(a)(1), §130.10(c)(3), §130.11(c), §130.13(3)(C), §130.14(b)(2)(C), and §130.14(c)(7)(C) and (E).

No agency, group, or association commented on the rules; all of the commenters were individuals. None of the commenters were totally for or against the sections, but had recommendations and suggestions regarding changes.

The new sections are adopted under Texas Civil Statutes, Article 4447bb, which provide the Board of Health with the authority to adopt rules to register code enforcement officers; and Health and Safety Code, §12.001, which provides the Texas Board of Health with the authority to adopt rules for the performance of every duty imposed by law on the Texas Board of Health, the Texas Department of Health, and the commissioner of health.

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

Act—Texas Civil Statutes, Article 4447bb, concerning the registration of code enforcement officers.

Administrator—The department employee designated as the administrator of registration activities authorized by the Act.

Applicant—A person who applies for registration under the Act.

Board—The Texas Board of Health.

Code enforcement—The inspection, improvement, and rehabilitation of environmental hazards in public and private premises by determining the presence of fire or health hazards, nuisance violations, unsafe building conditions, and violations of any fire, health, or building regulation, statute, or ordinance.

Code enforcement officer—An agent of this state or a political subdivision of this state who engages in code enforcement.

Committee—The five-member Code Enforcement Advisory Committee.

Department—The Texas Department of Health.

Full-time experience—Employment, self-employment, or independent contracting in the field of code enforcement where the regularly assigned duties included code enforcement and the experience was for not less than 32 hours per week.

Registrant—A person registered under the Act.

Registration—The procedure by which the department accepts, processes, and approves applications for registration of a person, and as a part thereof, includes the furnishing and replacement or duplication of certificates and identification cards.

#### *§130.4. Fees.*

(a) The schedule of fees is as follows:

(1) application fee (includes initial registration)—\$50;

(2) renewal fee—\$50;

(3) reinstatement fee—\$50;

(4) registration fee for an upgrade (for code enforcement officers in training) —\$20;

(5) certificate and/or identification card replacement fee—\$20;

(6) examination fees:

(A) department administered—\$50; or

(B) administered by department's designee—the amount specified in the contract between the department and the designee, not to exceed \$50; and

(7) reexamination fee—\$50.

(b) All fees are nonrefundable.

(c) All fees shall be submitted in the form of certified checks for guaranteed funds; money orders; checks from state agencies, municipalities, counties; or other political subdivisions of the state made payable to the department.

§130.5. *Application Procedures.*

(a) Purpose. The purpose of this section is to set the application requests and procedures for registration as a code enforcement officer. Applications may be submitted for registration as a registered code enforcement officer or code enforcement officer in training.

(b) General.

(1) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official department forms.

(2) The department must receive all required application materials at least 90 days prior to the date the applicant wishes to take the examination.

(3) The department will not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.

(4) An application not completed within 30 days after the date of the department's notice of deficiency may be voided.

(5) An application is not considered complete until the required examination has been successfully completed by the applicant.

(c) General application materials. The application contains the following items:

(1) specific information regarding personal data, social security number, birth date, place of employment, other state registrations and certifications held, and misdemeanor or felony convictions;

(2) the date of the application;

(3) the education and experience qualifications of each applicant;

(4) a statement that the applicant has read the Act and this chapter and agrees to abide by them;

(5) a statement that the applicant shall return to the department any registration certificate and identification card upon the expiration, revocation, or suspension of the registration;

(6) a statement that the applicant understands that fees submitted in the registration process are nonrefundable unless the processing time is exceeded without good cause as set out in §130.14 of this title (relating to Processing Applications);

(7) a statement that the applicant understands that materials submitted in the registration process become the property of the department and are not returnable;

(8) a statement that the information in the application is truthful and that the applicant understands that providing false and misleading information on items which are material in determining the applicant's qualifications may result in the voiding of the application, the failure to be granted any registration, or the revocation of any registration issued; and

(9) the signature of the applicant which has been dated and notarized.

(d) Documents. The following documents shall be submitted:

(1) a copy of the code enforcement certificate or certificates of course completion (notarized as a true and exact copy of an unaltered original) if the training program is required;

(2) a full-face photo of a minimum size of 1 1/2 by 1 1/2 inches signed on the reverse side with the applicant's signature as it appears on the application. The photograph must have been taken within the two-year period prior to application;

(3) if applying under §130.6(d) of this title (relating to Registration Qualification Requirements):

(A) an affidavit on an official form indicating at least one year of residence in Texas before the date of application; and

(B) an affidavit on an official form indicating employment as described in §130.6(d)(2);

(4) a copy of a high school diploma, general equivalence diploma, or diploma (associate degree or bachelor degree) from an accredited college or university (notarized as a true and exact copy of an unaltered original);

(5) proof of the successful completion of the examination if already taken; and

(6) proof of one year full-time experience if applying under §130.6(a).

§130.6. *Registration Qualification Requirements.*

(a) The purpose of this section is to set out the qualifications of applicants for examination and registration as a code enforcement officer and code enforcement officer in training.

(b) An applicant who qualifies under Texas Civil Statutes, Article 4447bb, §6(a), must have:

(1) successfully completed the training program described in §130.7 of this title (relating to Educational Requirements);

(2) at least one year of full-time experience in the field of code enforcement;

(3) passed the examination as set forth in §130.8 of this title (relating to Examination); and

(4) filed the documents and application required by §130.5 of this title (relating to Application Procedures).

(c) An applicant who qualifies under the Act, §6(d), must have:

(1) successfully completed the training program described in §130.7;

(2) passed the examination as set forth in §130.8;

(3) completed a supervision contract on department forms, and the contract shall include:

(A) the name and signature of each supervisor and the name and signature of the supervisee;

(B) the registration number of each supervisor;

(C) the primary location and address where code enforcement services are provided;

(D) a description of code enforcement duties to be rendered by the supervisee;

(E) a statement that each supervisor and the supervisee have read and agree to adhere to this chapter; and

(F) the date the supervisor and supervisee signed the department's supervisor contract; and

(4) filed the documents and application required by §130.5.

(d) An applicant who qualifies under the Act, §14, must have:



(1) been a resident of the state for at least one year before the date of application;

(2) been employed full-time as a code enforcement officer for at least three years for not less than 32 hours per week from September 1, 1988 to August 31, 1991.

(A) Employment includes self-employment or independent contractor status.

(B) The regularly assigned duties must have included code enforcement. The applicant need not have had the title of "code enforcement officer;"

(3) applied on or before September 1, 1993; and

(4) filed the documents and application required by §130.5.

(e) On proper application, the department shall grant a certificate of registration to a licensee or registrant of another state, commonwealth, or territory of the United States that has requirements equivalent to or higher than those in effect in this state for the registration of a code enforcement officer or code enforcement officer in training.

#### §130.7. Educational Requirements.

(a) Purpose. The purpose of this section is to set out the educational requirements for examination and registration as a code enforcement officer or code enforcement officer in training.

(b) Training program required. An applicant must complete a training program in code enforcement from an educational institution accredited or licensed by the central education agency or Texas Higher Education Coordinating Board unless the applicant qualifies under Texas Civil Statutes, Article 4447bb, §14.

(c) Basic training program.

(1) The program shall include, but shall not be limited to, training in the following subjects:

(A) zoning and zoning ordinance enforcements;

(B) sign regulations;

(C) home occupations;

(D) housing codes and ordinances;

(E) building abatement;

(F) nuisance violations;

(G) abandoned vehicles;

(H) junk vehicles;

(I) health ordinances; and

(J) basic processes of law related to code enforcement.

(2) The program shall consist of 36 classroom or laboratory hours. A classroom or laboratory hour shall constitute 50 clock minutes of actual classroom or laboratory time.

#### §130.8. Examination.

(a) This section sets out provisions governing the examination for a registered code enforcement officer.

(b) Application for examination.

(1) An applicant meeting the requirement of §130.5 of this title (relating to Application Procedures) is allowed to take the examination provided the applicant complies with the requirements of this section.

(2) The Texas Department of Health (department) shall notify an applicant whose application has been approved at least 60 days prior to the next scheduled examination. Applications which are received incomplete or late may cause the applicant to miss the examination deadline. The notice shall include the examination registration form.

(3) An examination registration form must be completed and received by the department with the required examination fee at least 30 days prior to the date of the examination. The fee shall be paid to the department if the applicant is taking the exam solely for registration purposes. The fee shall be paid to the designee of the department if the applicant is taking the exam for registration and to obtain private certification.

(4) The examination will be conducted in the English language. Exceptions will be made when English is not the native or first language of the applicant. The applicant will be responsible for any fee or consideration to be paid to an acceptable interpreter and/or translator whose services are necessary for the examination. If the applicant can make arrangements that are acceptable, the examination will be given at the first time available.

(5) Reasonable accommodations will be made for disabled applicants.

(6) Examinations will be held on dates and in locations to be announced by the department.

(7) Examinations will be graded by the department or its designee.

(8) The department shall notify each examinee of the results of the examination within 30 days of the date of the examination.

(9) A person who fails the examination may retest twice on the failed portion of the examination after paying another examination fee. All retests must be completed no later than two years after the initial date of examination eligibility or the person's application will be voided.

(10) No refunds will be made to examination candidates who fail to appear for an examination.

(c) The department shall offer a written examination prepared by the department or its designee as often as deemed necessary by the department.

(d) Applicants who have met all the requirements set out in §130.6(d) of this title (relating to Registration Qualification Requirements) shall have the examination requirement waived.

#### §130.9. Determination of Eligibility.

(a) The department shall receive and approve or disapprove all applications for registration as a code enforcement officer and code enforcement officer in training.

(b) Notices of application approval, disapproval, or deficiency shall be in accordance with §130.16 of this title (relating to Processing Applications).

(c) An application for a registration shall be disapproved if the person has:

(1) not met the requirements in §130.6 of this title (relating to Registration Qualification Requirements);

(2) failed to pass the examination prescribed by the department as set out in §130.7 of this title (relating to Examination);

(3) failed to or refused to properly complete or submit any application form, documents, or fee or deliberately presented false information on any form or document required by the department;

(4) violated any provisions of the Act or this chapter;

(5) been convicted of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a registered code enforcement officer as set out in §130.12 of this title (relating to Registration of Persons with Criminal Backgrounds); or

(6) certification or registration to engage in code enforcement or a related profession that had revoked by another licensing entity in this state or another state, commonwealth, or territory of the United States for any of the following reasons:

- (A) unprofessional conduct;
- (B) fraud, deceit, or negligence; or
- (C) misconduct in the practice of code enforcement or a related profession.

(d) If after review, the department determines that the application should not be approved, the administrator shall give the applicant written notice of the reason for the proposed decision and of the opportunity for a formal hearing. The notice shall be in accordance with §130.13 of this title (relating to Violations, Complaints, and Disciplinary Actions).

#### §130.10. Code Enforcement Officer in Training.

(a) Supervision. The purpose of this section is to set out the nature and the scope of the supervision provided for code enforcement officers in training.

(1) Supervision contract. A code enforcement officer in training must have a contract on department forms on file with the department.

(2) Termination. The supervising code enforcement officer must submit a written notification of termination of supervision to the department and the supervisee within 14 days of when supervision has ceased. The department notification of termination of supervision shall include:

(A) the name, registration number, and signature of the supervisor and the name and registration number of the supervisee;

(B) a statement that supervision has terminated;

(C) the reason for termination;

(D) the date of termination of supervision; and

(E) a statement indicating whether the supervisor and the supervisee have complied with the requirements of this chapter.

(3) Changes. Any change in the department supervision contract including

adding or deleting supervisors shall require submission of a new supervision contract.

(4) Requirements of supervision.

(A) The supervisor must have adequate training, knowledge, and skill to consult competently concerning any code enforcement services which the supervisee undertakes.

(B) The supervisor must be a registered code enforcement officer.

(C) The supervisor may not supervise more than three supervisees.

(D) The supervisee must clearly state the supervised status to his or her employer and must provide the name, address, and telephone number of the supervisor.

(E) The supervisor may not be employed by the supervisee, may not lease or rent space from the supervisee, and must avoid any dual relationship with the supervisee which could impair the supervisor's professional judgment.

(F) The supervisor need not be the same as the officer in training's work supervisor.

(G) The supervisor must be available for discussion of any problems encountered by the supervisee and have quarterly reports available at reasonable times.

(H) The supervisor will provide an alternate registered code enforcement officer to provide supervision for the supervisee in circumstances when the supervisor is not available for more than four continuous weeks.

(5) Payment. A supervisee may not pay for supervision.

(b) Required supervisor. A registered code enforcement officer in training must have a supervising registered code enforcement officer during the times the officer in training is engaged in code enforcement. Time shall not be counted toward the one year of full-time experience required for registration as a code enforcement officer unless the registered code enforcement officer had a qualified supervisor.

(c) Upgrading a code enforcement officer in training. The purpose of this subsection is to set out the procedure to upgrade a registration from a code

enforcement officer in training to a code enforcement officer.

(1) The code enforcement officer in training shall submit to the department a properly completed experience documentation form as set out in §130.5(d)(6) of this title (relating to Application Procedures) with a written request to upgrade the registration.

(2) After review of all application materials, the program administrator shall notify the code enforcement officer in training of eligibility for registration as a code enforcement officer.

(3) The code enforcement officer in training shall surrender to the department the registration certificate and registration identification card and submit the registration fee for upgrade of a registration for a code enforcement officer in training to a code enforcement officer.

(4) If the code enforcement officer in training is not eligible for upgrade, the program administrator shall notify the code enforcement officer in training in writing of the reasons for deficiency and the additional experience or documentation needed to meet the minimum requirements for registration as a code enforcement officer.

#### §130.11. Code Enforcement Officer Registration.

(a) Purpose. The purpose of this section is to set out the code enforcement registration procedures of the Texas Department of Health (department).

(b) Issuance of registrations.

(1) The department will send each applicant whose application has been approved and who has passed the examination a code enforcement officer certificate and a registration identification card or a code enforcement officer in training certificate containing a registration number.

(2) A certificate of registration issued under this Act is valid for one year and may be renewed annually on payment of the required renewal fee.

(3) Any certificate of registration or identification card issued remains the property of the department and must be surrendered on demand of the department.

(c) Replacement certificate. The department will replace a lost, damaged, or destroyed certificate or identification card upon written request from a registrant and payment of the certificate and/or identification card replacement fee. The request shall include a statement detailing the loss or destruction of the original certificate or identification card or be accompanied by the damaged certificate or card.

(d) Name change. Before another registration certificate and identification card will be issued by the board, notification of name changes must be mailed to the department and shall include a duly executed affidavit and a notarized copy of a marriage certificate, court decree evidencing such change, or a copy of a Social Security card reflecting the new name. The registrant shall return any previously issued registration certificate and identification card and remit the certificate and/or identification card replacement fee as set out in §130.4 of this title (relating to Fees).

#### §130.12. Code Enforcement Registration Renewal.

(a) Purpose. The purpose of this section is to set forth the rules governing registration renewal of code enforcement officers.

(b) General.

(1) A registrant must renew the registration annually.

(2) Each registrant is responsible for renewing the registration before the expiration date and shall not be excused from paying the reinstatement fee. Failure to receive notification from the department prior to the expiration date of the registration will not excuse failure to file for renewal or late renewal.

(3) The department will not renew the registration of the registrant who is in violation of the Act or this chapter at the time of application for renewal.

(4) Notices of renewal approval, disapproval, or deficiency shall be in accordance with §130.16 of this title (relating to Processing Applications).

(5) The department shall deny renewal of the registration of the registrant if renewal is prohibited by the Education Code, §57.491.

(c) Registration renewal.

(1) At least 30 days prior to the expiration date of a person's registration, the department will send notice to the registrant at the address in the department's records of the expiration date of the registration, the amount of the renewal fee due, and a renewal form which the registrant must complete and return to the department with the required renewal fee.

(2) The renewal form for all registrants shall require the provision of the preferred mailing address, primary employment address and telephone number, category of employment, and a statement of all misdemeanor and felony offenses for which the registrant has been convicted.

(3) A registrant has renewed the registration when the registrant has mailed

the renewal form and the required renewal fee to the department prior to the expiration date of the registration. The postmark date shall be considered as the date of mailing.

(4) The department shall issue a registrant who has met all requirements for renewal a certificate and identification card.

(d) Late renewal.

(1) The department shall inform a person who has not renewed a registration within 30 days following the expiration of the registration of the amount of the renewal fee and reinstatement fee required for renewal and the date the registration expired.

(2) A person whose registration has expired for not more than one year may renew the registration by submitting to the department the registration renewal form, the renewal fee, and the reinstatement fee. The renewal must be mailed to the department not more than one year after the expiration date of registration. The postmark date shall be considered as the date of mailing.

(3) A person whose registration has been expired for more than one year may not renew. The person may obtain a new registration by complying with the then current requirements and procedures for obtaining a registration.

(e) Expiration of registration.

(1) A person whose registration has expired may not claim to be a code enforcement officer or code enforcement officer in training or use the titles "code enforcement officer" or "code enforcement officer in training."

(2) A person who fails to renew a registration is required to surrender the registration certificate and identification card to the department after 90 days from expiration of the registration or upon demand.

(f) Active duty. If a registrant fails to timely renew his or her registration because the registrant is or was on active duty with the armed forces of the United States of America serving outside the State of Texas, the registrant may renew the registration in accordance with this subsection.

(1) Renewal of the registration may be requested by the registrant, the registrant's spouse, or an individual having power of attorney from the registrant. The renewal form shall include a current address and telephone number for the individual requesting the renewal.

(2) Renewal may be requested before or after the expiration of the registration.

(3) A copy of the official orders or other official military documentation

showing that the registrant is or was on active duty serving outside the State of Texas shall be filed with the department along with the renewal form.

(4) A copy of the power of attorney from the registrant shall be filed with the department along with the renewal form if the individual having the power of attorney executes any of the documents required in this subsection.

(5) A registrant renewing under this subsection shall pay the applicable renewal fee, but not the reinstatement fee.

§130.13. Grounds for Suspension or Revocation. A certificate of registration may be suspended or revoked for the following reasons:

(1) fraud or deceit in obtaining a certificate including:

(A) presenting false information to the department on any initial application or document; or

(B) presenting false information to the department on any renewal document;

(2) gross negligence in the practice of code enforcement:

(A) as determined in the final judgment of a civil lawsuit; or

(B) as defined by case law;

(3) incompetency including:

(A) a determination of mental incompetency by a court;

(B) commitment, emergency detention, or admission to a mental health facility under the Texas Mental Health Code; or

(C) any mental or physical condition which does not allow code enforcement to be performed with reasonable skill or safety; or

(4) misconduct in the practice of code enforcement including:

(A) presenting false information to the department in any investigation or disciplinary proceeding of the department;

(B) making deceptive, false, or misleading statements concerning:

(i) professional qualifications or credentials;

(ii) advertising for the registrant's services; or

(iii) the registrant's practice;

(C) failing to comply with an order issued by the department;

(D) consuming alcohol or taking controlled substances not prescribed by a licensed physician while on duty as a code enforcement officer;

(E) aiding or abetting the practice of an unregistered person when that person is required to be registered under the Texas Civil Statutes, Article 4447bb;

(F) verbally, physically, or sexually abusing or attempting to abuse an individual while on duty as a code enforcement officer;

(G) falsifying reports made as a code enforcement officer;

(H) accepting or offering to accept any form of compensation for:

(i) not reporting a hazard as required; or

(ii) correcting a hazard which was found while on duty as a code enforcement officer;

(I) failing to report a crime when the report is required by law; or

(J) failing to report another code enforcement officer or code enforcement officer in training who has violated the Act or this chapter.

#### §130.14. Registration of Persons with Criminal Backgrounds.

(a) This section sets out the guidelines and criteria on the eligibility of persons with criminal backgrounds to obtain registration as a code enforcement officer or code enforcement officer in training.

(b) Criminal convictions which directly relate to the occupation of code enforcement shall be considered by the department as follows.

(1) The department may suspend or revoke an existing registration, disqualifying a person from receiving a registration, or deny a person the opportunity to be examined for a registration because of a person's conviction of a felony

or misdemeanor if the crime directly relates to the duties and responsibilities under that registration.

(2) In considering whether a criminal conviction directly relates, the department shall consider:

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the purposes for requiring a registration as a code enforcement officer;

(C) the extent to which a registration might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a code enforcement officer or code enforcement officer in training. In determining the present fitness of a person, the department shall consider the evidence described in Texas Civil Statutes, Article 6252-13c, §4(c).

(c) The following felonies and misdemeanors directly relate because these criminal offenses indicate an inability or a tendency for the person to be unable to perform or to be unfit for registration:

(1) the misdemeanor of violating the Texas Civil Statutes, Article 4447bb;

(2) a conviction relating to deceptive business practices;

(3) a misdemeanor or felony offense involving:

(A) bribery;

(B) forgery;

(C) tampering with a governmental record;

(D) perjury;

(E) burglary; or

(F) arson;

(4) a conviction for practicing another profession without a license, certificate, or registration required by state or federal law;

(5) a conviction relating to delivery, possession, manufacturing, or use of:

(A) controlled substances; or

(B) dangerous drugs;

(6) a conviction involving moral turpitude;

(7) a misdemeanor or felony offense under various titles of the Texas Penal Code:

(A) Title 5 concerning offenses against the person;

(B) Title 7 concerning offenses against the property;

(C) Title 9 concerning offenses against public order and decency;

(D) Title 10 concerning offenses against public health, safety, and morals; or

(E) Title 4 concerning offenses of attempting or conspiring to commit any of the offenses in this subsection; and

(8) other misdemeanors and felonies which indicate an inability or tendency for the person to be unable to perform as a registrant or to be unfit for registration if action by the department will promote the intent of the Act, this chapter, and Texas Civil Statutes, Article 6252-13c.

(d) Procedures for revoking, suspending, or denying a registration to persons with criminal backgrounds shall be as follows.

(1) The administrator shall give a written notice to the person that the department proposes to deny the application or suspend or revoke the registration in accordance with the provisions of §130.13 of this title (relating to Violations, Complaints, and Disciplinary Actions).

(2) If the department denies, suspends, or revokes an application or registration under this section, the administrator shall give the person written notice:

(A) of the reasons for the decision;

(B) that the person, after exhausting administrative appeals, may file an action in a district court of Travis County, for review of the evidence presented to the department and its decision;

(C) that the person must begin the judicial review by filing a petition

with the court within 30 days after the department's action is final and appealable; and

(D) of the earliest date that the person may appeal.

*§130.15. Violations, Complaints, Investigations, and Disciplinary Actions.*

(a) Purpose. The purpose of this section is to set out:

(1) violations and prohibited actions under the Texas Civil Statutes, Article 4447bb, and this chapter;

(2) procedures concerning complaints alleging violations of the Act or this chapter; and

(3) department actions against a person when violations have occurred.

(b) Compliance. A registrant or applicant must comply with the Act and this chapter.

(c) Filing complaints.

(1) Any person may complain to the department alleging that a code enforcement officer, code enforcement officer in training, or another person has violated the Act or this chapter.

(2) A person wishing to file a complaint against a code enforcement officer or another person shall notify the department. The initial notification of a complaint may be in writing, by telephone, or by personal visit to the administrator's office.

(3) Upon receipt of a complaint, the administrator shall send to the complainant an acknowledgment letter and the department's complaint form, which the complainant must complete and return to the administrator before further action can be taken. If the complaint is made by visit to the administrator's office, the form may be given to the complainant at that time; however, it must be completed and returned to the department before further action can be taken.

(4) Anonymous complaints may be investigated by the department if the complainant provides sufficient information.

(d) Investigation of complaints.

(1) The department may investigate any complaint.

(2) If the administrator determines that the complaint does not come within the department's jurisdiction, the administrator shall advise the complainant and if possible, refer the complainant to the appropriate governmental agency for handling such a complaint.

(3) The department shall, at least as frequently as quarterly, notify the parties to the complaint of the status of the complaint until its final disposition.

(4) If the administrator determines that there are insufficient grounds to support the complaint, the program administrator shall dismiss the complaint and give written notice of the dismissal to the registrant or person against whom the complaint has been filed and the complainant.

(5) If the administrator determines that there are sufficient grounds to support the complaint, the administrator may propose to deny, suspend, revoke, or not renew a registration.

(e) Disciplinary actions.

(1) The department may deny an application or registration renewal or suspend or revoke a registration.

(2) Prior to institution of formal proceedings to revoke or suspend a registration, the department shall give written notice to the registrant of the facts or conduct alleged to warrant revocation or suspension, and registrant shall be given an opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(3) If denial, revocation, or suspension of a registration is proposed, the department shall give written notice to the applicant or registrant that the application or registration must request, in writing, a formal hearing within 10 days of receipt of the notice. The notice shall state the basis for the proposed action. Receipt of the notice is presumed to occur on the 10th day after the notice is mailed to the last address known to the department unless another date is reflected on a United States Postal Service return receipt.

(4) If no timely request for a hearing is received, the applicant or registrant is deemed to have waived the hearing and be in agreement with the allegations and proposed action.

(5) If the applicant or registrant fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the allegations and proposed action and to have waived the right to a hearing.

(6) If the hearing is waived, the application or registration shall be denied, suspended, or revoked by an order of the commissioner of health.

(7) The formal hearing shall be conducted according to the hearing procedures in §130.12 of this title (relating to Persons with Criminal Backgrounds), if applicable and the department's formal hearing procedures in Chapter 1 of this title (relating to Texas Board of Health).

(f) Denial, suspension, or revocation.

(1) The department shall suspend or revoke a certificate of registration issued under this Act if the department determines that the certificate holder engaged in fraud or deceit in obtaining a certificate or is grossly negligent, incompetent, or guilty of misconduct in the practice of code enforcement.

(2) If the department suspends a registration, the suspension shall remain in effect until the administrator or the department determines that the reason for suspension no longer exists. The administrator or the department shall investigate prior to making a determination.

(3) During the time of suspension, the suspended registration holder shall return his or her registration certificate and identification card to the department.

(4) If the suspension overlaps a registration renewal date, the suspended registration holder may comply with the renewal procedures in this chapter; however, the department may not renew the registration until the administrator determines that the reason for suspension no longer exists or the period of suspension is completed.

(5) If the department revokes or does not renew a registration, a person may apply for a registration by complying with the requirements and procedures in this chapter at the time of re-application. The department may refuse to issue a registration if the reason for revocation or nonrenewal continues to exist.

(6) Upon revocation, a registration holder shall return the registration certificate and identification card to the department.

*§130.17. Exemptions.*

(a) A person who is licensed or registered under another law of this state and who under the license or registration engages in code enforcement is not required to be registered under Texas Civil Statutes, Article 4447bb.

(b) This state or a political subdivision of this state is not required to employ a person registered under this Act if the state or political subdivision engages in code enforcement. However, if this state or a political subdivision of the state employs a person who uses the title "code enforcement officer," the person must be registered under this Act.

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202788

Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of  
Health

Effective date: March 17, 1992

Proposal publication date: December 17, 1991

For further information, please call: (512) 834-6628

## Chapter 325. Solid Waste Management

*(Editor's Note: Senate Bill 2, First Called Session, 72nd legislature, transferred all the powers, duties, rights and obligation of the Texas Department of Health (TDH) pertaining to the disposal of solid waste, the setting of sanitary standards for drinking water and the protection of public water supplies and bodies of water, the regulation of on-site sewage disposal systems, the administration of on-site wastewater treatment research, and the disposal of radioactive substances to the Texas Water Commission (TWC) effective March 1, 1992. The TWC has determined that several of TDH's procedural rules should not be recodified as they conflict with the TWC's current procedural regulations. Therefore, the following sections are being administratively repealed.)*

§325.55, §325.56  
§§325.91 - 325.95  
§325.111  
§§325.171 - 325.173  
§325.221 - 325.223  
§325.261

## Chapter 337. Water Hygiene Water Saving Performance Standards

- 25 TAC §§337.251-337.256, 337.260, 337.265, 327.266

The Texas Department of Health (department) adopts new §§337.251-337.256, 337.260, 337.265, and 327.266, concerning water saving performance standards. Sections 337.251, 337.253, and 337.255 are adopted with changes to the proposed text as published in the December 24, 1991, issue of the *Texas Register* (16 TexReg 7628). Sections 337.252, 337.254, 337.256, 337.260, 337.266, and 337.265, are adopted without changes and will not be republished.

The new sections will implement Senate Bill 587, 72nd Legislature, 1991, concerning plumbing fixtures, and related labeling requirements, which became effective on September 1, 1991.

Comments on the proposal are as follows.

Concerning §337.251, there were no comments received, but the department added

several definitions to clarify the proposed language.

Concerning §337.253(a)(1), several commenters stated that the American National Standards Institute did not certify testing facilities. The department agrees and has made appropriate changes.

Concerning §337.255, several commenters stated that the required fee was too high for the number of products they sold. The department disagrees; however, the department did modify the text for clarity.

The new sections are adopted under the Health and Safety Code, Chapter 421, which provides the Texas Board of Health with the authority to adopt rules concerning water saving performance standards; and §12.001, which provides the board with authority to adopt rules to implement its statutory duties.

### §337.251. Purpose, Authority, and Definitions.

(a) Purpose. The purpose of these sections is to establish water saving performance standards and labeling requirements for sink and lavatory faucets, shower heads, drinking water fountains, urinals, toilets, and flushometer toilets that are manufactured, imported, or otherwise supplied for sale in the State of Texas, and to establish labeling requirements for commercial or residential clothes-washing and dishwashing machines and lawn sprinklers to assist the consumer in making an informed purchasing decision. These sections apply to manufacturers, importers, and major suppliers of plumbing fixtures, who sell, offer for sale, distribute, or import plumbing fixtures into the state. These sections do not apply to plumbing fixtures manufactured in the state for sale outside of the State.

(b) Authority. The authority for these sections is the Health and Safety Code, Chapter 421, titled, "Water Saving Performance Standards."

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

ANSI—The American National Standards Institute.

Board—The Board of Health.

Commissioner—The commissioner of health.

Department—The Texas Department of Health.

Importer—A business or individual that brings into the state plumbing fixtures from other countries or states for resale or installation (other than for their own domicile) within the state.

Major supplier—A business or individual that provides plumbing fixtures to others for resale or installation (other than for their own domicile) within the state.

Manufacturer—Someone that makes plumbing fixtures.

Order—A request to purchase plumbing fixtures from a manufacturer, major

supplier, or importer with a merchandise delivery date not to exceed 90 days from the date of the request.

Plumbing fixture—A sink faucet, lavatory faucet, faucet aerator, shower head, urinal, toilet, flush valve toilet, or drinking water fountain.

Toilet—A toilet or water closet except a wall mounted toilet that employs a flushometer valve.

APTRA—The Administrative Procedure and Texas Register Act, Texas Civil Statutes, Article 6252-13a.

### §337.253. Plumbing Fixture List.

(a) The Texas Department of Health (department) shall make and maintain a current list of plumbing fixtures that are certified to the department by the manufacturer or importer to meet the water saving performance standards established by §337.252(b) of this title (relating to Design Standards). To have a plumbing fixture included on the department's current list, a manufacturer or importer must:

(1) furnish identification method and testing data which clearly indicates that the plumbing fixture was tested in accordance with American National Standards Institute requirements and complies with the flow requirements established in §337.252(b).

(2) submit an identified sample plumbing fixture to the department for testing and verification of water saving performance standards by the department; and

(3) pay the appropriate fee as listed in §337.255 of this title (relating to Fees).

(b) The department retains the right to request a sample of the plumbing fixture for testing.

§337.255. Fees. An initial fee of \$50 per plumbing fixture model will be assessed for certification review, inspection, identification, and listing by the Department of Health (department). An annual renewal fee of \$25 per plumbing fixture will also be assessed for maintenance of current listing. This fee will be payable to the department by the manufacturer or importer of the listed plumbing fixture before October 31 of each year.

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

Issued in Austin, Texas, on February 25, 1992.

TRD-9202786

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Deputy Commissioner  
Texas Department of  
Health

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For further information, please call: (512) 458-7533

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**Part VIII. Interagency  
Council on Early  
Childhood Intervention**  
**Chapter 621. Early Childhood  
Intervention Program**  
**Early Childhood Intervention  
Advisory Committee**

• **25 TAC §§621.61-621.64**

The Interagency Council on Early Childhood Intervention (council) adopts new §§621.61-621.64. Sections 621.62-621.64 are adopted with changes to the proposed text as published in the September 27, 1991, issue of the *Texas Register* (16 TexReg 5316). Section 621.61 is adopted without changes and will not be republished.

The new sections will implement the provisions of House Bill 7, §5.18, First Called Session, 72nd Legislature, 1991, and Public Law 102-119 (formerly Public Law 99-457), which became effective in October 1991, that the council establish the size and composition of an advisory committee to assist the council in the performance of its duties. The sections will cover the advisory committee's purpose, size, composition, terms of office, duties, and procedures.

There were no public comments received; however, the council itself made changes due to the requirements of Public Law 102-119. The proposed §§621.61-621.64 were changed to meet Public Law 99-457 requirements which were required before the Early Childhood Intervention Program could receive fifth year funding. During the proposal period; however, the council had to make changes to the final rules to comply with the requirements of Public Law 102-119.

Concerning §621.62(a), the council increased the size of the advisory committee to 22 members to allow the addition of new members required by Public Law 102-119 and to increase the number of parent representatives. This amendment and related changes to the subsection ensures that the advisory committee is in full compliance with all applicable federal regulations in size and composition.

Concerning §621.62(b)(1)(A)-(D), the council amended the subparagraphs to ensure that the advisory committee is in full compliance with all applicable federal regulations in size and composition.

Concerning §621.62(b)(1)(E), the council added a member of the Texas Department of Insurance to the advisory committee because Public Law 102-119 requires "at least one member must be from the agency responsible for the state governance of insurance especially in the area of health insurance."

Concerning §621.62(b)(1)(E), the council added the following sentence in order to fulfill the requirements of Public Law 102-119: "That the state education agency member must be responsible for preschool services to children with developmental disabilities."

Concerning §621.62(b)(1)(A)-(D), the council added the phrase "at least" to be consistent with the language of Public Law 102-119.

Concerning §621.62(b)(2), the council made editorial change to ensure that the advisory committee is in full compliance with all applicable federal regulations.

Concerning §621.62(b)(2), the council changed the duty of appointing the ex officio member on the advisory committee to comply with Public Law 102-119.

Concerning §621.62(c), the council amended the subsection to have it comply with the increased size of the advisory committee.

Concerning §621.62(d), the council changed the duty of appointing the advisory chairperson to comply with Public Law 102-119.

Concerning §621.63(a)(2)-(3), the council added these two paragraphs concerning advisory committee duties to ensure that services are coordinated between the council and the Texas Education Agency for services for children from birth through five. The addition of paragraphs (2) and (3) ensures that the advisory committee is in full compliance with all applicable federal regulations. The remaining paragraphs have been renumbered.

Concerning §621.63(d)(1), the council added the phrase "with assistance from the council" to ensure that the advisory committee is in full compliance with all applicable federal regulations.

Concerning §621.64(f), the council amended this subsection to be consistent with Texas State Appropriations Act, Article V.

The new sections are adopted under the Human Resources Code (Code), §73.004, as amended by House Bill 7, §5.18, First Called Session, 72nd Legislature, 1991, which provides the council with the authority to establish the size and composition of an advisory committee to assist the council, consistent with federal regulations and state rules, and Public Law 102-119 covering the size and composition of the advisory committee to the council.

*§621.62. Size, Composition, and Terms of Office.*

(a) **Size.** The advisory committee shall consist of 22 members which the governor shall appoint.

(b) **Composition.** The advisory committee shall be composed as follows.

(1) **Official members, which include:**

(A) at least seven members must be parents, including minority parents of infants or toddlers with developmental disabilities or children with developmental disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with developmental

disabilities. At least one such member shall be a parent of an infant or toddler with a developmental disability or a child with a developmental disability aged six or younger;

(B) at least five members must be public or private providers of early childhood intervention services, one of whom is an early childhood consultant and a provider of birth to three services in an educational service center;

(C) at least one representative from the Texas Legislature;

(D) at least one person involved in personnel preparation;

(E) one member from the Texas Department of Public Health, the Texas Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Education Agency, and the Texas Department of Insurance who have sufficient authority to engage in policy planning and implementation on behalf of their agency. The Texas Education Agency member must be responsible for preschool services to children with developmental disabilities;

(F) a physician, preferably a pediatrician who deals with children with developmental disabilities;

(G) a public health professional who deals with children with developmental disabilities; and

(H) a professional advocate of the rights of young children with developmental disabilities.

(2) Ex officio members may be appointed by the council to perform specific, time-limited tasks as needed. Ex officio members may not vote.

(c) **Terms of office.** Official advisory committee members shall serve for six year terms of office, with the terms of seven members expiring every two years except on the third two year cycle when terms of eight members will expire. Terms will expire on February 1 of each odd number year.

(d) **Chairperson.** The advisory committee shall appoint the chairperson of the advisory committee to serve for a term of two years.

*§621.63. Advisory Committee Duties.*

(a) The advisory committee shall:

(1) advise and assist the Interagency Council on Early Childhood Intervention (council) in the development and implementation of the policies that constitute the statewide system;

(2) advise and assist the Texas Education Agency (TEA) regarding the transition of toddlers with developmental disabilities to services provided under Public Law 102-119, Part B, to the extent such services are appropriate;

(3) advise and assist the council and TEA regarding the provision of appropriate services for children aged birth to five, inclusive;

(4) assist the council in achieving the full participation, coordination, and cooperation of all appropriate public agencies in the state; and

(5) assist the council in the effective implementation of the statewide system, by establishing a process that includes:

(A) seeking information from service providers, case managers (service coordinator), parents, and others about any federal, state, or local policies that impede timely service delivery; and

(B) taking steps to ensure that any identified policy problems are resolved; and

(6) to the extent appropriate, assist the council in the resolution of disputes.

(b) The advisory committee shall advise and assist the council in the:

(1) identification of sources of fiscal and other support for services for early intervention programs under this chapter;

(2) assignment of financial responsibility to the appropriate agency; and

(3) promotion of the interagency agreements.

(c) The advisory committee shall advise and assist the council in the preparation of applications under this chapter, and amendments to those applications.

(d) The advisory committee shall:

(1) with assistance from the council prepare an annual report to the governor and to the Secretary of the United States Department of Education (secretary) on the status of early intervention programs operated within the state for children eligible under this chapter and their families; and

(2) submit the report to the secretary by a date that the secretary establishes.

(e) Each annual report must contain the information required by the secretary for the year for which the report is made.

#### §621.64. Advisory Committee Procedures.

(a) Notice, frequency, and location of meetings.

(1) All advisory committee meetings are subject to the Texas Open Meetings Act (Act), Texas Civil Statutes, Article 6252-17a. Written notice of the date, time, place, and subject of each meeting shall be posted with the Texas Register Division, Secretary of State's Office, as required by the Act.

(2) The executive director, Early Childhood Intervention Program, shall send a copy of the notice of each meeting to each advisory committee member at least one week prior to the meeting.

(3) Meetings will be held at least quarterly and generally will be held in Austin.

(b) Robert's Rules of Order. All meetings will be conducted according to Robert's Rules of Order, except that:

(1) the chairperson may vote on any action as any other advisory committee member, and in case of a tie vote the chairperson's vote will be the tiebreaker; and

(2) all actions taken by the advisory committee must be approved by a majority vote of the members present at the meeting.

(c) Public participation. All requests from the public to participate in advisory committee meetings must be submitted to the chairperson for his/her determination as to whether participation will be allowed, and if so, to what extent.

(d) Absence of chairperson. If the chairperson will be absent from a meeting, he/she may designate another member to act as chairperson and to have all powers and responsibilities of the chairperson for that meeting.

(e) Per diem. Official and ex officio members who attend meetings may be reimbursed for expenses for meals, lodging and transportation as established in Article V of the current Texas State Appropriations Act.

(f) Interpreters. Interpreters for persons who are deaf and other necessary services must be provided at the advisory committee meeting, both for advisory committee members and participants.

(g) Conflict of interest. No advisory committee members may vote on any subject at a meeting which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

(h) Absences from meetings. The Interagency Council on Early Childhood Intervention may recommend to the governor

the removal of any advisory committee member who is absent from more than half of the regularly scheduled meetings of the advisory committee that the member is eligible to attend during each calendar year or is absent from more than two consecutive regularly scheduled meetings that the member is eligible to attend.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202570

Austin R. Kessler  
Chairperson  
Interagency Council on  
Early Childhood  
Interventions

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Proposal publication date: September 27, 1991

For further information, please call: (512) 458-7673

## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### Part II. Parks and Wildlife Department

#### Chapter 57. Fisheries

##### Exotic Shellfish Culture Permits

###### • 31 TAC §§57.191-57.193

The Parks and Wildlife Commission in a regularly scheduled public hearing on January 23, 1992, adopted the repeal of 31 TAC §§57.191-57.193 concerning Exotic Shellfish Culture Permits, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7451). These rules were promulgated under the authority of Chapter 51 of the Parks and Wildlife Code. However, this Chapter was repealed by the 72nd Legislature and 31 TAC §§57.191-57.193, therefore, lacked current statutory authority.

The statutory authority for these rules was repealed by the 72nd Texas Legislature repealed rules.

The repeals will allow greater clarity by permitting the agency to consolidate all rules concerning exotic shellfish in one section.

No comments were received regarding adoption of the repeals.

The repeal is adopted under the authority of Parks and Wildlife Code §66.007 which permit the Commission to promulgate rules regulating harmful or potentially harmful exotic fish, shellfish and aquatic plants.

This agency hereby certifies that the rule as adopted has been reviewed by legal counsel



and found to be a valid exercise of the agency's legal authority.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202663 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: March 13, 1992

Proposal publication date: December 20, 1991

For further information, please call: 1-800-792-112, ext. 4863 or (512) 389-4643

### Shellfish Sourcing Permit, Issuance Procedures

#### • 31 TAC §§57.201-57.203

The Parks and Wildlife Department adopts the repeal of §§57.201-57.203 concerning shellfish sourcing permit issuance procedures without changes to the proposed text as published in the December 20, 1992, issue of the *Texas Register* (16 TexReg 7451). These rules were promulgated under the authority of Chapter 51 of the Parks and Wildlife Code. However, this Chapter was repealed by the 72nd Legislature and these rules, therefore, lacked current statutory authority.

The statutory authority for these rules was repealed by the 72nd Texas Legislature.

Repeal of these sections will remove rules which no longer have statutory authority from the Texas Administrative Code.

Repeal of these sections will remove rules which no longer have statutory authority from the Texas Administrative Code.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of Chapter 77, Parks and Wildlife Code, which permit the commission to adopt rules that regulate take and possession of shrimp.

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

Issued in Austin, Texas, on February 21, 1991.

TRD-9202665 Paul M. Shinkawa  
Director, Legal Services  
Parks and Wildlife  
Department

Effective date: March 13, 1992

Proposal publication date: December 20, 1991

For further information, please call: 1-800-792-1112, ext. 4863 or (512) 389-4863

### Roughfish Removal, Permit Application

#### • 31 TAC §§57.211-57.220

The Parks and Wildlife Commission adopts the repeal of §§57.211-57.220 concerning roughfish removal permits, without changes to the proposed text as published in the December 17, 1991, issue of the *Texas Register* (16 TexReg 7315). These rules were promulgated under the authority of §66.113, and §§66.115-66.118 of the Parks and Wildlife Code. However, these sections were repealed by the 72nd Legislature and 31 TAC §§57.211-57.220, therefore, lacked current statutory authority.

The statutory authority for these rules was repealed by the 72nd Texas Legislature repealed rules.

The repeals will allow greater clarity by permitting the agency to consolidate all rules concerning non-game fish in one Chapter.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the authority of the Parks and Wildlife Code, Chapter 67 which authorizes the commission to promulgate rules regulating Nongame Species.

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

Issued in Austin, Texas, on February 21, 1991.

TRD-9202664 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: March 13, 1992

Proposal publication date: December 17, 1991

For further information, please call: 1-800-792-1112, ext. 4643 or (512) 389-4643

### Collection of Broodfish from Public Waters of Texas

#### • 31 TAC §§57.391-57.401

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing on January 23, 1992, adopted new 31 TAC §§57.391-57.401 concerning collection of fish broodstock from the public waters of Texas, without changes to the proposed text as published in the December 20, 1991, issue of the *Texas Register* (16 TexReg 7451).

The new sections as adopted implement language contained in Senate Bill 726, passed in regular session of the 72nd Legislature, which delegated to the Parks and Wildlife Commission rulemaking authority for permitting the collection of broodfish from public waters.

The new sections as adopted will allow collection of fish species, other than bass of the genus *Micropterus* and crappie of the genus

*Pomoxis*, for use by Texas aquaculturists as broodfish. The rules establish a permitting system, a \$25 permit fee, a reporting system, and set the value of fish collected by an aquaculturist. The rules as adopted will provide substantive protection of the state's natural resources while allowing growth of the aquaculture industry.

One public comment was received by the department regarding these rules. No comments were received in opposition to the proposed rules. Comment about the rules were in support of the rules as proposed.

The Texas Aquaculture Association made comments for the rules as proposed.

The agency had no disagreement with the public comment.

The new sections are adopted under the Parks and Wildlife Code, §§43. 551-93.554, which authorizes the department to regulate take of broodfish from public waters.

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

Issued in Austin, Texas, on February 21, 1992.

TRD-9202666 Paul M. Shinkawa  
Director, Legal Services  
Texas Parks and Wildlife  
Department

Effective date: March 13, 1992

Proposal publication date: December 20, 1991

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

## Part IX. Texas Water Commission

*(Editor's Note: Senate Bill 2, First Called Session, 72nd Legislature, transferred all the powers, duties, rights and obligations of the Texas Department of Health (TDH) pertaining to the disposal of solid waste, the setting of sanitary standards for drinking water and the protection of public water supplies and bodies of water, the regulation of on-site sewage disposal systems, the administration of on-site sewage disposal systems, the administration of on-site wastewater treatment research, and the disposal of radioactive substances to the Texas Water Commission (TWC), effective March 1, 1992. The Texas Register is administratively transferring these rules from Title 25, Part 1, Texas Department of Health to Title 31, Part IX, Texas Water Commission. However, the TWC has determined that several of TDH's procedural rules should not be recodified as they conflict with the TWC's current procedural regulations. It is the TWC's intention that its existing procedural rules apply to the newly transferred programs.*

*The following table illustrates the rule numbers under Title 25 (first set of rule numbers) and the new corresponding numbers under Title 31 (second set of rule numbers). The subchapters and undesignated heads listed below are TWC's designation. The text of these rules will be published*

*in the Texas Register in the March 6, 1992 issue.)*

Chapter 301. On-Site Wastewater Treatment to	Chapter 285. On-Site Wastewater Treatment	General Procedures and Information	§§301.11 - 301.18	§§285.11 - 285.18	Chapter 337. Water Hygiene to	Chapter 290. Water Hygiene Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Supply Systems	§§337.1 - 337.11	§§290.1 - 290.11	Chapter 325. Solid Waste Management to	Chapter 330. Municipal Solid Waste	Subchapter A. General Information	§§325.1 - 325.8	§§330.1 - 330.8
Design Criteria for Sewerage Systems	§§301.51 - 301.63	§§285.51 - 285.63	§§301.11 - 301.18	§§285.11 - 285.18	§§337.13 - 337.17	§§290.12 - 290.16	§§337.19 - 337.21	§§290.17 - 290.19	Subchapter B. Municipal Solid Waste Storage	§§325.21 - 325.25	§§330.21 - 330.25		
Administrative Requirements for On-Site Sewerage	§§301.101-301.109	§§285.101-285.109	§§301.101-301.109	§§285.101-285.109	§§337.31 - 337.37	§§290.20 - 290.27			Subchapter C. Municipal Solid Waste Collection and Transportation	§§325.31 - 325.34	§§330.31 - 330.34		
Chapter 901. On-Site Wastewater Treatment Research Council to	Chapter 286. On-Site Wastewater Treatment Research Council	Subchapter A. The Council	§§901.1 - 901.15	§§286.1 - 286.15	§§337.51 - 337.60	§§290.28 - 290.36			Subchapter D. Classification of Municipal Solid Waste Sites	§325.41, §325.42	§330.41, §330.42		
Subchapter B. Grants	§§901.31 - 901.34	§§286.31 - 286.34	§§901.31 - 901.34	§§286.31 - 286.34	§§337.251-337.256	§§290.251-290.256			Subchapter E. Permit Procedures and Design Criteria	§§325.51 - 325.54	§§330.51 - 330.54		
	§§901.51 - 901.53	§§286.51 - 286.53	§§901.51 - 901.53	§§286.51 - 286.53	§337.260	§290.260				§§325.57 - 325.62	§§330.55 - 330.60		
	§§901.71 - 901.74	§§286.71 - 286.74	§§901.71 - 901.74	§§286.71 - 286.74	§337.265, §337.266	§290.265, §290.266				§325.64	§330.61		
	§§901.91 - 901.97	§§286.91 - 286.97	§§901.91 - 901.97	§§286.91 - 286.97						§§325.71 - 325.76	§§330.62 - 330.67		
	§§901.111-901.114	§§286.111- 286.114	§§901.111-901.114	§§286.111- 286.114					Subchapter F. Operational Standards for Solid Waste Land Disposal Sites	§§325.112-325.114	§§330.112-330.114		
	§901.131	§286.141	§901.131	§286.141						§§325.121-325.124	§§330.121-330.124		
										§325.131	§330.131		
										§§325.132-325.155	§§330.132-330.155		

**Subchapter G. Operational Standards for Solid Waste Processing and Experimental Sites**

§§325.181-325.190    §§330.171-330.180

**Subchapter I. Variances**

§325.231    §330.231

**Subchapter J. County Governments with Licensing Authority**

§§325.241-325.243    §§330.241-330.243

**Subchapter L. Hazardous Household Waste**

§§325.271-325.282    §§330.271-330.282

**Subchapter M. Solid Waste Technician Training and Certification Program**

§§325.381-325.391    §§330.381-330.391

**Subchapter N. Management of Sludges and Similar Wastes**

§§325.411-325.415    §§330.411-330.415

§325.431, §325.432    §330.431, §330.432

§§325.441-325.449    §§330.441-330.449

§§325.461-325.465    §§330.461-330.465

§§325.481-325.484    §§330.481-330.484

§§325.501-325.504    §§330.501-330.504

§§325.511-325.514    §§330.511-330.514

§§325.531-325.534    §§330.531-330.534

**Subchapter O. Guidelines for Regional and Local Solid Waste Management Plans**

§§325.561-325.568    §§330.561-330.568

**Subchapter P. Fees and Reports for Facilities**

§§325.601-325.603    §§330.601-330.603

§§325.621-325.623    §§330.621-330.623

§§325.631-325.633    §§330.631-330.633

§§325.641-325.643    §§330.641-330.643

**Subchapter Q. Memoranda of Agreement and Joint Rules with Other Agencies**

§§325.701-325.706    §§330.701-330.706

§325.721, §325.731    §330.721, §330.731

**Subchapter R. Management of Used and Scrap Tires**

§§325.801-325.803    §§330.801-330.803

§§325.805-325.809    §§330.804-330.808

§§325.811-325.818    §§330.809-330.816

§§325.821-325.828    §§330.817-330.824

§§325.831-325.848    §§330.825-330.842

§§325.851-325.856    §§330.843-330.848

§§325.861-325.867    §§330.849-330.855

§§325.871-325.878    §§330.856-330.863

§325.881    §330.864

**Subchapter S. Assistance Grants and Contracts**

§§325.890-325.897    §§330.890-330.897

**Subchapter X. Forms and Documents**

§§325.900-325.909    §§330.900-330.909

§§325.911-325.918    §§330.911-330.918

**Subchapter Y. Medical Waste Management**

§§325.1001-325.1009    §§330.1001-330.1009

**Subchapter Z. Waste Minimization and Recyclable Materials**

§§325.1051-325.1054    §§330.1051-330.1054

§§325.1101-325.1109    §330.1101-330.1109

§§325.1141-325.1152    §330.1141-330.1152

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# TITLE 34. PUBLIC FINANCE

## Part I. Comptroller of Public Accounts

### Chapter 3. Tax Administration

#### Subchapter Q. Franchise Tax

- 34 TAC §§3.391-3.395, 3.398-3.400, 3.404, 3.409, 3.414, 3.417

The Comptroller of Public Accounts adopts the repeal of §§3.391-3.395, 3.398-3.400, 3.404, 3.409, 3.414, and 3.417, concerning franchise tax, text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7704).

The sections are being repealed in order that they can be adopted under Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V.

No comments were received regarding adoption of the repeals.

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

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

Issued in Austin, Texas, on February 24, 1992

TRD-9202714  
Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: March 16, 1992

Proposal publication date: December 27, 1991

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

- 34 TAC §§3.541-3.543, 3.545-3.547, 3.550, 3.552-3.554, 3.570, 3.574

The Comptroller of Public Accounts adopts new §§3.541-3.543, 3.545-3.547, 3.550, 3.552-3.554, 3.570, and 3.574, concerning franchise tax, without changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7706).

The new sections replace 34 TAC, Subchapter Q, which is being repealed in order that it can be adopted under Texas Administrative Code, Title 34, Part I, Chapter 3, Subchapter V.

No comments were received regarding adoption of the new sections.

The new sections are adopted under 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 February 24, 1992.

TRD-9202713  
Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: March 16, 1992

Proposal publication date: December 27, 1991

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

#### Subchapter V. Franchise Tax

- 34 TAC §3.561

The Comptroller of Public Accounts adopts new §3.561, concerning enterprise zones, with changes to the proposed text as published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7706).

The new section sets out guidelines for corporations eligible for refunds and tax base reductions in accordance with legislation on enterprise zones.

Comments on the new section were received from the law firm of Johnson and Gibbs of Austin. They pointed out that subsections (i) and (j) appeared to be in direct conflict. Subsection (i) allows enterprise projects to file amended 1992 tax returns after August 31, 1993, to receive its 1992 franchise tax benefit. Subsection (j) does not. The firm felt that subsection (i) was the correct interpretation of the Tax Code and requested that subsection (j) be deleted from the adopted rule. The comptroller agreed and complied.

Another change may be found in subsection (g)(1). The sentence in the paragraph that read "The corporation's 1992 annual report (based on its June 10, 1991, fiscal year end) would be the first report in which it would be eligible for a taxable capital deduction under the Tax Code, §171.1015" was corrected. The date should have been June 30, 1991, instead of June 10, 1991.

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.

#### §3.561. Enterprise Zones.

(a) Except as otherwise provided in this section, the provisions of this section apply to franchise tax reports originally due on or after September 1, 1991.

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

(1) Enterprise project—A qualified business designated by the Texas Department of Commerce as an enterprise project under the Texas Enterprise Zone Act (Texas Civil Statutes, Article 5190.7) that is eligible for the state tax incentives provided by law for an enterprise project.

(2) Enterprise zone—An area of the state designated by the Texas Department of Commerce as an enterprise zone under the Texas Enterprise Zone Act (Texas Civil Statutes, Article 5190.7).

(3) New job—A new employment position that is:

(A) created by a qualified business that has provided employment to a qualified employee of at least 1,040 hours annually; and

(B) intended to be an employment position retained during the period the business is designated as an enterprise project.

(4) Qualified business—A person, including a corporation or other entity, that the Texas Department of Commerce certifies has met the necessary criteria specified under the Texas Enterprise Zone Act (Texas Civil Statutes, Article 5190.7).

(5) Qualified employee—An employee who works for a qualified business and who performs at least 50% of his service for the business within the enterprise zone.

(6) Qualified investment—Capital equipment or other investment that qualifies for depreciation for federal income tax purposes and that is placed in service in the enterprise zone not earlier than the 90th day before the date of designation as an enterprise project. The investment must be used in the normal course of business in the enterprise zone and must not be removed from the zone, except for repair and maintenance.

(c) A corporation may apply for a refund under the Tax Code, §171.501, each year that it is certified as eligible for refund by the Texas Department of Commerce.

(d) The comptroller shall issue a refund under the Tax Code, §171.501, after receiving certification from the Texas Department of Commerce that a qualified business has created 10 or more new jobs for qualified employees in its enterprise zone. The 10 or more new jobs must have been created during the calendar year containing the accounting year end on which the fran-

chise tax report is based. For example, a corporation with a June 30, 1992, accounting year end would be eligible for a refund of franchise tax paid on its 1993 annual report if 10 or more new jobs are created during the 1992 calendar year.

(e) If a corporation is eligible for a refund under the Tax Code, §171.501, on its initial report and that report includes a regular annual period, the corporation will be entitled to two refunds:

(1) a refund for the initial and second periods; and

(2) a refund for the regular annual period.

(f) Claims for refund under this section must be on the form provided by the comptroller for that purpose. The claim must indicate the report year in which franchise tax was paid. The claim must include certification from the Texas Department of Commerce that 10 or more new jobs have been created during the applicable calendar year.

(g) A corporation that the Texas Department of Commerce has certified to be a qualified business eligible for a tax deduction may elect to reduce either its apportioned taxable capital or apportioned taxable earned surplus in accordance with the Tax Code, §171.1015, on each report based on a fiscal year during all or part of which the corporation is designated an enterprise project. An election for an initial period applies to the second tax period and to the first regular annual period. This requirement is applicable to the first regular annual period whether it is included in the corporation's initial report or first annual report. Otherwise, the election will not be binding on the corporation for future reports.

(1) The deduction from apportioned taxable capital is limited to 50% of the depreciated value of qualified investments. For example, a corporation with a June 30 fiscal year end is designated as an enterprise project on January 3, 1991. The corporation's 1992 annual report (based on its June 30, 1991, fiscal year end) would be the first report in which it would be eligible for a taxable capital deduction under the Tax Code, §171.1015. The deduction would apply to qualified investments placed in service in the enterprise zone on or after January 3, 1991.

(2) The deduction from apportioned taxable earned surplus is limited to 5.0% of the depreciated value of qualified investments. For example, a corporation with a June 30 fiscal year end is designated as an enterprise project on January 3, 1991. The corporation would be eligible for the earned surplus deduction on its 1992 annual report (based on its June 30, 1991, fiscal

year end) under the Tax Code, §171.1015. The deduction would apply to qualified investments placed in service in the enterprise zone on or after January 3, 1991.

(h) A corporation must retain records substantiating its apportioned taxable capital or apportioned earned surplus deduction. The records must be verifiable by audit and include copies of invoices showing the items purchased, the date of purchase, and the cost of the purchase. The records must also reflect the depreciated value of the items purchased and show that these items were placed in service in the zone after the corporation's designation as an enterprise project.

(i) A corporation receiving its enterprise project designation after August 31, 1991, cannot claim a tax base deduction under the Tax Code, §171.1015, until after August 31, 1993. For example, a corporation with a November 30, 1991, fiscal year end is designated an enterprise project on September 30, 1991. The corporation could not claim the tax base deduction on its 1992 report until after August 31, 1993. An amended report would have to be filed at that time.

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

Issued in Austin, Texas, on February 20, 1992.

TRD-9202598

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: March 12, 1992

Proposal publication date: December 27, 1991

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

## Subchapter X. Pari-Mutuel Wagering Racing Revenue

### • 34 TAC §3.641

The Comptroller of Public Accounts adopts an amendment to §3.641, concerning pari-mutuel wagering, with changes to the proposed text as published in the January 17, 1992, issue of the *Texas Register*: (17 TexReg 390).

The purpose of the amendment is to revise and clarify the responsibilities of horse and greyhound racing associations licensed by the Texas Racing Commission with regard to collection, deposit, reporting, and accounting for the state portion of pari-mutuel wagering revenues and related funds; minimum standards for pari-mutuel wagering equipment used to compute the state share of pari-mutuel wagering revenues to reflect amendments to the Texas Racing Act enacted by the 72nd Legislature, 1991.

The first change occurs in subsection (b)(1)(C) where the reference to "sending track" was changed to "sending association." The second change is in subsection (g) and relates to the notification of live and simulcast race dates to the comptroller.

No comments were received regarding adoption of the amendment.

The amendment is adopted under Texas Civil Statutes, Article 179e, §4.03, which provide the comptroller with the authority to adopt rules relating to the administration and enforcement of the provisions of the Texas Racing Act.

### §3.641. *Pari-Mutuel Wagering.*

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

(1) Association—A horse or greyhound association licensed by the commission to conduct races with pari-mutuel wagering or the authorized agent of such an association.

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

(D) Class 4 association—An association licensed by the commission as a Class 4 association for the purpose of conducting horse races with pari-mutuel wagering.

(E) Greyhound association—An association licensed by the commission for the purpose of conducting greyhound races with pari-mutuel wagering.

(F) Receiving association—A licensed racetrack association in this state that has been allocated live dates simulcasting or a simulcast race meeting, or a facility not located in this state that is authorized to conduct wagering under the law of the jurisdiction in which it is located.

(G) Sending association—A licensed association for racing in this state or out-of-state from which a race is transmitted.

(2) (No change.)

(3) Common pool—A pool in which the wagers received at a receiving location are combined with the wagers received at a sending racetrack.

(4) Communications facilities—Facilities which include all wire, radio, optical, satellite, or other electromagnetic systems and the modems, phone systems, and other equipment used to transmit voice, data, and images.

(5) Comptroller—The Comptroller of Public Accounts or an authorized agent of the Comptroller of Public Accounts.

(6) Live pari-mutuel pool—The total amount of money wagered by patrons on the result of a particular live race or combination of live races within the enclosure of the racetrack association where the race is being run.

(7) Simulcast—The telecast or other transmission of live audio and visual signals of a race, transmitted from a sending track to a receiving location, for the purpose of wagering conducted on the race at the receiving location.

(8) Simulcast pari-mutuel pool—The total amount of money wagered by patrons at a licensed racetrack association in Texas on the result of a particular simulcast race or combination of simulcast races.

(9) Simulcast race meeting—The dates to conduct simulcast pari-mutuel wagering only, while conducting no live races.

(10) State approved depository—A bank approved as a depository of state funds by the state depository board.

(11) Totalisator company—A company selling, leasing, servicing, maintaining, or operating automated electronic computer hardware and software to calculate, record, display, and store pari-mutuel wagering information.

(b) Collection/deposit of the state's share from live and simulcasting pari-mutuel wagering revenues; reports to the comptroller.

(1) Reporting and payment of the state's share of simulcast pari-mutuel pools shall be in accordance with this subsection.

(A) The sending association is responsible for reporting and payment of the state's share from pari-mutuel wagering revenues derived from simulcast intrastate common pools.

(B) Each association is responsible for reporting and payment of the state's share from pari-mutuel wagering revenues derived from simulcast intrastate separate pools and simulcast interstate, separate, or common pools.

(C) The sending association must provide a copy of each simulcasting agreement or amendment(s) to the comptroller within 72 hours after such agreement or amendment(s) is approved by the commission. If interstate simulcasting is involved, the agreement or amendment(s)

must be provided by the association located in Texas.

(2) In each locality with licensed Class 1, Class 2, or greyhound associations, the state treasurer has agreed to open an interest-bearing account in a local state-approved depository to be used for deposit of the state share of pari-mutuel wagering proceeds.

(3) After each racing day, a representative of a Class 1, Class 2, or greyhound association shall deposit to the state account by 10 a.m. of the next banking day the state's total share from the live and simulcasting pari-mutuel pools for all races on which wagers were placed since the last deposit.

(4) All deposits to the state account must be in cash or by check drawn on an association account in the state-approved depository bank or by telephone transfer from an association account in the state-approved depository bank.

(A) (No change.)

(B) Class 3 and Class 4 associations must transmit a check covering the amount of the state's share to the comptroller by 10 a.m. of the next banking day after the performance by express mail for one-day delivery. The check must be attached to the performance pari-mutuel summary report.

(5) After each racing performance, information must be reported to the comptroller.

(A) Live pari-mutuel pools. At the close of each racing performance, the association shall complete the Texas Pari-Mutuel Performance Summary Report. This report shall be filed for each racing date authorized by the commission even if no races are held.

(B) Interstate simulcast pools. At the close of each racing performance, if the association is receiving the races from an out-of-state destination, the pari-mutuel wagering revenues derived from these races shall be reported on the Texas Pari-Mutuel Performance Summary Report and the Texas Pari-Mutuel Performance Supplemental Report. This report shall be filed for each racing day authorized by the commission even if no races are held.

(C) Intrastate simulcast common pools. At the close of each racing performance, the sending association shall report the pari-mutuel wagering revenues on the Texas Pari-Mutuel Performance Sum-

mary Report and the Texas Pari-Mutuel Supplemental Report. The receiving association shall also complete the Texas Pari-Mutuel Performance Supplemental Report. The pari-mutuel wagering revenues shall be derived from simulcast intrastate combined pari-mutuel pools. These reports shall be filed for each racing day authorized by the commission even if no races are held.

(D) Intrastate simulcast separate pools. At the close of each racing performance, the receiving association shall complete the Texas Pari-Mutuel Performance Summary Report and the Texas Pari-Mutuel Performance Supplemental Report. This report shall be filed for each racing date authorized by the commission even if no races are held.

(E) Class 1, Class 2, and greyhound associations shall transmit a copy of the completed reports to the comptroller by facsimile equipment no later than 10 a.m. of the next banking day following a performance. Class 3 and Class 4 associations must transmit the completed report(s) to the comptroller along with the payment of the state's share by 10 a.m. of the next day by overnight or express mail.

(6) If problems exist in telephone transmission or other breakdown in the facsimile equipment and copies of the reports cannot be transmitted by telephone transmission and facsimile equipment because of these problems, then associations shall send such reports to the comptroller by overnight mail or overnight private delivery service.

(7) Originals of the reports of which copies have been transmitted to the comptroller by facsimile equipment shall be preserved in chronological order with other association records. Class 3 and Class 4 associations shall preserve copies of the reports that have been mailed to the comptroller, in chronological order, at association offices located at the track or at such other location as may be agreed to in writing by the comptroller. These reports shall be available for audit inspection.

(c) Associations with pari-mutuel wagering to post bond or other security.

(1) Associations will be responsible for the state's share of the pari-mutuel pool from the time a ticket is sold and the money is collected until the money is deposited to the state account.

(2) All associations shall be bonded or otherwise secured in an amount estimated by the comptroller to be five times the highest daily state's share of the pari-mutuel pool for the period covered by the bond. The bond will cover the state's share of the pari-mutuel pool.

(3) (No change.)

(4) The bond or other security shall be approved by and filed with the comptroller.

(A) The comptroller may require the posting of new or additional bond or security if:

(i) the comptroller determines the amount of bond or other security deposited to be inadequate; or

(ii) the comptroller determines that an association is delinquent in payment of an amount due; or

(iii) a surety gives the comptroller written notice of its intent to withdraw as surety.

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

(5)-(7) (No change.)

(d) Equipment required; responsibilities of companies contracting to provide equipment.

(1) Each association licensed for pari-mutuel wagering shall use totalisator company equipment and software that satisfies the record-keeping and reporting requirements of the comptroller. The association must provide a copy of the totalisator contract or amendment(s) to the comptroller within 72 hours after such contract or amendment(s) is approved by the commission.

(A) (No change.)

(B) The association must install two separate devices which will cause the tote system to stop betting. The primary device will be installed accessible to association stewards or judges to be used to issue the stop betting command during normal operations. The second device (backup) is to be installed in the totalisator room and used by the pari-mutuel manager or the totalisator operator to issue the stop betting command in cases where hardware malfunction or human error does not cause the tote system to stop betting at the appropriate time.

(C) The totalisator system must have the capability of restricting the cancelling of wagers to the last four tickets issued by a machine (to be cancelled by that machine). If the ticket is not in the last four it must be cashed through designated cash/sell terminals only with the appropriate approvals. All manually cashed wagers, cancelled wagers, and refunds issued, must be recorded by the totalisator system for each cash/sell terminal. A detailed printed report of these transactions must be gener-

ated upon request of the comptroller, including a summary of each transaction type.

(D)-(G) (No change.)

(H) A waiver may be granted from these requirements for totalisator systems temporarily installed at Class 3 and Class 4 associations upon a showing to the comptroller's satisfaction that unnecessary expense would be incurred in complying with the requirements, and that the system can be made to function properly without meeting these requirements.

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

(4) Totalisator equipment and software must be installed on-site and a series of system checkout programs designated by the comptroller must be executed by the totalisator company. At Class 1, Class 2, and greyhound associations this shall occur at least 48 hours before the start of each racing meeting. No changes shall be made in the programming after the tests are completed without the permission of the comptroller.

(5) In addition to the information referenced in subsection (d)(4) of this section, the comptroller may at any time, without prior notice, test or have tested the totalisator equipment or software and the communications facilities.

(6) Any malfunction of equipment hardware, software, or communications facilities which results in loss or delay of required report data and any processor down time, regardless of whether it results in loss or delay of required report data, shall immediately be reported by the association to the comptroller when the performance pari-mutuel summary report form is filed.

(7)-(8) (No change.)

(e) Audit; appeal of audit findings.

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

(3) All computer tapes, computer programs, and books and records used to record, display, calculate, or report the state's share shall be maintained by the association or the totalisator company and shall be stored in chronological order in a disaster-proof environment to insure the integrity of the data and made available for inspection in a format compatible with the comptroller's equipment at any time without advance notice. Class 1, Class 2, and greyhound associations shall maintain their records at an association office at the track. Class 3 and Class 4 associations shall preserve the originals of these records at association offices located at the track or at such other location as may be agreed to in writing by the comptroller.

(4)-(5) (No change.)

(F) Sanctions.

(1) The comptroller will immediately certify to the commission the violation by the association or its agents of a rule promulgated by the comptroller; the failure or refusal of an association to pay all or any part of funds due the state or to file reports when due; the failure or refusal of an association to allow inspection of reports and records; the failure or refusal of an association to allow testing of the totalisator equipment or software or the communications facilities; the failure or refusal of an association to post bond in the amount required; or the failure or refusal of an association to keep and retain the records required by the comptroller.

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

(g) Notification of live and simulcast race dates to the comptroller.

(1) Each association shall notify the comptroller in writing of any makeup or replacement race date(s) approved by the commission prior to that date.

(2) Each calendar year, each association, whether sending or receiving, shall provide to the comptroller in writing a schedule of simulcast race date(s) prior to the first simulcast race date. This schedule shall include the format of the simulcast pari-mutuel pool and the associations involved. If any changes are made to the simulcast race date(s) after the schedule has been submitted to the comptroller, each association, whether sending or receiving, shall notify the comptroller in writing of the changes prior to the changed simulcast date.

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

Issued in Austin, Texas, on February 26, 1992.

TRD-9202815

Martin Cherry  
Chief, General Law  
Section  
Comptroller of Public  
Accounts

Effective date: March 18, 1992

Proposal publication date: January 17, 1992

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



# TITLE 40. SOCIAL SERVICES AND ASSISTANCE

## Part I. Texas Department of Human Services

### Chapter 48. Community Care for the Aged and Disabled

#### Program for All-Inclusive Care for the Elderly (PACE)

##### • 40 TAC §48.2811

The Texas Department of Human Services (DHS) adopts new §48.2811 concerning program for all-inclusive care for the elderly (PACE), without changes to the proposed text

as published in the January 14, 1992, issue of the *Texas Register* (17 TexReg 314).

Justification for the new section is that the public will have a clear understanding of the Beinivir Waiver Program reimbursement methodology.

The section will function by establishing the reimbursement methodology to be used to set the rate for the Beinivir Waiver program. Beinivir Senior Health Services will provide comprehensive health care services to frail elderly persons who are eligible for institutional care.

No comments were received regarding adoption of the new section.

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

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

Issued in Austin, Texas, on February 21, 1992.

TRD-9202671

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

Effective date: March 15, 1992

Proposal publication date: January 14, 1992

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

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## Texas Department of Insurance Exempt Filing

Notification Pursuant to the Insurance Code, Chapter 5, Subchapter L

*(Editor's note: As required by the Insurance Code, Article 5.96 and Article 5.97, the Register publishes notices of actions taken by the State Board of Insurance pursuant to Chapter 5, Subchapter L, of the Code. Board action taken under these articles is not subject to the Administrative Procedure and Texas Register Act.*

*These actions become effective 15 days after the date of publication or on a later specified date.*

*The text of the material being adopted will not be published, but may be examined in the offices of the State Board of Insurance, 333 Guadalupe, Austin.)*

The State Board of Insurance has adopted amendments to the Standard Provisions for Automobile Policies (the Standard Provisions), in regard to minimum coverage for the Texas Personal Auto Policy.

These amendments are being made primarily as a result of a new statute designated as House Bill 2 in the 72nd Legislature, 1991. That statute amended the Insurance Code, Article, 5.06(1) to require the board to adopt a policy form and endorsements for each type of motor vehicle insurance subject to the Insurance Code, Chapter 5, Subchapter A. The coverage provided by such a form is the minimum coverage that may be provided under an insurance policy for that type of insurance in this state. The order amends the standard provisions in regard to personal automobile insurance only.

The new Texas Personal Auto Policy (PAP), including its special instructions and reference notes, is the minimum coverage form to be used for personal auto insurance for all policies that become effective on and after 12:01 a.m., March 1, 1992. However, it is the board's intent to allow sufficient time for insurers to use at least some of their existing supply of old policy forms and endorsement forms. Therefore, an insurer may use the existing PAP and amendatory endorsement

forms in effect immediately prior to the order for all policies that become effective prior to 12:01 a.m., September 1, 1992, provided such policies also include new Endorsement 594. Endorsement 594 has numerous provisions that bring the existing PAP into substantive conformance with the new PAP.

Many of the differences between the new PAP and the existing PAP are editorial in nature, and are set forth only in the exhibits to the order; however, the most substantive changes are also described in the body of the Order. First, the liability coverage is amended to include prejudgment interest within the description of damages which the insurer will pay on behalf of a covered person. This change makes the policy conform in this respect to the forms being used in most other states, and it broadens coverage.

An exclusion under liability coverage and an exclusion under physical damage coverage, are modified to specify that these exclusions apply to a loss resulting from seizure of an auto by law enforcement officers as evidence in a case against the insured under certain statutes if a conviction results. These changes result from a new statute designated as House Bill 1827 in the 71st Legislature, 1989.

Under medical payments coverage and under personal injury protection coverage, new provisions are made concerning assignment of payment for medical expenses in order to comply with the previously mentioned House Bill 2. These changes result in the addition of a clause to the general provisions portion of the policy, referencing such changes.

In the coverage for uninsured/underinsured motorists, the definition of "underinsured motor vehicle" (which is also deemed an "uninsured motor vehicle") is reworded to conform more clearly with the interpretation of the Texas Supreme Court in the Stracener case. For that same reason, this coverage's limit of liability provision, clause A.II. is amended to specify more clearly the rights of the policyholder.

The general provisions of the policy are amended to require that any premium refund is to be made on a pro rata basis, subject to the policy minimum premium. This change corresponds with a proposed change to the cancellation rule and policy minimum premium rule, by which short rate refunds will be eliminated. The result will be larger refunds when cancellations are made by the policyholder.

The amendments to the standard provisions are adopted for policies that become effective 15 days after the notification of this order is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.96, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on February 25, 1992.

TRD-9202800

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

Effective date: March 18, 1992

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

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The State Board of Insurance adopted the new Texas Automobile Rules and Rating Manual (the rating manual) and amending to the Automobile Liability Experience Rating Plan (the plan).

These amendments are being made primarily as a result of a new statute designated as House Bill 2 in the 72nd Legislature, 1991. That statute added to the Insurance Code a new Article 5.101, of which §3(g)(1) requires the board to adopt "a rating manual of classi-



fications and territories for each line subject to" the Insurance Code, Chapter 5, Subchapter M. Automobile insurance is a line that is subject to the newly created Subchapter M, and one function of the order is to revise and to rename the manual as the Texas Automobile Rules and Rating Manual (the rating manual).

House Bill 2 also amended the Insurance Code, Article 5.06(1) to require the board to adopt a policy form and endorsements for each type of motor vehicle insurance subject to the Insurance Code, Chapter 5, Subchapter A. The coverage provided by such a form is the minimum coverage that may be provided under an insurance policy for that type of insurance in this state. The order amends the endorsements in the endorsement supplement of the rating manual.

The other major function of the order is to revise the automobile liability experience rating plan for experience rating to comply with the provisions of House Bill 2. That manual retains its present title, and is called merely "the plan" in the order. Many of the differences between the existing plan and the revised plan are editorial in nature, and are set forth only in the exhibits attached to the order. However, the order also contains outline materials entitled, "Changes to the Experience Rating Plan/Summary," which describe some of the editorial changes, as well as substantive changes being made.

The most notable changes to the plan for experience rating are as follows: An exemption from experience rating is established for policies written on a combined single limit basis with either a bodily injury or property damage deductible equal to or greater than basic limits. Prior to March 1, 1992, the Insurance Code prohibits the application of deviations to an experience rated risk. On and after March 1, 1992, House Bill 2 does not prohibit applying the flex rates to experience rated risks. A clarification of how a flex rate will apply to an experience rated risk is provided by example. Clarification is made that there are two places where rating information can be obtained, subject to the stated requirements.

Many of the differences between the existing manual and the new rating manual are editorial in nature, and are set forth only in exhibits attached to the order. However, the order contains outline materials entitled, "Outline of Conversion/The Texas Automobile Manual to the Texas Automobile Rules and Rating Manual," which describe many of the editorial changes as well as substantive changes being made.

The most notable differences between the existing manual and the new rating manual are as follows: Existing references to the "State Board of Insurance" are changed to the "Texas Department of Insurance" throughout the rating manual where appropriate. Existing references to "standard rates" and "manual rates" are changed to "benchmark rates" throughout the rating manual. Existing references to the "Texas Automobile Insurance Service Office" (TAISO) are changed to "the department or a qualified entity" throughout the rating manual to use a more generic term to designate a nondepartmental entity rather than the mention of a specific organization. The existing \$10 mini-

mum premium in Rule 10 is increased to \$25 because of the change in Rule 13 that eliminates short rate calculation of premium refund, thereby eliminating the penalty for an insured requesting cancellation. The endorsements that have been deleted through merger into a new endorsement are referenced on an exhibit attached to the order. The endorsements to be phased out by September 1, 1992, are listed on an exhibit attached to the order. The reasons for amending the various commercial endorsements are briefly referenced on an outline exhibit attached to the order. Endorsement NR-1A eliminates short rate calculation of premium refund, thereby eliminating the penalty for an insured requesting cancellation of the non-resident policy. Rule 74 is amended by adding a new Section G regarding adult operator age and mileage discounts. These discounts are optional by the insurer, but any discount elected must be applied uniformly to the applicable classes and coverages. The order incorporates by reference the entire board ruling issued on January 15, 1992, adding a new rule to the rating manual and amending the personal auto policy regarding payment of premiums by installments.

The amendments to the rating manual and to the plan are adopted effective 15 days after publication of the notification of this order in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

Issued in Austin, Texas on February 25, 1992.

TRD-9202801 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date: March 18, 1992

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



The State Board of Insurance has adopted amendments to the Standard Provisions for Automobile Policies (the standard provisions), in regard to minimum coverage for other than the Personal Auto Policy.

These amendments are being made primarily as a result of a new statute designated as House Bill 2 in the 72nd Legislature, 1991. That statute amended the Insurance Code, Article 5.06(1) to require the board to adopt a policy form and endorsements for each type of motor vehicle insurance subject to the Insurance Code, Chapter 5, Subchapter A. The coverage provided by such a form is the minimum coverage that may be provided under an insurance policy for that type of insurance in this state. This order amends the standard provisions in regard to the Business Auto Coverage Form (BAP), Garage Coverage Form, Truckers Coverage Form, Excess Liability Policy, Mobilowners Policy, the Non-resident Auto Policy, Mechanical Breakdown Policies, and the single interest forms.

The new policies, including their special instructions, general instructions, and reference notes attached to the order, are the minimum coverage forms to be used for auto insurance policies that become effective on and after 12:01 a.m., March 1, 1992. However, it is the board's intent to allow sufficient time for insurers to use at least some of their existing supply of old policy forms and endorsement forms. Therefore, an insurer may use the existing policy forms and amendatory endorsement forms in effect immediately prior to the order for all policies that become effective prior to 12:01 a.m., September 1, 1992, provided such policies also include the appropriate endorsements and revised declarations pages, which are attached to the order. However, the previous procedure cannot be used for the Excess Liability Policy, as there is no endorsement to bring the old form into compliance with the new forms.

Many of the differences between the new forms and the existing forms are editorial in nature, and are set forth only in the exhibits to the order. However, the order also has attached outlines, entitled "Summary of Changes to Commercial Endorsement TE 00 30D" and "Summary of Changes for the Texas Standard Provisions for Automobile Insurance Policies," which describe many editorial changes, as well as substantive changes being made.

The most notable changes are as follows: The requirements for the display of an insurer's toll free telephone number are shown in the general instructions, special instructions, or reference notes for each policy form. Each policy form (other than single interest forms and mechanical breakdown forms) is revised to require pro rata refund, regardless of how cancellation occurs. Each reference in the policy form to the Texas Automobile Insurance Service Office is revised to "a qualified entity." The BAP, Garage, and Truckers policies are modified specifically to exclude coverage for seizure of an auto by law enforcement officers under a controlled substances statute. (These exclusions comply with House Bill 1827, 71st Legislature, 1989.

The amendments to the standard provisions are adopted for policies that become effective 15 days after the notification of this order is published in the *Texas Register*.

This notification is made pursuant to the Insurance Code, Article 5.97, which exempts it from the requirements of the Administrative Procedure and Texas Register Act.

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

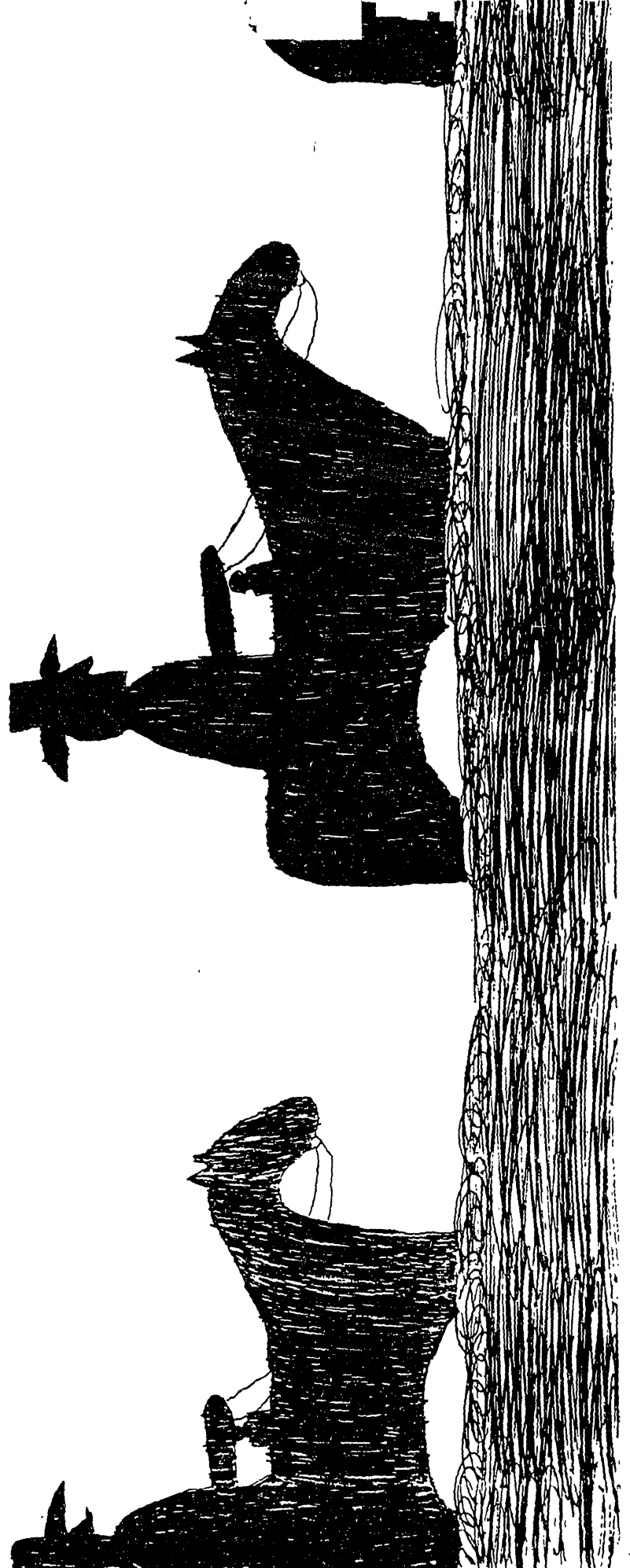
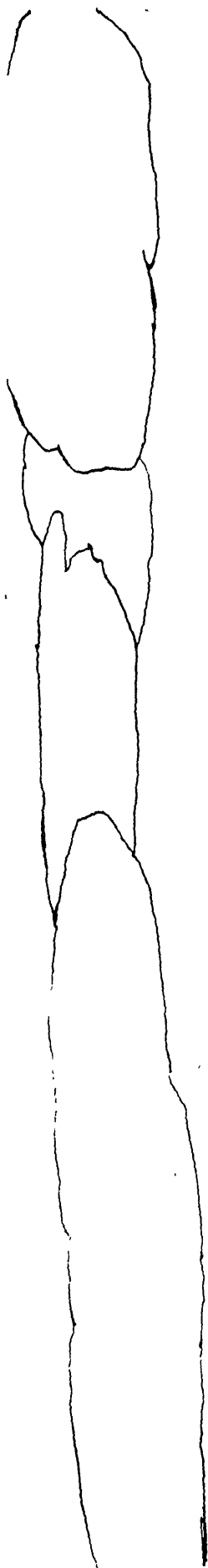
Issued in Austin, Texas, on February 25, 1992.

TRD-9202802 Linda K. von Quintus-Dorn  
Chief Clerk  
Texas Department of  
Insurance

Effective date: March 18, 1992

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





Name: Sarah Kimberly

Grade: 4

School: Kuehnle Elementary School, Klein ISD

# Open Meetings

Agencies with statewide jurisdiction must give at least seven days notice before an impending meeting. Institutions of higher education or political subdivisions covering all or part of four or more counties (regional agencies) must post notice at least 72 hours 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, March 5, 1992, 9 a.m.** The Texas State Board of Public Accountancy will meet at 1033 La Posada, Suite 340, Austin. According to the agenda summary, the board will discuss approval of the January 16, 1992, meeting minutes; hear committee reports (executive committee, technical standards review, behavioral enforcement and examination committee); request for reinstatement; report of the constructive enforcement committee; report of the ad hoc committee on drug and alcohol abuse; adoption of board rules-§515.5 (reinstatement); §519.32 (prefiled and objections); §519.33 (supplementing prefiled testimony and objections); §519.34 (forms and scope of discovery; protective orders); §519.35 (stipulations regarding discovery procedure); §519.36 (discovery and production of documents and things for inspection copying, or photography); §519.37 (interrogatories to parties); §519.38 (requests for admissions); §519.39 (subpoena of witnesses and for the production of documentary evidence); §519.40 (form of subpoena); §519.41 (witness shall attend hearing); §519.42 (evidence); §519.43 (issuance of commission to take deposition); §519.44 (witness shall comply with discovery); §519.45 (submission to witness; changes; signing); §519.46 (use of deposition transcripts in board proceedings); §501.46 (form practice); §513.31 (general rules); §513.32 (application for registration of a limited liability company); §513.33 (partnership rules apply); §513.34 (limited liability company); §513.35 (certification of franchise tax status); §505.10 (board committees); ratification of board orders; consent orders and proposals for decision; review of certain board communications; review of future meeting/hearing schedules; and meet in executive session to consult with legal council on likely litigation concerning R. H. Hartman, Complaint Number 90-06-03L. Given reasonable notice, the board will provide an interpreter for the hearing impaired.

**Contact:** William Treacy, 1033 La Posada, Suite 340, Austin, Texas 78752-3892.

**Filed:** February 26, 1992, 10:58 a.m.

TRD-9202829

## Texas Department of Agriculture

**Tuesday, March 3, 1992, 7 p.m.** The Southern Rolling Plains Cotton Producers Board of the Texas Department of Agriculture will meet at the Miles Co-operative Gin, 1 1/2 Miles Northwest of Miles, FM 1692, Miles. According to the agenda summary, the board will read and discuss approval of the minutes; treasurer's report; report of activities; committee reports; reports from special guests with discussion and action on proposals; and discuss and act on old and new business.

**Contact:** Sid Long, P.O. Box 30036, San Angelo, Texas 76903, (915) 453-2383.

**Filed:** February 21, 1992, 10:58 a.m.

TRD-9202622

**Tuesday, March 10, 1992, 10 a.m. (rescheduled from February 27, 1992).** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold a continuation of previous administrative hearing held on December 17, 1991 regarding TDA Docket Number 53-91-AEP, Texas Department of Agriculture versus Laurie Russel.

**Contact:** Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

**Filed:** February 21, 1992, 10:58 a.m.

TRD-9202623

**Tuesday, March 17, 1992, 9 a.m.** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F.

Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violations of Texas Agriculture Code, §74.003 (Vernon 1992) and 4 TAC §§6.1-6.4 by Juan Mendez, Antonio Quintanilla, Manuel Quinanilla and Josa Quintilla, TDA Docket Number 11-92-PM.

**Contact:** Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

**Filed:** February 26, 1992, 2:28 p.m.

TRD-9202849

**Tuesday, March 17, 1992, 1 p.m.** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agriculture Code, §74.003 (Vernon 1992) and 4 TAC, §§6.1-6.4 by Juan Mendez, Antonio Quintanilla, Manuel Quintanilla and Josa Quintanilla, TDA Docket Number 09-92-PM.

**Contact:** Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

**Filed:** February 26, 1992, 2:28 p.m.

TRD-9202848

**Wednesday, March 25, 1992, 9 a.m.** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violations of Texas Agricultural Code, §74.003 (Vernon 1992) and 4 TAC §§6.1-6.4 by Cruz Quintalla Farms, TDA Docket Number 7-92-PM.

**Contact:** Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

Filed: February 26, 1992, 2:28 p.m.

TRD-9202847

**Thursday, March 26, 1992, 9 a.m.** The Texas Department of Agriculture will meet at the Texas Department of Agriculture, 1700 North Congress Avenue, Stephen F. Austin Building, Room 928B, Austin. According to the complete agenda, the department will hold an administrative hearing to review alleged violation of Texas Agricultural Code §74.003 (Vernon 1992) and 4 TAC §§6.1-6.4 by Roy Renfrow Farm, Inc. and Jessie and Frances Cromack, TDA Docket Number 06-92-PM.

**Contact:** Barbara B. Deane, P.O. Box 12847, Austin, Texas 78711, (512) 463-7448.

TRD-9202846

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**Texas Alcoholic Beverage Commission**

**Tuesday, February 25, 1992, 11 a.m.** The Texas Alcoholic Beverage Commission met at 5806 Mesa, Room 180, Austin. According to the complete emergency revised agenda, the commission approve TABC participation in Project "STOP" (Stop Trafficking on Premises) under a Texas narcotics control program grant with approval from the Governor's Criminal Justice Division. The emergency status was necessary as grant application had to be made March 1, 1992, and this opportunity had just been presented to the commission.

**Contact:** Jeannene Fox, P.O. Box 13127, Austin, Texas 78711, (512) 458-2500.

**Filed:** February 20, 1992, 1:48 p.m.

TRD-9202585

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**Texas Bond Review Board**

**Tuesday, March 10, 1992, 10 a.m.** The Staff Planning Committee of the Texas Bond Review Board will meet at the Reagan Building, 105 West 15th Street, Room 101, Austin. According to the agenda summary, the committee will call the meeting to order; discuss approval of minutes; discuss proposed issues; other business; and adjourn.

**Contact:** Tom K. Pollard, 506 Sam Houston Building, 201 East 14th Street, Austin, Texas 78701, (512) 463-1741.

**Filed:** February 24, 1992, 4:57 p.m.

TRD-9202748

**Texas Board of Chiropractic Examiners**

**Thursday, March 5, 1992, 10 a.m.** The Texas Board of Chiropractic Examiners will meet at 8716 MoPac Expressway North, Suite 301, Austin. According to the complete agenda, the board will hold a public hearing to solicit comments on proposed rules; rules proposed include §§75.7, 80.6, 71.10, 73.3, 75.1, 75.6, 77.3, 77.5, 80.1, 80.5, 80.7, 80.8, 80.9, and 81; copies of these rules will be available at the hearing; and comments or suggestions may be presented in person at the hearing, or may be submitted in writing to the board.

**Contact:** Jennie Smetana, 8716 MoPac Expressway North, Suite 301, Austin, Texas 78759, (512) 343-1895.

**Filed:** February 26, 1992, 8:48 a.m.

TRD-9202813

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**Coastal Coordination Council**

**Thursday, March 5, 1992, 10 a.m.** The Coastal Coordination Council will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the complete agenda, the council will hold swearing in of new council members; discuss development grant proposal for NOAA; and discuss council procedural rules.

**Contact:** Jerry Lenihan, 1700 North Congress Avenue, Room 630, Austin, Texas 78701, (512) 463-5311.

**Filed:** February 25, 1992, 11:43 a.m.

TRD-9202770

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**Texas Cosmetology Commission**

**Sunday, March 1, 1992, 9:30 a.m.** The Building, Instructor Exam, Inspector Oversight, Curriculum, Continuing Education, Special Committees of the Texas Cosmetology Commission met at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the complete agenda, the committees discussed curriculum.

**Contact:** Alicia C. Ayers, 5717 Balcones, Austin, Texas 78731, (512) 454-4674.

**Filed:** February 20, 1992, 3:34 p.m.

TRD-9202604

**Sunday, March 1, 1992, 1 p.m.** The Texas Cosmetology Commission met at the Radisson Plaza Hotel, 700 San Jacinto Street, Austin. According to the complete agenda, the commission called the meeting to order; made introductions; heard minutes from February 11, 1992, November 2,

1991, and November 23, 1991, commission meetings; heard committee reports and possibly voted; and adjourned.

**Contact:** Alicia C. Ayers, 5717 Balcones, Austin, Texas 78731, (512) 454-4674.

**Filed:** February 20, 1992, 3:34 p.m.

TRD-9202603

◆ ◆ ◆  
**Texas State Board of Examiners of Professional Counselors**

**Thursday, March 5, 1992, 10 a.m.** The Texas State Board of Examiners of Professional Counselors will meet at the Rider-Aviall Executive Air Terminal, Dallas Love Field Conference Room, Dallas. According to the complete agenda, the board will meet in executive session to discuss the evaluation, designation and duties of the board's executive secretary; and the board will meet in open session to discuss and possibly act on the evaluation, designation and duties of the board's executive secretary.

**Contact:** Jim Zukowski, 1100 West 49th Street, Austin, Texas 78756, (512) 834-6628.

**Filed:** February 26, 1992, 4:06 p.m.

TRD-9202858

◆ ◆ ◆  
**Texas Education Agency**

**Saturday, February 29, 1992, 10 a.m.** The State Board of Education Committee on Students of the Texas Education Agency met at the William B. Travis Building, 1701 North Congress Avenue, Room 1-104, Austin. According to the complete agenda, the committee discussed proposed changes in the student assessment system and proposed new 19 TAC Chapter 101, assessment, and other related curriculum and assessment issues.

**Contact:** Marvin Veselka, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9533.

**Filed:** February 21, 1992, 3:43 p.m.

TRD-9202683

**Tuesday-Wednesday, March 3-4, 1992, 8 a.m.** The Commission on Braille Textbook Production of the Texas Education Agency will meet at the Region IV Education Service Center, 7145 West Tidwell, Conference Room A, Houston. According to the agenda summary, on Tuesday, the commission will call the meeting to order and welcome guests; make announcements; chairman's remarks; review of the Texas Braille program and recent textbook decisions by the State Board of Education; report on actions to acquire diskettes; status

report from Braille producers on quality of diskette files; two concurrent sessions-from 10: 15 a.m. until 12:15 p.m.-subcommittee on workbooks and materials and joint meeting of the technical format, systems directory and timeline subcommittees; two concurrent sessions-1:30 p.m. until 3:30 p.m.-joint meeting of the educational format, teacher/student reactions to textbooks, interlining, and graphics subcommittees and joint meeting of the long-range planning and Braille textbook production on a national level subcommittees; open forum and public comment. On Wednesday, the meeting will be called to order and hear chairman's remarks; reports from subcommittees; future commission activities; and comments from the public.

**Contact:** Charles Mayo, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9601.

**Filed:** February 21, 1992, 3:48 p.m.

TRD-9202684

**Thursday, March 5, 1992, 8:30 a.m.** The Texas Successful Schools Award System Advisory Committee will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the complete agenda, the committee discussed approval of minutes; meeting with Commissioner Meno; recommend final criteria for awards; final recommendations on format and content for application form; update from fund raising committee; discuss issues related to the awards ceremony; revision of time line; and schedule next meeting date.

**Contact:** Leigh Sharpe, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-9524.

**Filed:** February 21, 1992, 4:06 p.m.

TRD-9202687

**Friday, March 6, 1992, 9 a.m.** The Task Force of Various State Agencies the Regulate Proprietary Schools of the Texas Education Agency will meet at the William B. Travis Building, 1701 North Congress Avenue, Room 2-115, Austin. According to the complete agenda, the task force, comprised of staff from the Texas Education Agency, Texas Guaranteed Student Loan Corporation, and other state agencies' actions to improve program quality and reduce default rates. The task force will then summarize the meeting and discuss the next meeting of the task force.

**Contact:** Dee Dednar, 1701 North Congress Avenue, Austin, Texas 78701, (512) 463-3560.

**Filed:** February 21, 1992, 4:06 p.m.

TRD-9202686

## Educational Economic Policy Center

**Monday, March 2, 1992, 9 a.m.** The Subcommittee on Accountability Study of the Educational Economic Policy Center met at the Joe C. Thompson Conference Center, Room 1.126, Austin. According to the complete agenda, the subcommittee discussed proposed university work plans; and other business.

**Contact:** Mary Ward, SRH 3.310, UT-Austin, Austin, Texas 76701, (512) 471-7561.

**Filed:** February 21, 1992, 3:09 p.m.

TRD-9202680

## Texas Employment Commission

**Tuesday, February 25, 1992, 8:30 a.m.** The Texas Employment Commission met at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the emergency revised agenda summary, the commission added to Docket 8 benefits case #MR91-11593-10-102291. The emergency status was necessary to retain jurisdiction and considered effects of procedural error.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** February 21, 1992, 3:32 p.m.

TRD-9202682

**Tuesday, March 3, 1992, 8:30 a.m.** The Texas Employment Commission will meet at the TEC Building, 101 East 15th Street, Room 644, Austin. According to the agenda summary, the commission will discuss prior meeting notes; meet in executive session to discuss Administaff, Inc. versus James Kaster, et al.; and relocation of agency headquarters; actions, if any, resulting from executive session; hear staff reports; internal procedures of commission appeals; consideration and action on tax liability cases and higher level appeals in unemployment compensation cases listed on Commission Docket 9; and set date of next meeting.

**Contact:** C. Ed Davis, 101 East 15th Street, Austin, Texas 78778, (512) 463-2291.

**Filed:** February 24, 1992, 2:06 p.m.

TRD-9202733

## Feed and Fertilizer Control Service

**Tuesday, March 10, 1992, 10 a.m.** The Executive Council of the Feed and Fertilizer Control Service will meet at the Texas A&M Campus, Rudder Tower, Room 404, College Station. According to the complete

agenda, the council will revise the feed rules.

**Contact:** Dr. G. W. Latimer, Jr., P.O. Box 3160, College Station, Texas 77841, (409) 845-1121.

**Filed:** February 27, 1992, 10 a.m.

TRD-9202872

## Texas Commission on Fire Protection

**Tuesday, February 25, 1992, 1 p.m. (re-scheduled from February 24-24, 1992).** The Fire Protection Personnel Advisory Committee of the Texas Commission on Fire Protection met at the Howard Johnson Plaza Hotel North, 7800 North IH-35 at 183, Austin. According to the complete emergency revised agenda, the committee discussed and possibly acted on approval of applicable National Fire Protection Association standards for periodic testing and air sampling of self-contained breathing apparatus in accordance with Chapter 419.041, Texas Government Code. The emergency status was necessary to set a minimum standard on air packs (self-contained) breathing apparatus which meets a nationally recognized standard.

**Contact:** Jack Woods, P.O. Box 2286, Austin, Texas 78768-2286, (512) 322-3550.

**Filed:** February 24, 1992, 3:30 p.m.

TRD-9202740

## Texas Funeral Service Commission

**Thursday-Friday, March 5-6, 1992, 9 a.m.** The Texas Funeral Service Commission will meet at the Embassy Suites Hotel, Airport North, 5901 North IH-35, Austin. According to the agenda summary, on Thursday, the commission will discuss approval of minutes; items for consideration to include: public comment period; executive director's report; committee reports; proposed administrative penalties; cases recommended by closed; strategic planning session; scheduled hearings-TFSC versus Chris Stevens and TFSC versus Bruce Rambo; and on Friday, meeting reconvened in open session to discuss unfinished business.

**Contact:** Larry A. Farrow, 8100 Cameron Road, Suite B-550, Austin, Texas 78753, (512) 834-9992.

**Filed:** February 24, 1992, 10:24 a.m.

TRD-9202709

## Interagency Council for Genetic Services

**Friday, March 13, 1992, 1 p.m.** The Interagency Council for Genetic Services will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the agenda summary, the council will hear public comments; discuss approval of minutes of previous meetings; hear reorganization update; discuss and possibly act on: TEXGENE report; activities and future plans of agencies represented on council; options available to women at risk for bearing children with serious genetic or congenital disorders; budget status; resource allocation plan; legislative mandates; assignments of council members concerning legislation; and hear announcements and comments.

**Contact:** William E. Moore, 1100 West 49th Street, Austin, Texas 78756, (512) 458-7700.

**Filed:** February 26, 1992, 4:04 p.m.

TRD-9202856

## Office of the Governor

**Wednesday-Thursday, March 4-5, 1992, 10 a.m. and 8 a.m. respectively.** The TxMHMR Facility Review Task Force of the Office of the Governor will meet at the John H. Reagan Building, 105 West 15th Street, Room 101, Austin. According to the agenda summary, the task force will conduct presentations on potential alternative use, economic impact, and availability of alternative placements; hear public testimony; recess; discuss criteria as they relate to specific TxMHMR State Schools; discuss and act regarding recommendations to the Governor including which, if any, state schools to close/consolidate/convert; time frames on closure; implementation issues; issues regarding the future direction of services to people with mental retardations.

**Contact:** Nicholas Hoover, P.O. Box 12428, Austin, Texas 78711, (512) 463-1778.

**Filed:** February 24, 1992, 11:26 a.m.

TRD-9202727

## Governor's Health Policy Task Force

**Thursday, March 5, 1992, 5 p.m.** The Governor's Health Policy Task Force will meet at Texas Tech University Science Center, 3601 Fourth Street, Room 5B148, B-POD, Fifth Floor, Lubbock. According to the complete agenda, the task force will take public testimony from persons wishing to address the members with regard to

health care issues. Persons needing interpretive services, please contact the Task Force office.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** February 24, 1992, 2:50 p.m.

TRD-9202737

**Friday, March 6, 1992, 5 p.m.** The Governor's Health Policy Task Force will meet at the Abilene Civic Center, Second Floor Conference Room, 1100 North Sixth Street, Abilene. According to the complete agenda, the task force will take public testimony from persons wishing to address the members with regard to health care issues. Persons needing interpretive services, please contact the Task Force office.

**Contact:** Pamela Crail, P.O. Box 149133, Austin, Texas 78714-9133, (512) 463-6473.

**Filed:** February 24, 1992, 2:50 p.m.

TRD-9202738

## Texas Department of Health

**Wednesday, March 18, 1992, 1 p.m.** The Advisory Committee for Personal Care Facilities of the Texas Department of Health will meet at the Texas Department of Health, 1100 West 49th Street, Room T-607, Austin. According to the complete agenda, the committee will discuss and possibly act on: task force sub-committee progress report; facility accessibility data for directory of personal care facilities; American Disabilities Act; one year review of standards; composition of advisory committee; and hear announcements and comments.

**Contact:** Janice Caldwell, 1100 West 49th Street, Austin, Texas 78756, (512) 458-3014.

**Filed:** February 26, 1992, 4:05 p.m.

TRD-9202857

## Texas Department of Human Services

**Wednesday, March 4, 1992, 2 p.m.** The Sanctions and Penalties Advisory Committee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the committee will hear opening comments; deputy commissioner's comments; discuss approval of minutes; approval of advisory committee rules; 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) 459-3053.

**Filed:** February 27, 1992, 8:38 a.m.

TRD-9202870

**Thursday, March 12, 1992, 1 p.m.** The Vendor Drug Advisory Subcommittee of the Texas Department of Human Services will meet at 701 West 51st Street, First Floor, East Tower, Public Hearing Room, Austin. According to the complete agenda, the subcommittee will make opening comments; discuss approval of minutes; establishment of drug use review board; OBRA 1990 update; vendor drug electronic claims management system; Medco containment services request for contract; set next meeting date; and adjourn.

**Contact:** Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 459-3053.

**Filed:** February 25, 1992, 10:01 a.m.

TRD-9202766

**Friday, March 13, 1992, 9 a.m.** The Medical Care Advisory Committee of the Texas Department of Human Services will hear opening remarks; deputy commissioner's comments; discuss approval of minutes; reports on federal legislative update; House Bill 7 transition update; revised reimbursement methodology rules for the Medicaid home and community-based services program; earned income tax credits exclusion; physician orders for PHC and DAHS; rules on remedies against nursing facilities for contract violations; nurse aide training and competency evaluation costs; formation of the drug use review board; time limits for submitted claims; department review of allegations of factual or calculation errors in disproportionate share hospital eligibility/payments; managed care initiative; EPSDT service delivery contract; advisory committee recommendations on follow-up guardianship for children and follow-up on hospice billing issues; subcommittee reports; open discussion by members; plan next meeting; and adjourn.

**Contact:** Carolyn Howell, P.O. Box 149030, Austin, Texas 78714-9030, (512) 459-3053.

**Filed:** February 25, 1992, 10:01 a.m.

TRD-9202765

## Texas Department of Insurance

**Wednesday, March 4, 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 solvency; personnel; commissioner's orders; planning calendar; litigation; consider adoption of 28 TAC §§19.1401-19.1407 concerning activities of brokers and managers licensed under the Reinsurance Intermediary Act; consider permitting Texas Automobile Insurance Service Office to perform experience rating functions on behalf of the TDI; consider continued use by insurers of writing commercial automobile rates previously approved on a consent-to-rate basis; briefing on status on TDI Strategic Plan; briefing on TDI early warning system; and briefing on design concepts for the new TDI building.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** February 25, 1992, 9:04 a.m.

TRD-9202761

**Wednesday, March 4, 1992, 1:30 p.m.** The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment to the Articles of Incorporation of Presidential Life Insurance Company, Dallas, increasing the authorized capital stock. Docket Number 11418.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

**Filed:** February 25, 1992, 1:22 p.m.

TRD-9202772

**Thursday, March 5, 1992, 1:30 p.m.** The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application of Daniel J. Kennelly, Killeen, for a Group I, Legal Reserve Life Insurance Agent's license. Docket Number 11419.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

**Filed:** February 25, 1992, 1:22 p.m.

TRD-9202773

**Monday, March 9, 1992, 1:30 p.m.** The Commissioner's Hearing Section of the Texas Department of Insurance will meet at 333 Guadalupe Street, Hobby I, 12th Floor, Austin. According to the complete agenda, the section will conduct a public hearing to consider the application for amendment of the Articles of Incorporation of Paramount National Life Insurance Company, Dallas, increasing the authorized capital stock.

**Contact:** Kelly Townsell, 333 Guadalupe Street, Hobby I, Austin, Texas 78701, (512) 475-2983.

**Filed:** February 25, 1992, 1:22 p.m.

TRD-9202771

**Thursday, March 5, 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 under Docket Number 1864 to consider new proposed rule 28 TAC §1.411 as published in the January 7, 1992 issue of the *Texas Register*, §1.411 concerns the maintenance tax for Texas Workers' Compensation Commission and the maintenance tax surcharge for the Texas Workers' Compensation Insurance Fund, 1992.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** February 24, 1992, 1:23 p.m.

TRD-9202729

**Friday, March 6, 1992, 9 a.m.** The Utilization Review Advisory Committee of the Texas Department of Insurance will meet at the William P. Hobby Building, 333 Guadalupe Street, Eighth Floor (800A), Tower III, Austin. According to the complete agenda, the committee will discuss the working draft of rules written concerning utilization review as required by Article 21.58A of the Texas Insurance Code.

**Contact:** Leah Rummel, 333 Guadalupe Street, Austin, Texas 78701, (512) 322-3404.

**Filed:** February 24, 1992, 2:23 p.m.

TRD-9202734

**Friday, March 6, 1992, 2 p.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 consider and possibly act on an at-will employee policy and/or grievance procedures for Texas Department of Insurance employees.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** February 21, 1992, 8:43 a.m.

TRD-9202614

**Monday, April 8, 1992, 10 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 consider amendments or additions to rate and procedural rules in the basic manual of rules,

rates and forms for the writing of title insurance in the State of Texas.

**Contact:** Angelia Johnson, 333 Guadalupe Street, Mail Code 113-2A, Austin, Texas 78701, (512) 463-6527.

**Filed:** February 26, 1992, 9:43 a.m.

TRD-9202820

## ◆ ◆ ◆ Texas Board of Professional Land Surveying

**Friday, March 6, 1992, 8:30 a.m.** 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 conduct a formal public hearing before an Administrative Law Judge on Complaint 91-18 to determine whether any disciplinary action should be taken against Registered Professional Land Surveyor who holds license number 1184 issued by the board.

**Contact:** Sandy Smith, 7701 North Lamar Boulevard, Suite 400, Austin, Texas 78752, (512) 452-9427.

**Filed:** February 26, 1992, 2:28 p.m.

TRD-9202850

## ◆ ◆ ◆ Texas Department of Licens- ing and Regulation

**Wednesday-Thursday, February 26-27, 1992, 9 a.m.** The Texas Commission of Licensing and Regulation of the Texas Department of Licensing and Regulation met at 101 West 15th Street, John H. Reagan Building, Room 106, Austin. According to the agenda summary, the commission called the meeting to order; may have approved minutes; considered contested cases; considered agreed orders; discussed appointments to the Elimination of Architectural Barriers Advisory Committee; discussed appointments to the Property Tax Consultants Advisory Council; considered staff proposal for Attorney General's Opinion regarding vehicle storage facilities; discussed staff support appointment for the Texas Commission of Licensing and Regulation; considered staff proposal to amend boiler special inspection fees; considered staff proposal to adopt a refund policy; considered staff proposal to adopt an achievement bonus program policy; heard report on strategic planning for the department, as required by House Bill 2009; considered staff proposal to amend boxing rules; met in executive session; discussed next meeting; and adjourned.

**Contact:** Larry E. Kosta, 920 Colorado Street, Austin, Texas 78701, (512) 463-3173.



**Filed:** February 21, 1992, 11:26 a.m.

TRD-9202654

**Friday, March 6, 1992, 9 a.m.** The Inspections and Investigations, Talent Agencies of the Texas Department of Licensing and Regulation will meet at the E. O. Thompson Building, 920 Colorado Street, Third Floor Conference Room, Austin. According to the complete agenda, the department will hold an administrative hearing to consider the possible assessment of an administrative penalty and denial, suspension or revocation of the license for Venee Gage Phillips doing business as Impack Productions for violation of Vernon's Texas Civil Statutes, Articles 5221a-9 and 9100.

**Contact:** Paula Hamje, 920 Colorado Street, Austin, Texas 78701, (512) 475-2899.

**Filed:** February 26, 1992, 8:07 a.m.

TRD-9202805

**Thursday, March 12, 1992, 9 a.m.** The Air Conditioning and Refrigeration Contractors Advisory Board will meet at the E. O. Thompson Building, 920 Colorado Street, 10th Floor Conference Room, Austin. According to the agenda summary, the board will call the meeting to order; adoption of agenda; record of attendance; discuss approval of minutes of September 19, 1991; hear public comment; staff reports; task group reports; discuss old and new business; plan next meeting; and adjourn.

**Contact:** Pauline Denson, P.O. Box 12157, Austin, Texas 78711, (512) 463-7369.

**Filed:** February 26, 1992, 12:36 p.m.

TRD-9202836

## Texas State Board of Medical Examiners

**Friday, March 6, 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 the December 1991 SPEX examination results; review reciprocity endorsement applicants; and reciprocal endorsement applicants will be considered for permanent licensure. 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:** February 26, 1992, 4:29 p.m.

TRD-9202864

**Friday, March 6, 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 January meeting; hear January and February 1992 enforcement reports; and meet in executive session to review selected files and cases dismissed by informal settlement conferences. 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:** February 26, 1992, 4:27 p.m.

TRD-9202863

**Friday, March 6, 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 review examination applicants; review the December, 1991 FLEX/jurisprudence examination results; review of examination applicants complete for consideration of licensure; and discuss the impact the proposed rule change concerning USMLE will have on Ph.D./M.D. candidates. 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:** February 27, 1992, 8:29 a.m.

TRD-9202868

**Friday, March 6, 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 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:** February 27, 1992, 8:29 a.m.

TRD-9202867

**Friday-Saturday, March 6-7, 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 include long range planning; a request to practice medicine in Texas; requests for termination of probation; proposals for decision; meet in executive session to discuss personnel matters; probationary appearances; rule changes; request for reinstatement; approvals of minutes; board committees; duplicate licenses; agreed board orders; hear executive director's report to include discussion of the upcoming federation meeting; hearing examiner agency; appropriations; sunset review; and possible change in retired status. 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:** February 27, 1992, 8:29 a.m.

TRD-9202869

## Texas Motor Vehicle Commission

**Thursday, March 5, 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 the minutes of January 22, 1992 meeting; argument on proposal for decision; agreed orders; orders of dismissal licensing and enforcement; entry of order Nunc Pro Tunc; review of 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; review of consumer complaint recap report and report of decisions made by executive director; review of litigation status report; and discuss agency strategic plan requirements.

**Contact:** Russell Harding, 815 Brazos Street, Suite 300, Austin, Texas 78701, (512) 476-3587.

**Filed:** February 26, 1992, 9:19 a.m.

TRD-9202814



## State Pension Review Board

**Tuesday, March 10, 1992, 10:30 a.m.** The State Pension Review Board will meet at the Employees Retirement System Building, 18th and Brazos Streets, Fourth Floor Conference Room, Austin. According to the complete agenda, the board will call the meeting to order; take roll call; read and adopt minutes of previous meeting; discuss and possibly act on: executive director's report; PRB Strategic Plan; PRB's role in Texas Association of Public Retirement Systems (TexPers); further discussion and possible action on actuarial contract; Texas Growth Fund; discuss old business; announcements and invitation for audience participation; announce date of next meeting; and adjourn.

**Contact:** Lynda Baker, P.O. Box 13498, Austin, Texas 78711, (512) 463-1736.

**Filed:** February 24, 1992, 11 a.m.

TRD-9202716

## Texas State Board of Physical Therapy Examiners

**Tuesday, March 10, 1992, 9 a.m.** The Texas State Board of Physical Therapy Examiners will meet at 3001 South Lamar Boulevard, Suite 101, Austin. According to the agenda summary, the board will discuss approval of minutes; requests for waivers of CEUs for medical reasons; sunset review update; House Bill 7; committee reports; executive director report; review of proposed rules; and chairpersons report.

**Contact:** Sherry L. Lee, 3001 South Lamar Boulevard, Suite 101, Austin, Texas 78704, (512) 443-8202.

**Filed:** February 26, 1992, 11:03 a.m.

TRD-9202831

## Texas State Board of Examiners of Psychologists

**Wednesday, March 4, 1992, 1:30 p.m. Thursday and Friday, March 5-6, 1992, 8:30 a.m.** The Texas State Board of Examiners of Psychologists will meet at 9101 Burnet Road, Suite 212, Austin. According to the complete agenda, the board will consider applications; complaints; proposed rules; budget; legislative matters; discuss approval of minutes; opinion letters; hearings; exam issue; reports; planning issues; exam drafts; and sunset review.

**Contact:** Patricia S. Tweedy, 9101 Burnet Road, Austin, Texas 78758, (512) 835-2036.

**Filed:** February 20, 1992, 12:48 p.m.

TRD-9202583

## Texas Department of Public Safety, Division of Emergency Management

**Tuesday, March 3, 1992, 2 p.m.** The State Emergency Management Council of the Division of Emergency Management of the Texas Department of Public Safety will meet at the Temporary EOC Council Room, 6100 Guadalupe Street, Austin. According to the complete agenda, the council will review and discuss revision to SERC procedures; Hazardous Materials Transportation Uniform Safety Act of 1990; LEPC nominations; and discuss other SERC business.

**Contact:** David D. Haun, 6100 Guadalupe Street, Austin, Texas 78752, (512) 465-2454.

**Filed:** February 20, 1992, 1:12 p.m.

TRD-9202584

## Public Utility Commission of Texas

**Monday, March 2, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10762-complaint of Network Billing and Collections, Inc. doing business as NBC Telecommunications, Inc. against Southwestern Bell Telephone Company.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 20, 1992, 2:30 p.m.

TRD-9202596

**Thursday, March 5, 1992, 10 a.m. (rescheduled from February 27, 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 10381-Southwestern Bell Telephone Company's statement of intent to change and restructure the rates for directory assistance.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 26, 1992, 2:13 p.m.

TRD-9202841

**Friday, March 6, 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 prehearing conference in Docket Numbers 10938 and 10940: Docket Number 10938-application of Sugar Land Telephone Company for temporary waiver of require-

ments of PUC Substantive Rule 23.21(d)(7); and Docket Number 10940-application of Sugar Land Telephone Company for approval of calculation of House Bill 11 tax adjustment factors for 1992 pursuant to Substantive Rule 23.21(d).

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 26, 1992, 2:14 p.m.

TRD-9202845

**Monday, March 9, 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 prehearing conference in Docket Number 10860-application of Texas Exchange Carrier Association for approval of administrative procedures for compensation for jointly provided Intra-LATA services and for inter exchange carrier access charge revenues.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 26, 1992, 2:14 p.m.

TRD-9202843

**Wednesday, March 11, 1992, 10 a.m. (rescheduled from Tuesday, April 7, 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 10688-application of Southwestern Bell Telephone Company to revise Section 14 of the access service tariff.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 26, 1992, 2:13 p.m.

TRD-9202842

**Wednesday, March 11, 1992, 10 a.m.** The Hearings Division of the Public Utility Commission of Texas met at 7800 Shoal Creek Boulevard, Suite 450N, Austin. According to the complete agenda, the division will hold a prehearing conference in Docket Number 10901-application of Guadalupe-Blanco River Authority for a reconciliation of costs of the Canyon Hydroelectric Division for fiscal year 1991.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 20, 1992, 2:31 p.m.

TRD-9202597

**Thursday, March 12, 1992, 10 a.m. (rescheduled from Tuesday, March 10, 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 merit 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:** February 26, 1992, 2:14 p.m.

TRD-9202844

**Monday, March 23, 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 10821-application of Southwestern Bell Telephone Company for approval of calculation of House Bill 11 Tax Adjustment factors for 1992 pursuant to PUC Substantive Rule 23.21(d).

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 25, 1992, 3:03 p.m.

TRD-920779

**Monday, April 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 10655-application of Southwestern Bell Telephone Company for approval of digiline service.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 20, 1992, 2:44 a.m.

TRD-9202600

**Wednesday, May 6, 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 10734-application of Southwestern Bell Telephone Company to revise the general exchange tariff to add clarifying language in Sections 8, 10, 14, and 23.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 25, 1992, 3:04 p.m.

TRD-9202781

**Monday, June 8, 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 10929-application of Contel of Texas, Inc. to establish the rules, regulations, and rates for the provisions of universal emergency service (911).

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 26, 1992, 2:13 p.m.

TRD-9202840

**Tuesday, September 1, 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 10894-application of Gulf States Utilities to reconcile fuel costs and for authority to change fixed fuel factors.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 25, 1992, 3:04 p.m.

TRD-9202780

**Monday, September 21, 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 10127-application of Southwestern Bell Telephone Company to revise Section 2 of its intrastate access service tariff.

**Contact:** Mary Ross McDonald, 7800 Shoal Creek Boulevard, Austin, Texas 78757, (512) 458-0100.

**Filed:** February 24, 1992, 2:49 p.m.

TRD-9202736

## Texas Racing Commission

**Friday, February 28, 1992, 10 a.m.** The Texas Racing Commission met at One Capital Square, Senate Hearing Room 1, 300 West 15th Street, Austin. According to the complete agenda, the commission called the meeting to order; may have discussed approval of minutes of January 17, 1992; voted to adopt the following Horse and Greyhound Rules: §§307.261, 311.6, 311.7, 311.10, 311.159, 313.4, 309.352; voted to propose the following Horse and Greyhound Rules: §§303.201, 303.202, 305.44, 309.53, 319.7, Chapter 321, Subchapter C. Simulcast Wagering; voted to adopt the following rules on an emergency basis: §309.194, 313.103, 313.303, 313.111; report by staff on seminar for stewards, racing judges, and other officials; considered and voted on the following matters: decision

making process in 91-R1-44, in regard: the applications for a Class 1 Racetrack license in Dallas/Tarrant County; on request to open an application period for Class 4 racetrack applications; on request by Bandera Downs, Inc. for approval of simulcasting; on agreement between Bandera Downs, Inc., and Texas Horsemen's Benevolent and Protective Association; proposal for decision in Number 91-05-39, in regard: positive drug test on a horse trained by Ted D. Sudderth, License Number 1339; met in executive session to §2(e), Open Meetings Act (Vernon's Texas Civil Statutes, Article 6252-17) to consult with attorneys regarding pending litigation with Mary Ann Boyden; discussed old and new business; and adjourned.

**Contact:** Paula Cochran Carter, P.O. Box 12080, Austin, Texas 78711, (512) 794-8461.

**Filed:** February 20, 1992, 3:58 p.m.

TRD-9202607

## Texas Real Estate Inspector Committee

**Saturday, February 29, and Sunday, March 1, 1992, 8 a.m.** The Texas Real Estate Inspector Committee met at 1101 Camino Las Costa, TREC Headquarters Office, Conference Room, Austin. According to the complete agenda, on Saturday, the committee called the meeting to order; may have approved minutes of January 11-12, 1992 meeting; discussed Texas Civil Statutes, Article 6573a, §23(1)(6); reviewed 22 TAC §535.206, concerning committee minutes and reports; discussed and possibly acted to recommend adoption of new 22 TAC §535.222, concerning inspection standards or other action by the commission to implement Texas Civil Statutes, Article 6573a, §23; date and place of next meeting; and adjourned. On Sunday, the meeting came to order; discussed and possibly acted on any agenda items not completed on first day of meeting; and adjourned.

**Contact:** Jack Morris, P.O. Box 12188, Austin, Texas 78711-2188, (512) 465-3915.

**Filed:** February 21, 1992, 10:57 a.m.

TRD-9202621

## School Land Board

**Tuesday, March 3, 1992, 10 a.m.** The School Land Board will meet at the General Land Office, Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will discuss approval of previous board meeting minutes; pooling applications, Giddings (Austin Chalk-3, Fayette

County; and Stedman Island, Nueces County; consider amendment to state oil and gas lease to include a proportionate reduction provision for delay rentals; coastal public lands-commercial easement applications, Eckert's Bayou, Galveston County; coastal public lands-structure permit termination, Chocolate Bay, Brazoria County; structure permit renewal, Espiritu Santo, Calhoun County; structure permit amendments, Bastrop Bay, Brazoria County; Cox Lake, Brazoria County; Chocolate Bayou, Brazoria County; Churchill Bayou, Brazoria County; Laguna Madre, Cameron County; Laguna Madre, Kleberg County; consideration of Farm-out agreement on DCRC State Trust; meet in executive session to discuss proposed Farm-out agreement on DCRC State Trust; and discuss pending and proposed litigation.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** February 21, 1992, 4:27 p.m.

TRD-9202689

**Tuesday, March 3, 1992, 10 a.m.** The School Land Board will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 831, Austin. According to the agenda summary, the board will review and discuss direct land sale, Yoakum County.

**Contact:** Linda K. Fisher, 1700 North Congress Avenue, Room 836, Austin, Texas 78701, (512) 463-5016.

**Filed:** February 24, 1992, 4:16 p.m.

TRD-9202742

## Texas Guaranteed Student Loan Corporation

**Thursday, March 5, 1992, 11 a.m.** The Executive 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 minutes of February 11, 1992; meet in executive session to discuss personnel matters; pending litigation report; presidential evaluation status report; search committee criteria for CEO position and related matters; board policy manual overview; HEAF transfer update; loan servicing update; selection process of employee group insurance coverage; discuss company vehicle; future board and committee meeting dates; and adjourn.

**Contact:** Peggy Irby, 12015 Park 35 Circle, Austin, Texas 78758, (512) 835-1900.

**Filed:** February 26, 1992, 4:29 p.m.

TRD-9202865

## Board of Tax Professional Examiners

**Thursday, March 12, 1992, 9:30 a.m.** The Board of Tax Professional Examiners will meet at the Reagan Building, Room 105, Austin. According to the complete agenda, the board will call the meeting to order; take roll call; notice and quorum; election of officers for 1992; discuss approval of minutes of December 6, 1991 meeting; hear public comment; action items are certification and recertification registrants; Chapter 624 board rules pertaining education; property tax education standards and procedures pertaining to course sponsors, instructors, and registrants; policy item on examination for continuing education credit; resolution "challenge examinations" for CEU credit; policy item course audits for CEU credit under certain conditions; Chapter 628 board rules, ethical conduct of registrants; resolution continuance and composition of the Professional Standards Committee; discuss education activities; options re-organization and administrative support for BTPE; information items are 1992 renewals and registrant population; events and planning calendar; meet in executive session to discuss personnel matter: i.e.: evaluation of executive director.

**Contact:** Sam H. Smith, 4301 Westbank Drive, Building B, Suite 14, Austin, Texas 78746-6565, (512) 329-7980.

**Filed:** February 21, 1992, 10:57 a.m.

TRD-9202620

## Teacher Retirement System of Texas

**Tuesday, March 10, 1992, noon.** The Medical Board of the Teacher Retirement System of Texas will meet at 1000 Red River Street, Room 420E, Austin. According to the complete agenda, the board will discuss the files of members who are currently applying for disability retirement; and the files of disability retirees who are due a re-examination report.

**Contact:** Don Cadenhead, 1000 Red River Street, Austin, Texas 78701-2698, (512) 397-6400.

**Filed:** February 27, 1992, 8:48 a.m.

TRD-9202871

## Texas Southern University

**Thursday, February 27, 1992, 4 p.m.** The Finance Committee of the Board of Regents of Texas Southern University met at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider matters relating to financial reporting systems, and budgets;

fiscal reports from the administration; investments, and informational items.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** February 20, 1992, 10:58 a.m.

TRD-9202582

**Tuesday, March 3, 1992, 4 p.m.** The Personnel and Academic Affairs Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider reports on progress of academic activities and programs; and discuss personnel actions.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** February 20, 1992, 11:35 a.m.

TRD-9202577

**Wednesday, March 4, 1992, 4 p.m.** The Building and Grounds Committee of the Board of Regents of Texas Southern University will meet at Texas Southern University, 3100 Cleburne Avenue, Hannah Hall, Room 117, Houston. According to the complete agenda, the committee will consider construction change orders; payment to architects contractors and engineers; authorization and ratification of contracts and awards; and review of on going construction and current contractual relations.

**Contact:** Everett O. Bell, 3100 Cleburne Avenue, Houston, Texas 77004, (713) 529-8911.

**Filed:** February 20, 1992, 11:34 a.m.

TRD-9202580

## Texas Tech University

**Thursday, February 27, 1992, 11 a.m.** The Board of Regents of Texas Tech University held a telephonic conference call at the Campus Administration Building, Board Suite, Lubbock. According to the complete agenda, the board gave authorization to refinance bonds by the issuance of the Board of Regents of Texas Tech University constitutional appropriation refunding bonds, Series 1992, and acceptance of the low bid for the bonds.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** February 20, 1992, 2:24 p.m.

TRD-9202589

## Texas Tech University Health Sciences Center

**Thursday, February 27, 1992, 11 a.m.** The Board of Regents of Texas Tech University Health Sciences Center held a telephone conference call at the Campus Administration Building, Board Suite, Lubbock. According to the complete agenda, the board gave authorization to refinance bonds by the issuance of the Board of Regents of Texas Tech University Health Sciences Center constitutional appropriation refunding bonds, Series 1992, and acceptance of the low bid for the bonds.

**Contact:** Anne Davis, P.O. Box 42011, Lubbock, Texas 79409-2011, (806) 742-2161.

**Filed:** February 20, 1992, 2:25 p.m.

TRD-9202590

## Texas Woman's University

**Thursday, February 27, 1992, 11:15 a.m.** The Board of Regents of the Texas Woman's University met at Texas Woman's University, Administration and Conference Tower, 11th Floor, Denton. According to the complete agenda, the board approved and awarded the sale of bonds in the amount of \$4.8 million to refinance outstanding Constitution Appropriation Bonds, Series 1985.

**Contact:** Shirley S. Chater, P.O. Box 23925, Denton, Texas 76204, (817) 898-3250.

**Filed:** February 20, 1992, 4:38 p.m.

TRD-9202610

## University Interscholastic League

**Wednesday, February 26, 1992, 10 a.m.** The State Executive Committee of the University Interscholastic League held an emergency meeting at the Red Lion Hotel, IH-35 at Highway 290 East, Austin. According to the agenda summary, the committee heard appeals of automatic penalty: Jones High School, Beeville; Hamlin High School; Coppell High School; Neches High School; Itasca High School; Waco University High School Fans, Abuse of Officials, §1201(b)(3); Austin, Johnston High School soccer player, abuse of officials, §1201(b)(3); Gary Clark, San Antonio Highlands High School, Violation of §1201(c)(1) using ineligible player; Orange Grove High School parent, violation of §1201(b)(3); Bobby Craig, Corpus Christi Tuloso-Midway High School, Violation of §1201(b)(3) official abuse; Dave Anders, Weslaco High School, violation of

§1201(b)(3), official abuse; Larry Hicks of Decatur High School, violation of §580(a); Henry Paige, Hidalgo Diaz Jr. High School, violation of §1201(b)(3) and §560(b)(6). The emergency status was necessary as appeals had to be heard prior to next level of competition.

**Contact:** B. J. Stamps, 2622 Wichita Street, Austin, Texas 78705, (512) 461-5883.

**Filed:** February 24, 1992, 9:42 a.m.

TRD-9292701

## University of North Texas, Texas College of Osteopathic Medicine

**Thursday, February 27, 1992, 1:30 p.m.** The Role and Scope Committee of the Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, 201 Administration Building, Denton. According to the agenda summary, the committee reviewed and discussed UNT: routine academic reports; personnel; award of honorary degrees; fraternity housing; athletic update; status of North Texas Research Institute and North Texas Research and Development Corporation, and TCOM: appointment to the TCOM Advisory Board; school of public health; and resources for proposed projects.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904

**Filed:** February 21, 1992, 2:03 p.m.

TRD-9202657

**Thursday, February 27, 1992, 1:30 p.m.** The Role and Scope Committee, Board of Regents of University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, 201 Administration Building, Denton. According to the emergency revised agenda summary, the committee will make an amendment to faculty bylaws; and authority to negotiate a multiple year faculty contract. The emergency status was necessary as negotiations with a prospective faculty member had just concluded. It was urgent that both the above items be approved by the board because the individual involved would bring with him a well-established medical practice that would be of great benefit to the college.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 26, 1992, 4:27 p.m.

TRD-9202861

**Thursday, February 27, 1992, 2 p.m.** The Advancement Committee, Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the

University of North Texas, Board Room, Administration Building, Denton. According to the agenda summary, the committee reviewed and discussed UNT: telefund; capital campaign; total fund raising; UNT Foundation; Symphony Orchestra trip to Spain; jazz singers trip to Taiwan; collegiate license plates; Merl Bonney's 90th birthday; constituent fund raising; personnel issues; and TCOM: development update.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 21, 1992, 2:04 p.m.

TRD-9202659

**Thursday, February 27, 1992, 3:30 p.m.** The Student Affairs Committee, Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, Board Room, Administration Building, Denton. According to the agenda summary, the committee reviewed and discussed UNT: American Disabilities Act; and TCOM: immunization requirements for students.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 21, 1992, 2:04 p.m.

TRD-9202658

**Thursday, February 27, 1992, 3:30 p.m.** The Budget and Finance Committee, Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, Conference Room, Administration Building, Denton. According to the agenda summary, the committee reviewed and discussed TCOM: gift report; report on interest earnings; internal audit update; and UNT: gift report; fraternity housing; waiver of certain fees for off-campus courses; report on interest earnings; internal audit update; and liability insurance for officers and directors.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 21, 1992, 2:04 p.m.

TRD-9202660

**Thursday, February 27, 1992, 4 p.m.** The Facilities Committee, Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, Board Room, Administration Building, Denton. According to the agenda summary, the committee reviewed and discussed UNT: renovation of auditorium building; renovation of biology and chemistry buildings; renovation of Opera Hall; renovation of speech and drama building; project status report; status of men's gym renovation; and TCOM: project status report.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

Filed: February 21, 1992, 2:05 p.m.

TRD-9202661

**Friday, February 28, 1992, 8 a.m.** The Board of Regents of the University of North Texas, Texas College of Osteopathic Medicine met at the University of North Texas, University Room I, Sheraton Hotel at UNT, Denton. According to the agenda summary, the board may have approved minutes; met in executive session (legislative update; coordinating board decisions; journalism and psychology accreditation; Dallas facilities; Professional Development Center; sunset reviews; Deans searches; UNT, North Texas Research Institute, and North Texas Research and Development Corporation; NTRI land acquisitions and related issues; UNT representation to North Texas Research and Development Corporation; marketing and English department personnel; current lawsuits); academic reports; personnel; honorary degrees; strategic planning; fraternity housing; fees for off-campus courses; gift report; renovation of auditorium building; renovation of biology and chemistry buildings; renovation of Opera Hall; renovation of speech and drama building; project status report; significant grants to the university; and TCOM: may have approved minutes; met in executive session (TCOM affiliations; current lawsuits); appointment to TCOM Advisory Council; rural health initiatives; TEXCaps; strategic planning; gift report; information-student issues and other noteworthy items; and project status report.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 21, 1992, 2:05 p.m.

TRD-9202662

**Friday, February 28, 1992, 8 a.m.** The Board of Regents of the University of North Texas/Texas College of Osteopathic Medicine met at the Sheraton Hotel at the University of North Texas, University Room I, Denton. According to the emergency revised agenda summary, the board will make an amendment to faculty bylaws; and authority to negotiate a multiple year faculty contract. The emergency status was necessary as negotiations with a prospective faculty member had just concluded. It was urgent that both the above items be approved by the board because the individual involved would bring with him a well-established medical practice that would be of great benefit to the college.

**Contact:** Jan Dobbs, P.O. Box 13737, Denton, Texas 76203, (817) 565-2904.

**Filed:** February 26, 1992, 4:27 p.m.

TRI-9202862

## University of Texas Health Center at Tyler

**Thursday, March 5, 1992, 11:30 a.m.** The Animal Research Committee of the University of Texas Health Center at Tyler will meet at the University of Texas Health Center at Tyler, Biomedical Research Building, Room 116, Highways 155 and 271 North, Tyler. According to the agenda summary, the committee will discuss approval of minutes from February, 1992 meeting; hear chairman's report-Dr. Peterson; veterinarian's report-Dr. Thedford; discuss old business-animal committee handbook; and new protocols and addenda-addendum to protocol on use of rabbits in studies of white cells.

**Contact:** Barry Peterson, Ph.D., P.O. Box 2003, Tyler, Texas 75710, (903) 877-7012.

**Filed:** February 24, 1992, 1:29 p.m.

TRD-9202731

## Texas Water Commission

**Wednesday, February 26, 1992, 9 a.m.** The Texas Water Commission met at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the emergency revised agenda summary, the commission considered various matters within the regulatory jurisdiction of the commission. In addition, the commission considered items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, scheduling an item in the entirety or for particular action at a future date or time.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** February 24, 1992, 12:54 p.m.

TRD-9202728

**Monday, March 2, 1992, 9:30 a.m.** The Office of Hearings Examiner of the Texas Water Commission met at the Dorothy Garrett Coliseum, East Room, Howard College Campus, 1001 Birdwell Lane, Big Spring. According to the agenda summary, the office will consider an application for a weather modification permit by the Colorado River Municipal Water District to conduct cloud-seeding activities within the watersheds of its three reservoirs in west central Texas for the purpose of increasing rainfall during the period of March 1, November 11-30, during the years 1992, 1993, 1994, and 1995. (The project will not involve hail suppression at any time). The operational area is that area described as being the area between an outer boundary which is defined by a line that encompasses

the block of counties of Lynn, Garza, Kent, Fisher, Nolan, Runnels, Coke, Sterling, Glasscock, Martin and Dawson, and an inner boundary which is that of the target area.

**Contact:** Carl Forrester, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-7875.

**Filed:** February 20, 1992, 4:45 p.m.

TRD-9202611

**Tuesday, March 3, 1992, 8 a.m.** The Texas Water Commission will meet at the River Place Country Club, 4207 River Place Boulevard, Austin. According to the agenda summary, the commission will consider the commission work session to discuss internal processes and procedures, roles and responsibilities.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** February 24, 1992, 1:33 p.m.

TRD-9202732

**Wednesday, March 4, 1992, 9 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission, including specifically the adoption of new or amended agency regulations. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to, rescheduling an item in its entirety or for particular action at a future date or time.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** February 24, 1992, 4:52 p.m.

TRD-9202745

**Wednesday, March 4, 1992, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will consider various matters within the regulatory jurisdiction of the commission. In addition, the commission will consider items previously posted for open meeting and at such meeting verbally postponed or continued to this date. With regard to any item, the commission may take various actions, including, but not limited to scheduling an item in the entirety or for particular action at a future date or time.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7898.

**Filed:** February 24, 1992, 4:52 p.m.

TRD-9202744

**Wednesday, March 4, 1992, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 123, Austin. According to the complete agenda, the commission will review and discuss litigations and related agency actions of the commission concerning Edwards Aquifer.

**Contact:** Doug Kitts, P.O. Box 13087, Austin, Texas 78711, (512) 463-7905.

**Filed:** February 24, 1992, 4:52 p.m.

TRD-9202746

**Monday, March 23, 1992, 10 a.m. (re-scheduled from March 13, 1992).** The Texas Water Commission will meet at the John H. Reagan Building, 105 West 15th Street, Room 102, Austin. According to the agenda summary, the commission will hold a hearing on John Furnace doing business as Southmeadows Utility Company's application for a certificate of convenience and necessity to provide sewer utility service in Brazoria County. The proposed service area is approximately three miles southwest of downtown Alvin. Docket Number 9287-C.

**Contact:** Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** February 24, 1992, 11:07 a.m.

TRD-9202720

**Friday, March 27, 1992, 10 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 119, Austin. According to the agenda summary, the commission will hold a hearing on Hill Country Water Supply Corporation's request for a cease and desist order against Travis County Water Control and Improvement District Number 14. The order would determine which utility is lawfully required to provide service to Southview Estates in Travis County. Docket Number 9368-D.

**Contact:** Carol Wood, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** February 24, 1992, 11:07 a.m.

TRD-9202721

**Wednesday, April 15, 1992, 9 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing on Application Number 5396 submitted by Hannis T. and wife, Lottie Turberville and William C. and wife, Marjorie L. Turberville for a permit to divert and use 2385.39 acre-feet of water per annum from Donna Drain, tributary of Laguna Madre, tributary of Gulf of Mexico, Nueces-Rio Grande Coastal Basin. The water will be used to irrigate 954.157 acres of crop land in Hidalgo County, approximately 3.5 miles north of Elsa.

**Contact:** Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

**Filed:** February 24, 1992, 11:07 a.m.

TRD-9202722

**Wednesday, April 15, 1992, 9 a.m.** The Texas Water Commission will meet at the Stephen F. Austin Building, 1700 North Congress Avenue, Room 118, Austin. According to the agenda summary, the commission will hold a hearing on Tarrant County Water Control and Improvement District Number One's application to amend Water Use Certificate Number 08-3810. The applicant seeks to change the location of Dam Number Four from its current location on the Clear Fork Trinity River, Trinity River Basin, in the James Rogers Survey, Abstract Number 1264, Tarrant County, to a location in said survey on the Clear Fork Trinity River approximately 300 feet downstream, and increase the authorized reservoir capacity from 13 acre-feet (5.6 surface acres) to 17.6 acre-feet at elevation (6.9 surface acres). Dam Number Four is located approximately seven miles southwest of Fort Worth. The reservoir and dam are used for recreational purposes and no diversion of water is requested.

**Contact:** Rick Airey, P.O. Box 13087, Austin, Texas 78711, (512) 371-6384.

**Filed:** February 24, 1992, 11:07 a.m.

TRD-9202723

**Wednesday, April 15, 1992, 1 p.m.** The Office of Hearings Examiners of the Texas Water Commission will meet at the Anderson County Courthouse, County Courtroom, 500 North Church Street, Palestine. According to the agenda summary, the office will consider an application by Cayuga Independent School District for Proposed Permit Number 13574-01 authorizing discharge of treated domestic wastewater effluent into an unnamed creek; thence to Saline Branch; thence to the Trinity River in Segment Number 0804 of the Trinity River Basin.

**Contact:** Heidi Jackson, P.O. Box 13087, Austin, Texas 78711, (512) 463-7875.

**Filed:** February 24, 1992, 11:06 a.m.

TRD-9202717

### **Texas Workers' Compensation Insurance Facility**

**Wednesday, March 4, 1992, 9 a.m.** The Governing Committee of the Texas Workers' Compensation Insurance Facility will meet at the Guest Quarters Hotel, 303 West 15th Street, Austin. According to the agenda summary, the committee will discuss approval of minutes; consider recommendation to members of amended-by-laws, rules governing Small Premium Policy

Plan, Employers Rejected Risk Fund; requests for reimbursement as servicing carrier, Rule 29 of Procedure Handbook; personnel policies; discuss proposed rules affecting employee leasing companies, underwriting guide lines, financial audit, claims audit, regulatory and financial status of EOC; and meet in executive session.

**Contact:** Miles L. Mathews, 8303 MoPac Expressway, #310, Austin, Texas 78759, (512) 345-1222.

**Filed:** February 25, 1992, 4:23 p.m.

TRD-9202803

### **Regional Meetings**

#### **Meetings Filed February 20, 1992**

**The Ark-Tex Council of Governments Executive Committee met at the Mt. Pleasant Country Club, One Mile North of I-30/Jefferson Exit, Mt. Pleasant, February 27, 1992, at 5:30 p.m. Information may be obtained from LeAnne McGoogan, P.O. Box 5307, Texarkana, Texas 75505, (903) 832-8636. TRD-9202595.**

**The Brazos Valley Quality Work Force Planning Committee met at 301 Post Office Street, Room CC9, Bryan, February 25, 1992, at 11:30 a.m. Information may be obtained from Patty Groff, 301 Post Office Street, Bryan, Texas 77801, (409) 823-4988. TRD-9202594.**

**The Golden Crescent Regional Planning Commission Board of Directors met at the GCRPC Board Room, Regional Airport, Building 102, Victoria, February 26, 1992, at 5 p.m. Information may be obtained from Patrick J. Kennedy, P.O. Box 2028, Victoria, Texas 77902, (512) 578-1587. TRD-9202609.**

**The Lampasas County Appraisal District Board of Directors met at 109 East Fifth Street, Lampasas, February 25, 1992, at 7 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9202593.**

**The Lampasas County Appraisal District Ag Advisory Committee met at 109 East Fifth Street, Lampasas, February 26, 1992, at 2 p.m. Information may be obtained from Janice Henry, P.O. Box 175, Lampasas, Texas 76550, (512) 556-8058. TRD-9202592.**

**The Leon County Central Appraisal District Board of Directors met at the Leon County Central Appraisal District Office, Gresham Building, Centerville, February 24, 1992, at 7 p.m. Information may be obtained from Robert M. Winn, P.O. Box 536, Centerville, Texas 75833, (903) 536-2252. TRD-9202591.**

**The Mental Health and Mental Retardation Authority of Brazos Valley** Board of Trustees met at 804 Texas Avenue, Large Conference Room, Bryan, February 27, 1992, at 1:30 p.m. Information may be obtained from Leon Bawcom, P.O. Box 4588, Bryan, Texas 77805, (409) 822-6467. TRD-9202587.

**The North Central Texas Council of Governments** for the Local Government Investment Fund for Texas met at 616 Six Flags Drive, Centerpoint Two, Arlington, February 28, 1992, at 10:30 a.m. Information may be obtained from Charles Cason III, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 640-3300. TRD-9202601.

**The Panhandle Regional Planning Commission** Board of Directors met at 2736 West Tenth Street, PRPC Board Room, Amarillo, February 27, 1992, at 1:30 p.m. Information may be obtained from Rebecca Rusk, P.O. Box 9257, Amarillo, Texas 79105-2257, (806) 372-3381. TRD-9202579.

**The Pecan Valley Mental Health and Mental Retardation Region** Board of Trustees met at the Pecan Valley MHMR Region Clinical Office, 104 Charles Street, Granbury, February 26, 1992, at 9 a.m. Information may be obtained from Dr. Theresa Mulloy, P.O. Box 973, Stephenville, Texas 76401, (817) 965-7806. TRD-9202586.

**The Region VIII Education Service Center** Board of Directors met at the Service Center, FM 1734, Mt. Pleasant, February 27, 1992, at 7 p.m. Information may be obtained from Scott Ferguson, P.O. Box 1894, Mt. Pleasant, Texas 75456, (903) 572-8551. TRD-9202588.

**The Riceland Regional Mental Health Authority** Board of Trustees met at 3007 North Richmond Road, Wharton, February 27, 1992, at 2 p.m. Information may be obtained from Marjorie Domak, 3007 North Richmond Road, Wharton, Texas 77488, (409) 532-3098. TRD-9202602.

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**Meetings Filed February 21,  
1992**

**The Andrews Center** Board of Trustees met at 2323 West Front Street, Board Room, Tyler, February 27, 1992, at 4 p.m. Information may be obtained from Richard J. DeSanto, P.O. Box 4730, Tyler, Texas 75712, (903) 597-1351. TRD-9202655.

**The Angelina and Neches River Authority** Board of Directors/Pineywoods Solid Waste Agency met at the Jasper County Courthouse, District Court Room, Jasper, February 25, 1992, at 10 a.m. Information may be obtained from Gary L. Neighbors,

P.O. Box 387, Lufkin, Texas 75902-0387, (409) 632-7795, FAX (409) 632-2564. TRD-9202694.

**The Austin-Travis County Mental Health and Mental Retardation Center** Operations and Planning Committee met at 1430 Collier Street, Board Room, Austin, February 25, 1992, at 7:30 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9202656.

**The Austin-Travis County Mental Health and Mental Retardation Center** Board of Trustees met at 1430 Collier Street, Board Room, Austin, February 27, 1992, at 7 p.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9202697.

**The Austin-Travis County Mental Health and Mental Retardation Center** Executive Committee met at 1430 Collier Street, Board Room, Austin, February 27, 1992, at 7 a.m. Information may be obtained from Sharon Taylor, 1430 Collier Street, Austin, Texas 78704, (512) 447-4141. TRD-9202699.

**The County Education District Number Six** Board of Trustees met at the Brownfield I.S.D. Administration Building, 610 Tahoka Road, Brownfield, February 24, 1992, at 7 p.m. (according to the revised agenda). Information may be obtained from Larry R. Throm, 1628 19th Street, Lubbock, Texas 79401-4895, (806) 766-1092. TRD-9202688.

**The Dallas Area Rapid Transit Search Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 10:30 a.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202692.

**The Dallas Area Rapid Transit Minority Affairs Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202696.

**The Dallas Area Rapid Transit Customer and Community Relations Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202693.

**The Dallas Area Rapid Transit Audit Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 1 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202695.

**The Dallas Area Rapid Transit Bus Planning, Development and Operations Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 2:30 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202690.

**The Dallas Area Rapid Transit Rail Planning and Development Committee** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 4 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202691.

**The Dallas Area Rapid Transit Board of Directors** met at the DART Office, 601 Pacific Avenue, Dallas, February 25, 1992, at 5 p.m. Information may be obtained from Nancy McKethan, 601 Pacific Avenue, Dallas, Texas 75202, (214) 658-6237. TRD-9202698.

**The Deep East Texas Council of Governments Solid Waste Task Force** met at the Crockett Inn, 1600 East Loop 304, South, Crockett, February 27, 1992, at 10 a.m. Information may be obtained from Katie Bayliss, 274 East Lamar Boulevard, Jasper, Texas 75951, (409) 384-5704. TRD-9202615.

**The Ellis County Appraisal District Agriculture Advisory Board** met at 406 Sycamore Street, Waxahachie, February 25, 1992, at 7:30 p.m. Information may be obtained from R. Richard Rhodes, Jr., P.O. Box 878, Waxahachie, Texas 75165, (214) 937-3552. TRD-9202700.

**The Heart of Texas Region MHMR Center Executive Committee** met at 300 Franklin Avenue, HOTCOG Board Room, Waco, February 27, 1992, at 10 a.m. Information may be obtained from Mary McDow, 300 Franklin Avenue, Waco, Texas 76701, (817) 756-7822. TRD-9202673.

**The Heart of Texas Council of Governments** Board of Trustees met at 110 South 12th Street, Waco, February 27, 1992, at 11:45 a.m. Information may be obtained from Helen Jasso, P.O. Box 890, Waco, Texas 76703, (817) 752-3451. TRD-9202681.

**The Liberty County Central Appraisal District** Board of Directors met at 315 Main Street, Liberty, February 26, 1992, at 9:30 a.m. Information may be obtained from Sherry Greak, P.O. Box 10016, Liberty, Texas 77575, (409) 336-5722. TRD-9202613.

**The Lower Rio Grande Valley Development Council** Board of Directors met at the Valley Chamber of Commerce, Expressway 83 and FM Road 1015, Weslaco, February 27, 1992, at 1:30 p.m. Information may be obtained from Kenneth N. Jones, Jr., 4900



North 23rd Street, McAllen, Texas 78504, (512) 682-3481. TRD-9202618.

**The North Central Texas Council of Governments** Executive Board met at Centerpoint Two, 616 Six Flags Drive, Second Floor, Arlington, February 27, 1992, at 12:45 p.m. Information may be obtained from Edwina Shires, P.O. Box 5888, Arlington, Texas 76005-5888, (817) 460-3300. TRD-9202616

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Meetings Filed February 24,  
1992

**The Brazos Higher Education Authority, Inc.** Executive Committee held an emergency meeting at the Offices of Fullbright and Jawowski, 1301 McKinney Street, 49th Floor, Houston, February 27, 1992, at 10 a.m. The emergency status was necessary due to illness in the family. President of Authority will be unable to attend closing thereby necessitating that Vice President be given authority to execute any and all documents necessary in the President's absence. Information may be obtained from Murray Watson, Jr., 2600 Washington Avenue, Waco, Texas 76710, (817) 753-0913. TRD-9202741.

**The Coastal Bend Council of Governments** Executive Board met at the Corpus Christi Marriott, Corpus Christi C Room, 900 North Shoreline Boulevard, Corpus Christi, February 28, 1992, at noon. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9202703.

**The Coastal Bend Council of Governments** Membership Committee met at the Corpus Christi Marriott, Corpus Christi C Room, 900 North Shoreline Boulevard, Corpus Christi, February 28, 1992, at 2 p.m. Information may be obtained from John P. Buckner, P.O. Box 9909, Corpus Christi, Texas 78469, (512) 883-5743. TRD-9202704.

**The Erath County Appraisal District** Appraisal Review Board will meet at the Erath County Appraisal District Board Room, 1390 Harbin Drive, Stephenville, March 5, 1992, at 9:30 a.m. Information may be obtained from Jerry Lee, 1390 Harbin Drive, Stephenville, Texas 76401, (817) 965-5434. TRD-9202706.

**The Kempner Water Supply Corporation** Board of Directors met at the Kempner Water Supply Corporation Office, Highway 190, Kempner, February 27, 1992, at 7 p.m. Information may be obtained from Doug Lavender or Alton Myers, P.O. Box 103, Kempner, Texas 76539, (512) 932-3701. TRD-9202702.

**The Kendall County Appraisal District** Board of Directors met at the Kendall Appraisal Office, 207 East San Antonio Street, Boerne, February 27, 1992, at 5 p.m. Information may be obtained from J. P. Davis, P.O. Box 788, Boerne, Texas 78006, (512) 249-8012. TRD-9202728.

**The Lavaca County Central Appraisal District** Board of Directors will meet at the Lavaca County Central Appraisal District, 113 North Main Street, Hallettsville, March 9, 1992, at 4 p.m. Information may be obtained from Diane Munson, P.O. Box 386, Hallettsville, Texas 77964, (512) 798-4396. TRD-9202708.

**The Middle Rio Grande Quality Work Force Council** met at the Southwest Texas Junior College Student Center, Bluebonnet Room, Uvalde, February 28, 1992, at noon. Information may be obtained from Ricky McNeil, 209 North Getty, Uvalde, Texas 78801, (512) 278-2527. TRD-9202743.

**The Millersview-Doole Water Supply Corporation** Board of Directors will meet at the Corporation's Business Office, One Block West of FM 765 and FM 2134, Millersview, March 3, 1992, at 7 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9202724.

**The Millersview-Doole Water Supply Corporation** Annual Membership Meeting will be held at the Corporation's Business Office, One Block West of FM 765 and FM 2134, Millersview, March 3, 1992, at 7:30 p.m. Information may be obtained from Glenda M. Hampton, P.O. Box E, Millersview, Texas 76862-1005, (915) 483-5438. TRD-9202725.

**The Region 14 Quality Work Force Planning Committee** met at the Angelina College Library, Lufkin, February 27, 1992, at 9:30 a.m. Information may be obtained from Richard Pulaski, P.O. Box 1768, Lufkin, Texas 75902-1768, (409) 633-5246. TRD-9202739.

**The San Antonio River Industrial Development Authority** Board of Directors met at the SARA General Offices, Second Floor Conference Room, 100 East Guenther Street, San Antonio, March 2, 1992, at 2 p.m. Information may be obtained from Fred N. Pfeiffer, P.O. Box 830027, San Antonio, Texas 78283-0027, (512) 227-1373. TRD-9202705.

**The Upper Leon River Municipal Water District** Board of Directors met at the General Office of the Filter Plant, Proctor Lake, Comanche County, Comanche, February 27, 1992, at 6:30 p.m. Information may be obtained from Gary D. Lacy, P.O. Box 67, Comanche, Texas 76442, (817) 879-2258. TRD-9202707.

Meetings Filed February 25,  
1992

**The Gulf Bend Mental Health and Mental Retardation Center** Board of Trustees held an emergency meeting at Gulf Bend MHMR Center, 1404 Village Drive, Victoria, February 27, 1992, at noon. The emergency status was necessary as emergency repairs in restroom required immediate board approval. Information may be obtained from Sharon Pratkan, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9202762.

**The South Orient Rural Rail Transportation District** met at 136 West Twohig, Suite C, San Angelo, February 28, 1992, at 11:30 a.m. Information may be obtained from Paul Valenzuela, P.O. Box 10, Fort Stockton, Texas 79735, (915) 336-6281. TRD-9202769.

**The Wood County Appraisal District** Board of Directors held an emergency meeting at the Wood County Appraisal District, 217 North Main Street, Conference Room, Quitman, February 27, 1992, at 7 p.m. The emergency status was necessary as the chief appraiser could not make last meeting and this was the only time they could reschedule. Information may be obtained from W. Carson Wages or Lou Brooke, P.O. Box 951, Quitman, Texas 75783-0951, (903) 763-4891. TRD-9202763.

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Meetings Filed February 26,  
1992

**The Austin-Travis County Mental Health and Mental Retardation Center** Executive Committee met at 1430 Collier Street, Board Room, Austin, February 27, 1992, at 7 a.m. The emergency status was necessary as an item needed to be added to agenda to be brought to board's attention immediately. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 447-4141. TRD-9202853.

**The Austin-Travis County Mental Health and Mental Retardation Center** Board of Trustees met at 1430 Collier Street, Board Room, Austin, February 27, 1992, at 7 a.m. The emergency status was necessary as an item needed to be added to agenda to be brought to board's attention immediately. Information may be obtained from Sharon Taylor, P.O. Box 3548, Austin, Texas 78764, (512) 447-4141. TRD-9202852.

**The Bell-Milam-Falls Water Supply Corporation** Board will meet at the WSC Office, FM 485, Cameron, March 5, 1992, at 8:30 a.m. Information may be obtained from Dwayne Jekel, P.O. Drawer 150, Cameron, Texas 76520, (817) 697-4016. TRD-9202860.



**The Dawson County Central Appraisal District** Board of Directors will meet at 902 North Dallas Avenue, Lamesa, March 4, 1992, at 7 a.m. Information may be obtained from Tom Anderson, P.O. Box 797, Lamesa, Texas 79331, (806) 872-7060. TRD-9202822.

**The East Texas Council of Governments** JTPA Board of Directors will meet at the Kilgore Community Inn, Kilgore, March 5, 1992, at 11:30 a.m. Information may be obtained from Glynn Knight, 3800 Stone Road, Kilgore, Texas 75662, (903) 984-8641. TRD-9202851.

**The Fisher County Appraisal District** Board of Directors will meet at the Fisher County Appraisal/Tax Office, Fisher County Courthouse, Roby, March 10, 1992, at 7:30 p.m. Information may be obtained from Teddy Kral, P.O. Box 516, Roby, Texas 79543, (915) 776-2733. TRD-9202821.

**The Fort Bend County Education** Board of Trustees met at the Lamar CISD, Administration Building, Board Room, Rosenberg, March 2, 1992, at 6 p.m. Information may be obtained from Dr. Jerome Bourgeois,

2706 St. Andrews Place, League City, Texas 77573, (713) 334-5639. TRD-9202825.

**The Gulf Bend Mental Health and Mental Retardation Center** Board of Trustees met at the Gulf Bend MHMR Center, 1404 Village Drive, Victoria, February 27, 1992, at noon. The emergency status was necessary as chief financial officer's departure required immediate change to signature cards at financial institutions. Information may be obtained from Sharon Pratka, 1404 Village Drive, Victoria, Texas 77901, (512) 575-0611. TRD-9202838.

**The High Plains Underground Water Conservation District Number One** Board of Directors and Managers will meet at the Best Western Motel, 600 North I-27, Plainview, March 5, 1992, at 10 a.m. Information may be obtained from A. Wayne Wyatt, 2930 Avenue Q, Lubbock, Texas 79405, (806) 762-0181. TRD-9202866.

**The Lee County Appraisal District** Appraisal Review Board will meet at 218 East Richmond Street, Giddings, March 5, 1992, at 9 a.m. Information may be obtained from Delores Shaw, 218 East Richmond Street, Giddings, Texas 78942, (409) 542-9618. TRD-9202832.

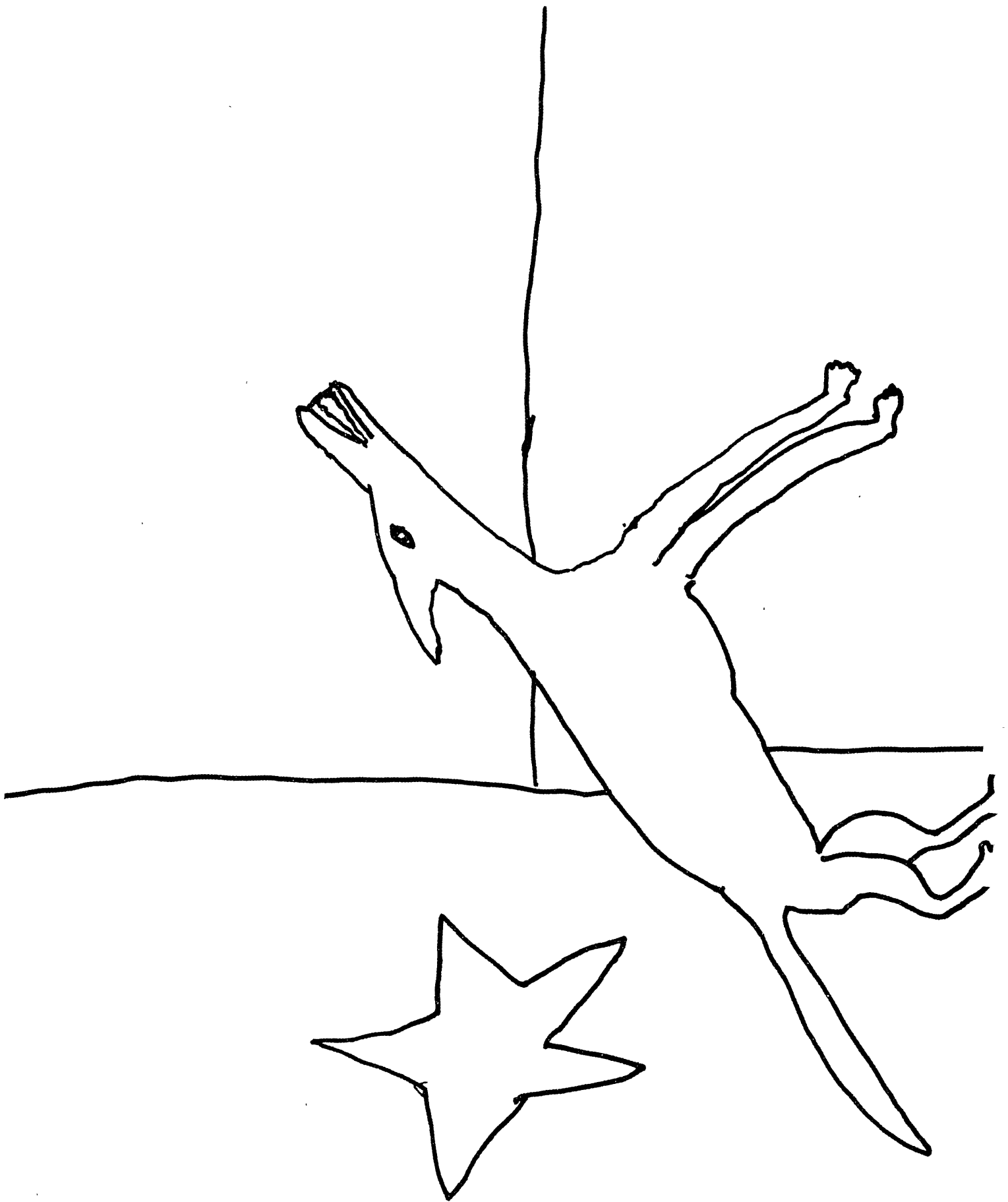
**The Southwest Milam Water Supply Corporation** Board held an emergency meeting at 114 East Cameron, Rockdale, February 27, 1992, at 7 p.m. (rescheduled from February 24, 1992). The emergency status was necessary due to bad weather conditions resulting in lack of quorum. Information may be obtained from Dwayne Jekel, P.O. Box 232, Rockdale, Texas 76567, (512) 446-2604. TRD-9202859.

**The Texas Public Investment Fund** will meet at 8888 Tallwood Drive, Austin, March 5, 1992, at 10 a.m. Information may be obtained from Russ Edwards, 12900 Modena Trail, Austin, Texas 78729, (512) 331-9739. TRD-9202835.

**The Tyler County Appraisal District** Board of Directors will meet at 806 West Bluff, Woodville, March 5, 1992, at 4 p.m. Information may be obtained from Linda Lewis, P.O. Drawer 9, Woodville, Texas 75979, (409) 283-3736. TRD-9202837.

**The Wheeler County Appraisal District** Board of Directors met at the District's Office, County Courthouse, Wheeler, March 2, 1992, at 6:30 p.m. Information may be obtained from Larry M. Schoenhals, P.O. Box 349, Wheeler, Texas 79096, (806) 826-5900. TRD-9202823.





Name: Tiffany Driscoll

Grade: 4

School: Kuehle Elementary School, Klein ISD

# In Addition

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The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings, changes in interest rate and applications to install remote service units, and consultant proposal requests and awards.

To aid agencies in communicating information quickly and effectively, other information of general interest to the public is published as space allows.

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## Texas Department on Aging

### Memorandum of Agreement between the Texas Department on Aging and the Texas Department of Human Services

A Memorandum of Agreement between the Texas Department on Aging and the Texas Department of Human Services was published in the December 27, 1991, issue of the *Texas Register* (16 TexReg 7753).

The following words under Section C are to be deleted: whose income or resources disqualify them from entitlement programs, yet are insufficient to purchase needed support services

Issued in Austin, Texas, on February 20, 1992.

TRD-9202806      Mary Sapp  
                                 Executive Director  
                                 Texas Department on Aging

Filed: February 26, 1992

For further information, please call: (512) 444-2727



## Texas Air Control Board

### Notice of Contested Case Hearing Number 294

An examiner for the Texas Air Control Board (TACB) will, conduct a contested case hearing to determine whether or not Permit Number 20073 should be issued to AMI Park Place Hospital (the applicant) to construct a hospital waste incinerator to be located at AMI Park Place Hospital, 3050 39th Street, Port Arthur, Jefferson County.

**Deadline for Requesting to be a Party.** At the hearing, only those persons admitted as parties and their witnesses will be allowed to participate. Presently, the only prospective parties are the applicant and TACB. Any person who may be affected by emissions from the proposed facility who wants to be made a party must send a specific written request for party status to Hearings Examiner Cindy Hurd and make sure that this request is actually received at the TACB Central Office, 12124 Park 35 Circle, Austin, Texas 78753 by 5 p.m., Friday, March 13, 1992. The examiner cannot grant party status after that deadline, unless there is a good cause for the request arriving late. Hearing requests, comments, or other correspondence sent to the TACB before publication of this notice will not be considered as a request for party status. The examiner will decide on party status at the prehearing conference.

**Prehearing Conference.** The Examiner has scheduled a prehearing conference at 1:30 p.m. on Tuesday, March 24, 1992, at the TACB Beaumont Office, Conference Room,

3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703. At this conference, the examiner will consider any motions of the parties, but may grant contested motions for continuance only upon proof of good cause. The examiner will also establish a specific date prior to the hearing on the merits for the exchange of written and documentary evidence.

**Time and Place of Hearing.** The examiner has set the hearing to begin at 1:30 p.m. on Tuesday, April 14, 1992, at the TACB Central Office, Room 143-E, 12124 Park 35 Circle, Austin, Texas 78753.

**What the Applicant Must Prove.** This hearing is a contested case hearing under the Administrative Procedure the Texas Register Act, Texas Civil Statutes, Article 6252-13a, §13. It is generally conducted like a trial in district court. The applicant must demonstrate, by a preponderance of the evidence, that the proposed facility will meet the requirements of the Texas Clean Air Act, Texas Health and Safety Code (the Act), Chapter 382, §382.0518, and TACB §116.3. These requirements include compliance with all applicable TACB and federal regulations and ambient air quality standards, and application of best available control technology considering the technical practicability and economic reasonableness of reducing or eliminating emissions.

**Public Attendance and Testimony.** Members of the general public may attend the prehearing conference and the hearing. Those who plan to attend are encouraged to telephone the TACB Central Office in Austin at (512) 908-1770 a day or two prior to the prehearing conference and the hearing dates in order to confirm the settings, since continuances are sometimes granted. Any person who wants to give testimony at the hearing, but who does not want to be party, may call the TACB Hearings Division of the Legal Division at (512) 908-1770 to find out the names and addresses of all persons who may be contacted about the possibility of presenting testimony.

**Information About the Application and TACB Rules.** Information about the application and copies of the TACB's rules and regulations are available at the TACB Regional Office located at 3870 Eastex Freeway, Suite 110, Beaumont, Texas 77703, the TACB Central Office located at 12124 Park 35 Circle, Austin, Texas 78753 and at the Port Arthur City Hall at 444 4th Street, Port Arthur, Texas 77640.

**Legal Authority.** This hearing is called and will be conducted under the authority of the Act, §§382.029, 382.0291, 382.030, 382.031, 382.056, 382.0518, and 382.061 and the TACB §§103.11(3), 103.31, and 103.41.

Issued in Austin, Texas, on February 18, 1992.

TRD-9202578      Steve Spaw, P.E.  
                                 Executive Director  
                                 Texas Air Control Board

Filed: February 20, 1992

For further information, please call: (512) 908-1451

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## Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Air Control Board (TACB) staff is providing an opportunity for written public comment on the listed agreed board orders (ABOs) pursuant to the Act of July 30, 1991, Senate Bill 2, §2.23, 72nd Legislature, First Called Session (to be codified in the Texas Clean Air Act at Health and Safety Code, §382.096). The Act, §382.096 requires that the TACB may not approve these ABOs unless the public has been provided an opportunity to submit written comments. Section 382.096 requires that notice of the proposed orders and of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is April 2, 1992. Section 382.096 also requires that the TACB promptly consider any written comments received and that the TACB may withhold approval of an ABO if a comment indicates the proposed ABO is inappropriate, improper, inadequate, or inconsistent with the requirements of the Texas Clean Air Act. Additional notice is not required if changes to an ABO are made in response to written comments.

A copy of each of the proposed ABOs is available for public inspection at both the TACB's Central Office, located at 12124 Park 35 Circle, Austin, Texas 78753, (512) 908-1000 and at the applicable regional office listed as follows. Written comments about these ABOs should be sent to the staff attorney designated for each ABO at the TACB's Central Office in Austin, and must be received by 5 p.m. on April 2, 1992. Written comments may also be sent by facsimile machine to the staff attorney at (512) 908-1850. The TACB staff attorneys are available to discuss the ABOs and/or the comment procedure at the listed phone numbers; however, §382.096 provides that comments on the ABOs should be submitted to the TACB in writing.

COMPANY: Aarberg Printing Inks Corporation; LOCATION: Grand Prairie, Dallas County; TYPE OF FACILITY: Printing Ink Manufacturing Plant; RULE VIOLATED: TACB §116.1, failure to obtain a construction permit; PENALTY: \$750; STAFF ATTORNEY: Stephen D. Journey, (512) 908-1856; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531.

COMPANY: Affiliated Rice Milling, Inc.; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: Rice Milling Plant; RULE VIOLATED: TACB §101.4 (nuisance emissions) and TACB §101.7 (failure to notify maintenance operations); PENALTY: \$8,000; STAFF ATTORNEY: Scott A. Humphrey, (512) 908-1847; REGIONAL OFFICE: 5555 West Loop, Suite 300, Houston, Texas 77401, (713) 666-4964.

COMPANY: Arco Chemical Company; LOCATION: Channelview, Harris County; TYPE OF FACILITY: Chemical Plant; RULE VIOLATED: TACB §101.20(1), which requires compliance with federal New Source Performance Standards for Equipment Leaks at Synthetic Organic Chemical Plants; PENALTY: \$2,500; STAFF

ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Houston, Texas 77401, (713) 666-4064.

COMPANY: BFG Intermediates Company, Inc.; LOCATION: La Porte, Harris County; TYPE OF FACILITY: Vinyl Chloride Monomer Plant; RULE VIOLATED: TACB §101.20(2), which requires compliance with federal National Emissions for Hazardous Air Pollutants (vinyl chloride); PENALTY: \$3,500; STAFF ATTORNEY: Stephen D. Journey, (512) 908-1856; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

COMPANY: Chemical Resource Processing, Inc.; LOCATION: Deer Park, Harris County; TYPE OF FACILITY: Synthetic organic chemical manufacturing and processing plant, RULE VIOLATED: TACB §101.20(1), which requires compliance with federal New Source Performance Standards for Volatile Liquid Storage Vessels, Equipment Leaks at Synthetic Organic Chemical Plants, and Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Distillation Operations; PENALTY: \$7,000; STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

COMPANY: Comet Cleaners; LOCATION: Benbrook, Tarrant County; TYPE OF FACILITY: Dry Cleaners; RULE VIOLATED: TACB §115.521, failure to install a properly functioning control device such that emissions are limited to no more than 100 ppm before dilution; PENALTY: \$0.00; STAFF ATTORNEY: Stephen D. Journey, (512) 908-1856; REGIONAL OFFICE: 6421 Camp Bowie Boulevard, Suite 312, Fort Worth, Texas 76116, (817) 732-5531 or (817) 732-5532.

COMPANY: Comstock Cattle Corporation; LOCATION: Amarillo, Potter County; TYPE OF FACILITY: Beef Cattle Feedlot; RULE VIOLATED: TACB §116.1, construction without a permit. PENALTY: \$0.00 STAFF ATTORNEY: Bill Zeis, (512) 908-1856, REGIONAL OFFICE: Briercroft South #1, 5302 South Avenue Q, Lubbock, Texas 79412, (806) 744-0900 or (806) 744-6055.

COMPANY: Diamond Shamrock; LOCATION: Mount Belvieu, Chambers County; TYPE OF FACILITY: Propane/Propylene fractionating plant; RULE VIOLATED: TACB Board §101.20(1), which requires compliance with federal New Source Performance Standards for Equipment Leaks at Synthetic Organic Chemical Plants, PENALTY: \$7,500; STAFF ATTORNEY: Susan Owen, (512) 908-1842; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

COMPANY: The Dow Chemical Company; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: Chemical plant; RULE VIOLATED: TACB §101.20(2), which requires compliance with federal National Emissions for Hazardous Air Pollutants (vinyl chloride); PENALTY: \$2,500; STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401 (713) 666-4964.

COMPANY: Ethyl Corporation; LOCATION: Pasadena, Harris County; TYPE OF FACILITY: Chemical plant; RULE VIOLATED: TACB §101.20(2), which requires compliance with federal New Source Performance Standards for Equipment Leaks at Synthetic Organic Chemical Plants; PENALTY: \$6,500, STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964

COMPANY: Hoechst Celanese; LOCATIONS: Pasadena and Bayport, Harris County; TYPE OF FACILITY: Organic chemical manufacturing plant (Pasadena) and polyethylene manufacturing plant (Bayport); RULE VIOLATED: TACB §101.20(1), which requires compliance with the federal New Source Performance Standards for Equipment Leaks at Synthetic Organic Chemical Plants; TACB §115.121(a)(3), which requires visible emissions testing of flares; TACB §115.125(2), which requires flares to have a thermocouple or equivalent device to detect the presence of flame; TACB §115.332, which requires calibration of monitoring instruments. PENALTY: \$14,500; STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

COMPANY: Occidental Chemical Corporation; LOCATION: Ingleside, San Patricio County; TYPE OF FACILITY: Chemical plant; RULE VIOLATED: TACB §101.20(2), which requires compliance with federal National Emissions Standards for Hazardous Air Pollutants (vinyl chloride); PENALTY: \$10,500; STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 1231 Agnes Street, Suite 103, Corpus Christi, Texas 78401, (512) 882-5828 or (512) 882-5829.

COMPANY: Oxychem Petrochemicals; LOCATION: Alvin, Brazoria County; TYPE OF FACILITY: Petrochemicals plant; RULE VIOLATED: TACB §101.20(2), by violating applicable National Emission Standards for Hazardous Air Pollutants and TACB §115.122(a) (1) by failing to meet the smokeless requirement for operation of the Olefins flare; PENALTY: \$19,000; STAFF ATTORNEY: Scott A. Humphrey, (512) 908-1847; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401 (713) 666-4964.

COMPANY: Phillips 66 Company; LOCATION: Sweeney, Brazoria County; TYPE OF FACILITY: petroleum refinery and petrochemical complex; RULE VIOLATED: TACB §101.20(1), which requires compliance with federal New Source Performance Standards for Petroleum Refineries, Storage Vessels for Petroleum Liquids, and Equipment Leaks at Synthetic Organic Chemical Plants; TACB §101.20(2), which requires compliance with federal National Emissions Standards for Hazardous Air Pollutants for Fugitive Emission Sources; PENALTY: \$15,000; STAFF ATTORNEY: Bill Zeis, (512) 908-1844; REGIONAL OFFICE: 5555 West Loop, Suite 300, Bellaire, Texas 77401, (713) 666-4964.

Issued in Austin, Texas, on February 26, 1992.

TRD-9202812 Lane Hartsock  
Deputy Director, Air Quality Planning  
Texas Air Control Board

Filed: February 26, 1992

For further information, please call: (512) 908-1451

## Texas Commission on Alcohol and Drug Abuse

### Statewide Advisory Council Meeting

The Statewide Advisory Council of the Texas Commission on Alcohol and Drug Abuse will meet Thursday, March 5, 1992, 8:30 a.m. to 5 p.m. and Friday, March 6, 1992, 8:30 a.m. to 12 noon. The meeting will be held at the Stouffer Presidente Hotel, Six Greenway Plaza East, Houston.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202798 Bob Dickson  
Executive Director  
Texas Commission on Alcohol and Drug Abuse

Filed: February 25, 1992

For further information, please call: (512) 867-8700

## Texas Bond Review Board

### Bi-Weekly Report on the 1992 Allocation of the State Ceiling on Certain Private Activity Bonds

The information that follows is a report of the allocation activity for the period on February 5, 1992-February 18, 1992.

Total amount of state ceiling remaining unreserved for the \$242,886,000 subceiling for qualified mortgage bonds under the Act as of February 18, 1992: \$100,397,950.

Total amount of state ceiling remaining unreserved for the \$151,803,750 subceiling for state-voted issues under the Act as of February 18, 1992: \$51,803,750.

Total amount of state ceiling remaining unreserved for the \$65,058,750 subceiling for qualified mortgage bonds under the Act as of February 18, 1992: \$35,123,750.

Total amount of state ceiling remaining unreserved for the \$43,372,500 subceiling for residential rental project issues under the Act as of February 18, 1992: \$2,872,500.

Total amount of state ceiling remaining unreserved for the \$364,329,000 subceiling for all other bonds requiring an allocation under the Act as of February 18, 1992: \$49,329,000.

Total amount of the \$867,450,000 state ceiling remaining unreserved as of February 18, 1992: \$239,526,950.

Following is a comprehensive listing of applications which have received a reservation date pursuant to the Act from February 5, 1992-February 18, 1992:

<u>ISSUER</u>	<u>USER</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
1) Mesquite HFC	Eligible Borrowers	Qualified Mortgage Bonds	\$10,148,400
2) Greater East Texas Higher Ed. Authority	Eligible Borrowers	Qualified Student Loan Bonds	\$50,000,000
3) Brazos Higher Education Authority	Eligible Borrowers	Qualified Student Loan Bonds	\$50,000,000
4) Angelina & Neches River Authority IDC	Champion Inter- national Corp	Solid Waste Disposal Facility	\$10,000,000
5) Brazos River Authority	TUEC-Twin Oaks Steam Electric	Solid Waste Disposal Pollution Control	\$50,000,000
6) Port of Corpus Christi Authority of Nueces County, Texas	Hoechst Celanese Corp.	Solid Waste Disposal, Pollution Control, Sewage Facilities	\$40,000,000
7) Arlington HFC	Eligible Borrowers	Qualified Mortgage Bonds	\$19,629,075
8) Houston HFC	Eligible Borrowers	Qualified Mortgage Bonds	\$30,000,000
9) San Antonio HFC	MAGI, Inc.	Residential Rental Harper's Crossing Apts	\$15,000,000
10) Travis County HFC	The Prime Group	Residential Rental Bent Oaks Apts	\$5,000,000
11) Brazos River Harbor Navigation District of Brazoria County, Texas	Dow Chemical Company	Waste Water Project Pollution Control Facilities	\$50,000,000

Issued in Austin, Texas, on February 21, 1992.

TRD-9202747 Tom K. Pollard  
Executive Director  
Texas Bond Review Board

Filed: February 24, 1992

For further information, please call: (512) 463-1741



### Texas Department of Commerce Consultant Proposal Request

This notification is filed pursuant to Texas Civil Statutes, Article 6252-11c.

The consultant will conduct the following services.

**Scope of Services.** The successful candidate will be required to develop detailed cost allocation plans, and render the following services and reports: identify the sources of financial information to be used; classify all Commerce divisions, commissions, and boards; inventory all federal and other programs administered by Commerce; determine administrative departments; determine allocation bases for allocating services to benefiting divisions; develop allocation data for each allocation base; prepare cost allocation worksheet based upon actual expenditures for fiscal year 1991; prepare cost allocation worksheet for fiscal year 1992; summarize costs by benefiting division; collect cost data for all of the programs included in the inventory of federal programs and other programs administered by Commerce; determine indirect cost rates throughout Commerce on an annual basis; formalize plans and present to

the Department of Labor; negotiate final plans and secure approval from the Department of Labor; provide indoctrination session for assigned personnel.

David M. Griffith & Associates, Limited, 8100 Springwood Drive, Suite 200. Irving, Texas 75063, will perform the consulting service for a cost not to exceed \$30,000. The contract shall begin February 18, 1992 and end August 31, 1992. The consultant will provide cost allocation plans to Commerce within 90 days of the commencement of the engagement. After the plans are submitted to Commerce, they will be submitted to the cognizant federal agency and the negotiation process for approval of the plans will begin.

Issued in Austin, Texas, on February 18, 1992.

TRD-9202606 Cathy Bonner  
Executive Director  
Texas Department of Commerce

Filed: February 20, 1992

For further information, please call: (512) 320-9462



### Office of Consumer Credit Commissioner

#### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in Texas Civil Statutes, Title 79, Articles 1.04, 1.05, 1.11, and 15.02, as amended (Texas Civil Statutes, Articles 5069-1.04, 1.05, 1.11, and 15.02).

<u>Types of Rate Ceilings</u>	<u>Effective Period (Dates are Inclusive)</u>	<u>Consumer (1)/Agricultural/ Commercial (2) thru \$250,000</u>	<u>Commercial(2) over \$250,000</u>
Indicated (Weekly) Rate - Art. 1.04(a)(1)	02/24/92-03/01/92	18.00%	18.00%
Judgment Rate - Art. 1.05, Section 2	03/01/92-03/31/92	10.00%	10.00%

(1)Credit for personal, family or household use. (2)Credit for business, commercial, investment or other similar purpose.

Issued in Austin, Texas, on February 18, 1992.

TRD-9202575 Al Endsley  
Consumer Credit Commissioner

Filed: February 20, 1992

For further information, please call: (512) 479-1280



### Texas Court Reporters Certification Board

#### Certification of Court Reporters

Following examination of applicants on January 24, 1992, the Court Reporters Certification Board certified to the Supreme Court that the following individuals are qualified in the method indicated to practice shorthand reporting

pursuant to Chapter 52 of the Government Code.

Oral Stenography: Rickey J. Hopkins-San Antonio; Cynthia Jean Miller-Paris, Texas.

Machine Shorthand: Cathy St. Cyr-Quick-Trabuco Canyon, CA; Bronwyn Rees Dixon-Eules; Alicia Ann DuBois-Corona, CA; Mary C. Hankins-Austin; Joy A. Hebert-Mathis; Karol H. Kocurek-Robstown; Michelle Cherie Martinez-Ennis; Susan Claire Myatt-Lubbock; Dawn Elaine McFarland-The Colony; Leticia Lucia Ramirez-Austin; Christine Maria Ramsel-Grand Prairie; Genevieve Elaine Schaefer-Austin; Rhonda McCay Shaw-Plainview.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202715      Peg Liedtke  
Executive Secretary  
Court Reporters Certification Board

Filed: February 24, 1992

For further information, please call: (512) 463-1630

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### Interagency Council on Early Childhood Intervention

#### Grant Application for Continuation of Funding

Applications are available for continuation funding for Fiscal Year 1993 under the Texas Early Childhood Intervention (ECI) Program. Applications may be submitted by public and private agencies and organizations that are currently ECI approved providers of services to children with developmental delays. The purpose of this program is to provide comprehensive intervention services for children with developmental delays or who are at risk of developmental delay and their families.

Applications must be received by the ECI office by 5 p.m. April 17, 1992, or be postmarked on or before April 16, 1992. Applications should be mailed to the ECI Program, Texas Department of Health, 1100 West 49th Street, Austin, Texas 78756. Inquiries regarding this Request for Proposals should be directed to the ECI Executive Director at (512)458-7673. Funding available for support of these applications is contingent upon state and federal legislative appropriations. Funding will be effective September 1, 1992.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202799      Austin R. Kessler  
Chairperson  
Interagency Council on Early Childhood  
Intervention

Filed: February 25, 1992

For further information, please call: (512) 458-7673

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### Advisory Commission on State Emergency Communications

#### TDD Device Specifications

The request is filed under the provisions of the Health and Safety Code, Chapter 771, §771.075.

**Description of Services.** Bid specifications call for the delivery of new TDD devices to be used for communicat-

ing with the hearing impaired or deaf by 9-1-1 emergency communications personnel.

**Contact Person.** To obtain bid proposal, contact Toni Dunne, Advisory Commission on State Emergency Communications; 1101 Capital of Texas Highway South, Suite B-100; Austin, Texas 78746; (512) 327-1911.

**Closing Date.** March 9, 1992.

**Contractor Selection Process.** Proposals will be evaluated by the Advisory Commission on State Emergency Communications, and selection will be based on experience, qualifications, availability, and reasonableness of proposed cost. Preference will be given, all other considerations being equal, to a business whose places of business is within the state or who will manage the contracted project entirely from its office within the state.

Issued in Austin, Texas, on February 19, 1992.

TRD-9202565      Mary A. Boyd  
Executive Director  
Advisory Commission on State Emergency  
Communications

Filed: February 19, 1992

For further information, please call: (512) 327-1911

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### Texas Employment Commission

#### Request for Information and Qualifications for Architectural Services

The Texas Employment Commission is seeking architectural services for the construction phase of its headquarters facility relocation project. Interested individuals or organizations are invited to submit information about the services they can provide and their qualifications to perform work of the type specified.

The project will consist of design and development of preliminary and final plans and specifications for, and construction of, a multi-story office building of approximately 450,000 square feet with associated parking facilities for approximately 1,300 vehicles.

The work of the architect will include development of preliminary and final plans and specifications, oversight of the actual construction to the extent necessary to assure conformity therewith, and review and comment on submittals and change orders.

All respondents should provide, at a minimum, the following information: a) a brief history of the firm, including type of business organization (individual, partnership, corporation, joint venture, etc.), current size, office location(s), number of employees by discipline, and geographical distribution of employees; b) qualifications of all partners, officers, directors, or shareholders (as applicable to the business organization); c) qualifications and experience of all personnel (professional and support) respondent can reasonably expect to be assigned to work on the project; d) current financial statement(s) of respondent(s); e) ability of the firm to provide the following services through in-house personnel: structural architecture/engineering; interior architecture; landscape architecture; mechanical, electrical, and plumbing engineering; consulting services with respect to: elevators; telecommunications; parking; lighting; life safety; HVAC; f) for those matters listed in (e), a list of proposed subcontractors from those



areas in which the firm does not have in-house capabilities; g) a list of projects done in the last three years, including type, location, cost, size, completion date, and area code and phone number for the owner/developer; h) a detailed analysis of two projects completed in the last five years, preferably similar in size and complexity to this proposed project, including interior and exterior photographs and a narrative explaining how respondent feels they excelled in design to achieve energy efficiency, savings in materials and labor, or the like; i) a statement regarding respondent's current workload, and its probable effect on the design schedule for this project; j) an insurance certificate indicating respondent's errors and omissions/professional liabilities coverage; and k) a disclosure of all business, management, financial, personal, or other relationships with either the Texas Employment Commission or any other party currently involved in this project (the other party currently involved is Crow Austin Management Company, Inc., as broker).

Selection will be based on respondent's demonstrated experience on projects of similar size and complexity; quality of design; budgetary experience and responsibility; the size, availability, expertise, and experience of respondent's staff; respondent's workload, to the extent it might impact on the design schedule for this project; respondent's willingness to accept owner-required design, contract, and construction standards; and respondent's organization and management, including type of ownership, number of years respondent has been established, and experience of respondent's members in working together as a team. Additional consideration will be given to those respondents who have prior experience in public works construction projects using state or federal funds, and respondent's knowledge of state and federal laws and regulations relating to such projects.

By publication of this Request for Information and Qualifications the Texas Employment Commission in no way obligates itself to enter into any contract or agreement, and reserves the right to reject any or all proposals. The Texas Employment Commission reserves the right to enter into negotiations with any or all respondents hereto. Any respondent hereto may be requested to appear for an in-person interview.

Responses must be received by the Texas Employment Commission on or before 5 p.m., Friday, April 3, 1992. Responses should be directed to Texas Employment Commission, Attn: Doyle Cox, Director of Facilities, TEC Building, Austin, Texas, 78778. Any questions concerning this request may be directed to Mr. Cox at (512) 463-2537.

Issued in Austin, Texas, on February 26, 1992.

TRD-9202816 C. Ed Davis  
Deputy Administrator for Legal Affairs  
Texas Employment Commission

Filed: February 26, 1992

For further information, please call: (512) 463-2291

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**Texas State Board of Registration for  
Professional Engineers**

**Public Notice**

The Texas State Board of Registration for Professional Engineers directs this special notice to other state agencies, political subdivisions, counties, municipalities, dis-

tricts, authorities, colleges, universities, independent school districts, and publicly-owned utilities who employ engineers, or are client/users of engineering services, or act as a third-party authority for reviews, approvals, and/or the issuance of permits based on the required filing of engineering documents.

The Texas Engineering Practice Act, Texas Civil Statutes, Article 3271a, was amended by Senate Bill 605, 70th Legislature, 1987, affecting the responsibilities of many public officials involved in engineering matters throughout the state. A similar public notice was published on September 19, 1987, but instances of non-compliance suggest a need for the following reminders.

The most significant amendment to the Act was the addition of subsection (c) of §15, dealing with seals on engineering documents issued by engineers and filed with public authorities. While the board has the authority and duty to enforce the Act, other public officials also have certain responsibilities under the Act.

Section 15(c) specifically provides that "This Act applies to all engineering practiced in this state that is not exempted under this Act. A public official of this state or of a political subdivision of this state who is charged with the enforcement of laws, ordinances, codes, or regulations that affect the practice of engineering may only accept plans, specifications, and other related [engineering] documents prepared by registered engineers, as evidenced by the seal of the engineer. A public official shall report violations of this Act to the proper authorities."

Therefore, §15(c) provides public officials with a statutory means of requesting assurance of registered engineer involvement as required by law, and assists in preventing unlicensed practices by individuals who are not exempt from the Act. Violations of the Act are Class A misdemeanor offenses, subject to action by local prosecuting officers.

Section 15(b) of the Act requires that "Plans, specifications, plats, and reports issued by a registrant must include the registrant's seal affixed to the document." At this point, it is relevant to note that §20(a) and (b) of the Act permit out-of-state engineers to practice in this state and use their out-of-state seal, provided they have an application for a Texas license pending before this board. This fact may be confirmed by an inquiry to the board office (512) 440-7723.

The board has adopted §131.138 to regulate the use of the engineer's seal. It stipulates that both a crimp and a rubber stamp seal are permitted; that a CADD (Computer-aided design/drafting) imprinted seal is also permitted under specified conditions; but that a preprinted seal on blank documents, or a decal (sticky back) seal are not permitted. The rule further requires the engineer to sign his name and place the date of sealing on engineering documents that have been issued by the registrant as completed for an intended purpose which should be specified prominently adjacent to the seal.

Public officials who are in positions of issuing permits, or are otherwise engaged in reviewing and evaluating for compliance with applicable laws, ordinances, codes, regulations and the like, should be aware of the above seal requirements. They should also be aware of §19 and §20(f) of the Act wherein registered engineers are required to be involved.

Section 19 pertains to public work, and subsection (a) states: "It is unlawful for this state or for any of its political subdivisions, including any county, city, or town, to engage in the construction of any public work involving professional engineering, where public health, public welfare or public safety is involved, unless the engineering plans and specifications and estimates have been prepared by, and the engineering construction is to be executed under the direct supervision of a registered professional engineer. However nothing in this Act shall be held to apply to any public work wherein the contemplated expenditure for the completed project does not exceed \$8,000".

Subsection 19(b) states: "This Act shall not apply to any road maintenance or betterment work undertaken by the County Commissioners' Court."

Local building officials accepting plans and specifications for construction permits should be particularly aware of §20(f) of the Act applicable to constructing, erecting, enlarging, altering, or repairing of privately owned buildings. With the exception of private dwellings, small apartment buildings, farm/ranch/agricultural buildings, and commercial, industrial or institutional buildings basically not exceeding one story, or 5,000 square feet of total floor area, or 24-foot unsupported spans on the narrow side, all other buildings require the engineering plans and specifications to be prepared by registered engineers. The design specialties associated with non-exempt buildings normally include, civil, structural, mechanical and electrical engineering. Licensed architects, plumbers, electricians, and air conditioning contractors may perform their respective services, but they do not suffice for registered engineers in the aforementioned engineering facets of building designs.

Two special sealing circumstances should be mentioned. Notwithstanding that the Act exempts from registration persons who would design private dwellings and certain small buildings, it is realized that other lawful authorities can be more restrictive, but not less restrictive, than a general law of the state. Therefore, many local authorities and lending institutions may require the seal of an engineer on foundation designs for private dwellings, and on most post-tensioned slabs of any kind. Also officials holding compliance review and evaluation positions should become familiar with the seal requirements and exceptions of board §131.138(9) as it applies to standards and general guideline specifications.

More detailed information about the statute and the rules of practice and procedure may be obtained from the Board by mailing a request to P.O. Drawer 18329, Austin, Texas 78760.

Issued in Austin, Texas, on February 20, 1992.

TRD-9202619 Charles E. Nemir, P.E.  
Executive Director  
Texas State Board of Registration for  
Professional Engineers

Filed: February 21, 1992

For further information, please call: (512) 440-3074

## Office of the Governor, Criminal Justice Division Crime Victims Assistance Program (VOCA)

Under the provisions of the Victims of Crime Act of 1984 (VOCA), as amended, Texas will receive a federal grant to continue the funding of a Crime Victims Assistance Program. The Governor has designated the Criminal Justice Division, Office of the Governor, to continue to administer that program in the form of grants to units of government and to nonprofit organizations. The Criminal Justice Division, Office of the Governor, to continue to administer that program in the form of grants to units of government and to nonprofit organizations. The Criminal Justice Division (CJD) is now accepting grant applications for eligible projects from state agencies, units of local government, and nonprofit organizations.

The Crime Victims Assistance Program is intended to start or expand projects that provide assistance (but not compensation) to victims of crime for needs resulting directly from the crime and to assist in their participation in criminal justice proceedings. Projects presently receiving VOCA grant funding are not required to state or expand services further to be eligible for continuation funding, but are required to achieve and sustain the presently approved levels/scope of service and to maintain the existing level of matching cash contribution.

**Eligible Projects.** Only those projects which provide services to victims of crime are eligible for grant funding. Such services must directly benefit individual crime victims; must address needs directly resulting from the crime; and may include the required coordination of those services and the training of service providing staff and volunteers. Additionally, to be eligible, each project must, if it is a new project, receive at least 35% of its budget in cash or in-kind contributions from sources other than state grants/contracts of federal grants for categorical programs; or, if it is an existing project, must have a record of providing not less than one completed year of effective services, in a cost-effective manner, to victims of crime, and must receive at least 20% of its total budget from either in-kind contributions or in cash from sources other than state grants/contracts of federal grants for categorical programs, (exceptions are permitted for projects operated on Indian reservations); be operated by a state agency, unit of local government, or nonprofit organization; utilize volunteers, unless a waiver of this requirement based on compelling justification is requested by the applicant and is approved by the executive director of the CJD; promote, within the community served, coordinated public and private efforts to aid crime victims; and assist victims in seeking available benefits under the Texas Crime Victims Compensation Program.

**Significant Restrictions and Special Requirements.** Crime victims must be the sole or primary beneficiaries of the project; individual grants are limited to \$35,000 or to 70% of the existing grant (if any) whichever is lesser; funds may not be used to replace federal, state, or local funds that would have been available for crime victims' assistance in the absence of VOCA funds; and funds may not be used for crime prevention, witness management, general criminal justice system improvements, management training, advocating particular legislation of adminis-

trative reform, for influencing the outcome of any election, for transitional living program, for legal assistance/representation in civil law issues, or for physicians, or counselors on a case-by-case fee basis.

All applications must comply with the program criteria and applicable rules of the CJD, and must be submitted in the form prescribed by CJD. The CJD reserves the right to negotiate modifications to improve the quality and cost-effectiveness of any proposed project and to recommend to the Governor the acceptance, acceptance with modification, or rejection of any grant application. This announcement in no way obligates the CJD toward grant funds or to pay any costs incurred by applicants as a result of responding to this announcement.

**Deadline. Applications must be received by CJD by 5 p.m., Thursday, April 16, 1992. Applicants need to submit copies of applications to the Regional Planning Councils or the Governor's Budget and Planning Office for review under the Texas Review and Comment System (TRACS). In addition, the Office of the Governor, Criminal Justice Division, will conduct workshops to provide assistance in preparing applications; further information will be distributed with the application kit.**

**Application Forms and Information.** Application forms, guidelines, and workshop information will be provided by the CJD upon request. Request should be directed to the Crime Victims Assistance Section, Criminal Justice Division, Office of the Governor, P.O. Box 12428, Austin, Texas 78711, (512) 463-1919.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202735      David A. Talbot, Jr.  
General Counsel  
Office of the Governor

Filed: February 24, 1992

For further information, please call: (512) 463-1919

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## Governor's Energy Office Consultant Proposal Request

This request for consulting services is filed pursuant to the provisions of Texas Civil Statutes, Article 6252-11c.

**Notice of Invitation.** The Governor's Energy Office (GEO) invites proposals from qualified firms, institutions of higher education, or individuals to collect and analyze data to measure energy savings that derive from programs implemented under the State Energy Conservation Program (SECP). Minority and women-owned businesses are encouraged to respond to this request. The Governor's Energy Office anticipates awarding this contract to one firm. Persons employed within the past 12 months by the Governor's Office are not eligible to participate in GEO contracts.

**Background.** In order to comply with the Energy Policy and Conservation Act and SECP regulations for states receiving financial assistance, a calculation of energy savings resulting from SECP programs is conducted annually. The estimated energy savings are reported to the United States Department of Energy (DOE) on DOE-prescribed CE-462 forms, with a separate report summarizing the findings and documenting the calculations.

Program activities of the SECP to be evaluated include seminars/workshops, technical assistance, information dis-

semination, and a statewide retrofit demonstration and revolving loan program.

The selected contractor will be funded on a cost reimbursement basis. All expenses must be properly documented and permissible under the contract and under federal guidelines, and all are subject to approval by the Governor's Office. No advance payments are allowable.

**Scope of Work.** The successful proposer will be expected to perform, at a minimum, the following services.

**Data Collection:** Identify data needs through discussions with GEO staff; contact program contractors to update projected energy savings based on actual data, as appropriate and to obtain additional information.

**Data Analysis:** measure accumulated energy savings derived from the SECP programs by applying prescribed methodologies; for projects initiated in 1991, assess the applicability of the prescribed energy savings methodologies and develop alternative methodologies as required; calculate energy savings by project, program, target audience, and SECP aggregate; calculate accumulated energy savings since 1978 by project, program, target audience, and SECP aggregate.

**Reporting.** Two reports are required.

**Energy Savings Summary Report.** Prepare estimates of energy savings in order for GEO to report to the United States Department of Energy (DOE) on DOE-prescribed CE-462 forms, to be furnished by GEO.

**Executive Summary Report.** Prepare and submit a separate report documenting the methodology and calculations, and describing the findings. The report should cover, at a minimum, the following topics: executive summary introduction; discussion of methodology—data collection: data elements, data sources, and assumptions; formulas and methodologies used to determine savings for each program; finding—summary tables and discussion of energy savings by project, program, target audience, and SECP aggregate, expressed in British Thermal Units (BTUs). Separate tables should demonstrate BTUs saved in 1991 and accumulated savings since 1978; recommendations—provide suggestions for alternative data collection methods in an effort to meet the state's energy goals; conclusions; appendices: detailed calculations of energy savings for each program; examples of any survey instruments used; list of contacts used to prepare this report. List should be formatted to include SECP Program, GEO's Program Coordinator's name and contractor's name, address, and phone number.

**Proposal Format.** Interested parties should submit proposals with the following information: Description of services to be performed; qualifications and experience of Project Team members: knowledge of energy savings methodologies and techniques; experience in designing and evaluating energy conservation programs; technical writing sample; work schedule with milestones; budget (show hourly rates); by category (Personnel, Travel, Supplies, etc.); by task (Data collection, Data analysis, Reporting, etc.).

**Contact Person.** To obtain more information concerning this project, contact Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711; (512) 463-1931.

**Closing Date.** Seven copies of the sealed proposals should be sent to: Blanche Saldivar, Governor's Energy Office, P.O. Box 12428, Austin, Texas 78711.



NEW LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
El Paso	El Paso Community College	L04449	El Paso	0	02/05/92
San Antonio	Cataract Institute of South Texas	L04546	San Antonio	0	02/07/92

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
Abilene	Humana Hospital - Abilene	L02434	Abilene	28	02/07/92
Abilene	Abilene Christian University	L01460	Abilene	14	02/07/92
Austin	Texas Department of Health	L01155	Austin	60	02/07/92
Baytown	Miles, Incorporated	L01577	Baytown	33	02/03/92
Beaumont	Syncor International Corporation	L02987	Beaumont	23	01/31/92
Beaumont	Baptist Hospital of Southeast Texas	L00358	Beaumont	63	02/10/92
Channelview	ARCO Chemical Company	L04439	Channelview	3	02/13/92
Corpus Christi	Valero Refining Company	L03360	Corpus Christi	5	01/30/92
Corpus Christi	Spohn Hospital	L02495	Corpus Christi	32	01/31/92
Corpus Christi	Hoechst Celanese Corporation	L00409	Corpus Christi	49	02/11/92
Edinburg	The University of Texas-Pan American	L00656	Edinburg	14	02/06/92
El Paso	Ansell Incorporated	L04214	El Paso	4	02/06/92
Electra	Electra Memorial Hospital	L03227	Electra	5	01/31/92
Freeport	Brazos Pipe & Steel Fabricators, Inc.	L02186	Freeport	16	02/07/92
Galveston	The University of Texas Medical Branch	L01299	Galveston	36	02/05/92
Gatesville	Coryell Memorial Hospital	L02391	Gatesville	18	02/06/92
George West	USX Corporation	L02449	George West	25	02/04/92
Gonzales	Warm Springs Rehabilitation Hospital - Gonzales	L03485	Gonzales	5	02/11/92
Houston	National Health Laboratories	L01933	Houston	8	01/31/92
Houston	Parkway Hospital	L01964	Houston	30	02/03/92
Houston	Syncor International Corporation	L01911	Houston	81	02/03/92
Houston	University of Houston	L01886	Houston	36	02/05/92
Houston	University of Texas M.D. Anderson Cancer Center	L02972	Houston	11	02/05/92
Houston	TAPCO International, Inc.	L02475	Houston	10	02/06/92
Houston	The U.T. Health Science Center at Houston	L02774	Houston	19	02/07/92
Houston	Texas Southern University	L03121	Houston	7	02/07/92

AMENDMENTS TO EXISTING LICENSES ISSUED CONTINUED:

Houston	Exxon Production Research Company	L00205	Houston	42	02/12/92
Lubbock	Highland Health System, Inc.	L02467	Lubbock	8	02/10/92
Lubbock	Terra Engineers Inc.	L02464	Lubbock	17	02/14/92
Mission	Mission Hospital	L02802	Mission	21	02/10/92

Odessa	K. G. Jerry Taylor Company	L02488	Odessa	7	01/30/92
Orange	Miles Inc.	L00976	Orange	33	01/30/92
Pasadena	Pasadena Mammography Services	L04346	Pasadena	5	02/11/92
Port Arthur	The Cancer Center of Port Arthur	L04426	Port Arthur	1	01/31/92
Port Arthur	AMI Park Place Medical Center	L01300	Port Arthur	17	01/31/92
Quanah	Hardeman County Memorial Hospital	L03638	Quanah	7	02/10/92
San Antonio	Lutheran General Hospital	L02007	San Antonio	13	02/03/92
San Antonio	Southwest Texas Methodist Hospital	L00594	San Antonio	93	02/10/92
San Antonio	Norman, Brannan, Riley, Works, Stewart & Associates	L00325	San Antonio	66	02/10/92
San Antonio	QR Systems	L04223	San Antonio	4	02/07/92
San Antonio	Baptist Memorial Hospital System	L00455	San Antonio	55	02/07/92
San Antonio	National Health Laboratories	L02112	San Antonio	12	02/10/92
San Antonio	Beta Diagnostics Services, Ltd.	L03574	San Antonio	16	02/04/92
Seguin	American Biological Technologies, Inc.	L04265	Seguin	1	02/06/92
Storage Only	Flange-Tech, Inc.	L04281	Houston	1	02/06/92
Terrell	Terrell Community Hospital	L03048	Terrell	9	02/05/92
The Woodlands	Memorial Hospital - The Woodlands	L03772	The Woodlands	10	01/31/92
The Woodlands	BETZ Laboratories	L03377	The Woodlands	7	02/04/92
Throughout Texas	D-Arrow Inspection, Inc.	L03816	Houston	31	01/31/92
Throughout Texas	ENRON/Transwestern Pipeline, Inc.	L04488	Kermit	1	01/29/92
Throughout Texas	Professional Service Industries, Inc.	L00203	Houston	52	01/31/92
Throughout Texas	Kooney X-Ray Inc.	L01074	Barker	59	01/31/92
Throughout Texas	Linac Services Inc.	L03573	Houston	19	01/31/92
Throughout Texas	Digital Surveys, Inc.	L01611	Stafford	19	01/31/92
Throughout Texas	Real Inspection Services Inc.	L04416	Houston	4	01/31/92
Throughout Texas	Danny R. Anderson Consultants, Inc.	L02476	El Paso	8	02/04/92
Throughout Texas	Mobile Research and Development Corporation	L00194	Dallas	35	02/04/92
Throughout Texas	Southwestern Laboratories Inc.	L00299	Houston	73	02/05/92
Throughout Texas	City of San Antonio	L00926	San Antonio	21	02/05/92
Throughout Texas	Radiographic Specialists, Inc.	L02742	Houston	22	02/06/92
Throughout Texas	Weaver Services	L01489	Snyder	17	02/07/92
Throughout Texas	BIX Testing Laboratories	L02143	Baytown	47	02/10/92
Throughout Texas	American Pipe Inspection, Inc.	L02576	Houston	12	02/07/92
Throughout Texas	Odell Geer Construction Company	L01804	Belton	11	02/07/92
Throughout Texas	Ebasco Services Incorporated	L02662	Houston	31	02/07/92
Throughout Texas	Midland Inspection and Engineering Incorporated	L03724	Midland	31	02/11/92
Throughout Texas	G & G X-Ray Inc.	L03326	Corpus Christi	27	02/11/92
Throughout Texas	H & G Inspection Company Inc.	L02181	Houston	62	02/11/92
Throughout Texas	Nuclear Technologies International	L02975	Midland	29	02/12/92
Throughout Texas	Lower Colorado River Authority	L02738	Austin	9	02/13/92
Throughout Texas	EXLOG, Inc.	L03258	Houston	16	02/07/92
Throughout Texas	Midwest Inspection Service	L03120	Perryton	34	02/11/92
Throughout Texas	Applied Standards Inspection Inc.	L03072	Beaumont	33	02/11/92
Throughout Texas	Corpus Christi Inspection & Engineering, Inc.	L04379	Corpus Christi	11	02/12/92
Throughout Texas	Professional Service Industries, Inc.	L00931	Lombard, Illinois	83	02/12/92
Throughout Texas	Schlumberger Well Services	L01833	Houston	80	02/14/92

RENEWALS OF EXISTING LICENSES ISSUED:

Location	Name	License#	City	ment #	Action
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Austin	Motorola, Inc.	L02093	Austin	14	02/03/92

Austin	Allan Shivers Radiation Therapy Center	L01761	Austin	25	02/07/92
Bay City	Matagora General Hospital	L02701	Bay City	5	01/31/92
Baytown	United States Steel Corporation	L02656	Baytown	8	02/12/92
Beaumont	Beaumont Medical Surgical Hospital	L02102	Beaumont	32	01/31/92
Harlingen	Valley Baptist Medical Center	L00154	Harlingen	23	01/31/92
Houston	Hermann Hospital	L00650	Houston	39	01/31/92
Houston	Medical Clinic of Houston	L01315	Houston	20	01/31/92
Houston	The Institute for Rehabilitation and Research	L04000	Houston	7	01/31/92
Houston	Memorial Care System	L00439	Houston	42	02/06/92
Houston	Doctors Hospital	L01776	Houston	19	02/11/92
Irving	Frito-Lay, Inc.	L00930	Irving	17	02/05/92
Kerrville	Sid Peterson Memorial Hospital	L017221	Kerrville	14	02/06/92
La Porte	Dow Chemical Company U.S.A.	L00510	La Porte	46	02/12/92
Lufkin	Memorial Medical Center of East Texas	L00356	Lufkin	20	02/07/92
Mineral Wells	Palo Pinto General Hospital	L01732	Mineral Wells	15	01/31/92
Nederland	AMI Hospitals of Texas, Ltd.	L01756	Nederland	19	02/11/92
Throughout Texas	United Surveys, Inc.	L01570	Rosenberg	16	01/30/92
Throughout Texas	Collin County Courthouse	L04019	McKinney	4	02/03/92
Throughout Texas	Gulf Coast Services, Inc.	L01803	Refugio	17	02/06/92
Throughout Texas	Kebco Pipe Services	L03163	Odessa	7	02/11/92
Throughout Texas	Vector Engineering and Testing Co.	L04031	Wichita Falls	3	02/11/92
Throughout Texas	Berry Fabricators	L01575	Corpus Christi	19	02/11/92
Throughout Texas	JTM Industries, Inc.	L04045	Jewett	3	02/11/92
Throughout Texas	Sander Construction Company	L04041	El Paso	4	02/13/92
Throughout Texas	The Housing Authority of the City of Dallas	L04036	Dallas	3	02/13/92
Waco	James H. Scrugges, M.D. and David S. Dow, M.D.	L00026	Waco	11	02/04/92

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Abilene	Radiology Associates	L00339	Abilene	56	02/07/92
Ballinger	Ballinger Memorial Hospital	L03443	Ballinger	5	02/07/92
Corpus Christi	Driscoll Foundation Children's Hospital Dept.	L03964	Corpus Christi	3	02/06/92
Corpus Christi	Corpus Christi Osteopathic Hospital	L01979	Corpus Christi	13	02/07/92
El Paso	Millbrook, Inc.	L02185	El Paso	23	10/17/90
Fairfield	TU Electric	L04456	Fairfield	1	02/12/92
Fort Worth	Texas Wesleyan University	L04458	Fort Worth	1	02/07/92
Freeport	Gulf Chemical and Metallurgical Corporation	L04064	Freeport	1	02/07/92
San Antonio	Cardiovascular Associates, P.A.	L02637	San Antonio	10	02/07/92

AMENDMENTS TO EXISTING LICENSES DENIED:

Location	Name	License#	City	Amend- ment #	Date of Action
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Beaumont	The American Inspection Company	L04073	Beaumont	0	02/06/92

In issuing new licenses and amending and renewing existing licenses, the Texas Department of Health, Bureau of Radiation Control, has determined that the applicants are qualified by reason of training and experience to use the material in question for the purposes requested in accordance with **Texas Regulations for Control of Radiation** in such a manner as to minimize danger to public health and safety or property and the environment; the applicants' proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property and the environment; the issuance of the license(s) will not be inimical to the health and safety of the public or the environment, and the applicants satisfy any applicable special requirements in the **Texas Regulations for Control of Radiation**.

This notice affords the opportunity for a hearing on written request of a licensee, applicant, or person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who is resident of a county, or a county adjacent to the county, in which the radioactive materials are or will be located, including any person who is doing business or who has a legal interest in land in the county or adjacent county, and any local government in the county, and who can demonstrate that he has suffered or will suffer actual injury or economic damage due to emissions of radiation. A licensee, applicant, or person affected may request a hearing by writing David K. Lacker, Chief, Bureau of Radiation Control (Director, Radiation Control Program), 1100 West 49th Street, Austin, Texas, 78756-3189.

Any request for a hearing must contain the name and address of the person who considers himself affected by agency action, identify the subject license, specify the reasons why the person considers himself affected, and state the relief sought. If the person is represented by an agent, the name and address of the agent must be stated.

Copies of these documents and supporting materials are available for inspection and copying at the office of the Bureau of Radiation Control, Texas Department of Health, The Exchange Building, 8407 Wall Street, Austin, Texas, from 8 a.m. to 5 p.m. Monday-Friday (except holidays).

Issued in Austin, Texas, on February 20, 1992.

TRD-9202768 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 25, 1992

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

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**Notices of Preliminary Report for  
Assessment of Administrative Penalties  
and Notice of Violation**

Notice is hereby given that the Bureau of Radiation Control issued a notice of violation and assessed an administrative penalty to E. E. Bushnell, D.D.S., Pasadena, holder of Certificate of Registration Number R-07697. A penalty of \$16,000 was assessed the individual for violations of the Texas Regulations for Control of Radiation.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, The Exchange Building, 8407 Wall Street, Austin, Monday-

Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on February 19, 1992.

TRD-9202534 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 19, 1992

For further information, please call: (512) 835-7000

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Notice is hereby given that the Bureau of Radiation Control issued a notice of violation and assessed an administrative penalty to Western Atlas International, Inc. (DBA Atlas Wireline Services, ADBA LRS Manufacturing Services), Houston, holder of Radioactive Materials License Number L-00446. A penalty of \$13,000 was assessed the company for violations of the Texas Regulations for Control of Radiation.

A copy of all relevant material is available for public inspection at the Bureau of Radiation Control, the Exchange Building, 8407 Wall Street, Austin, Monday-Friday, 8 a.m. to 5 p.m. (except holidays).

Issued in Austin, Texas, on February 24, 1992.

TRD-9202760 Robert A. MacLean, M.D.  
Deputy Commissioner  
Texas Department of Health

Filed: February 25, 1992

For further information, please call: (512) 835-7000

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**Texas Department of Human Services  
Notice of Award**

In accordance with Texas Civil Statutes, Article 6252-11c, the Texas Department of Human Services (TDHS) announces this consultant contract award. The invitation for consultant proposals was published in the November 29, 1991, issue of the *Texas Register* (16 TexReg 6955).

**Description of Services.** The consultant will study costs, particularly transportation, related to distributing commodities in the Food Distribution Program. Historical costs and costs of a proposed system will be collected and compared. Approximately 2,000 agencies of varying size and types participate in the program statewide.

**Name of Consultant.** The contract for consulting has been awarded to B. R. Blackmarr and Associates, Chateau Plaza, Suite 1700, 2515 McKinney Avenue, LB-17, Dallas, Texas 75201.

**Amount and Duration of Contract.** The total amount of the contract is \$128,410. The contract begins on February 21, 1992, and expires on May 31, 1992.

**Due Dates of Reports.** Reports are due as follows: draft transportation cost collection format report—March 22, 1992; commercial delivery system cost computation report—April 12, 1992; storage and handling cost report—April 26, 1992; transportation report—May 11, 1992; and Final Report—May 31, 1992.



Issued in Austin, Texas, on February 25, 1992.

TRD-9202775 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 25, 1992

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

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**Notice of Correction**

The Texas Department of Human Services (DHS) published a notice of intent to procure family violence services in the February 21, 1992, issue of the *Texas Register* (17 TexReg 1474). Included in the notice was a list of shelters with which DHS intends to contract for family violence services. Omitted from the list was the Bay Area Women's Center, P.O. Box 3735, Baytown, Texas 77522.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202672 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 21, 1992

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

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**Public Notice**

As the Interim Commissioner of the Texas Department of Human Services (DHS), Burton Raiford certifies that DHS has received approval from the Health Care Financing Administration to amend the Title XIX Medical Assistance Plan by Transmittal Number 91-20, Amendment Number 323. The amendment establishes a disproportionate share program for significant disproportionate share hospitals. The amendment is effective August 7, 1991. If additional information is needed, please contact Joe Branton, (512) 338-6505.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202774 Nancy Murphy  
Agency liaison, Policy and Document  
Support  
Texas Department of Human Services

Filed: February 25, 1992

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

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**State Board of Insurance**

**Notice of Public Hearing**

Notice is hereby given that the State Board of Insurance of the Texas Department of Insurance will conduct a public hearing under Docket Number 1863, beginning at 10 a.m. on April 8, 1992, and continuing thereafter each day at times and places designated by the board until conclusion.

The purpose of the hearing will be consideration of any and all rate and procedural rules for the writing of title insurance in the State of Texas which may be brought before the board including, but not limited to, amendments to Premium Rate Rule R-8, Mortgage Policy, on a Loan to Take Up, Renew, Extend, or Satisfy an Existing Loan(s), Rate Rule R-12, Commitment for Title Insurance,

Procedural Rule P-12, Abstract Plants; Procedural Rule P-18, Commitment for Title Insurance; and Procedural Rule P-24, Payment for Services Rendered by a Title Insurance Company, Title Insurance Agent, or Direct Operation to another Title Insurance Company, Title Insurance Agent, or Direct Operation; adoption of new Rate Rule R-\_\_\_\_, Application Premium for Title Insurance; amendments to and consideration of possible amendments to Title 28 Texas Administrative Code, §9. 1 and to the *Basic Manual of Rules, Rates, and Forms for the Writing of Title Insurance in the State of Texas*, which the State Board of Insurance has adopted under Title 28 Texas Administrative Code, Chapter 9. The board may also consider such other matters and subjects relative to the regulation of the business of title insurance as the board shall determine necessary or proper.

The hearing will be held in the board hearing room on the first floor of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

**Notice of a Pre-Hearing Conference.** Notice is hereby given that a pre-hearing conference will be held before the general counsel or other designated representative of the State Board of Insurance at 1:30 p.m. on March 11, 1992 in Room 100 of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

The pre-hearing conference will be held for the following purposes: admission of parties; consideration of formulation and simplification of issues; settlement of issues as are in dispute including discovery; agreeing to a calendar and deadlines for the designation of expert witnesses, discovery, and the pre-filing of direct testimony and exhibits etc.; considering the procedure at the hearing including grouping of agenda items, time limits, order of presentation, and cross examination; such other matters as may aid in the simplification of the proceedings, and in the disposition of matters in controversy.

Anyone wishing to participate in the hearing regarding rate rules or rules with rate implications must, by 9 a.m. on March 9, 1992, present a written motion for admission as a party to the Office of the General Counsel, Texas Department of Insurance, Mail Code 113-2A, 333 Guadalupe Street, Austin, Texas 78701. The motion must contain a full explanation of the identifiable separate interest and separate contribution which would constitute sufficient justification for granting the motion for admission as a party. Without an extensive showing of exceptional circumstances, the board will not accept any motion for admission as a party after the deadline stated herein, and any decision on admission or consolidation of parties at the pre-hearing conference will be final, subject to review by the board.

**Authority and Jurisdiction.** The State Board of Insurance has jurisdiction over the promulgation of rules and premium rates, over amendments to or promulgation of approved forms, and over other matters to be considered in the writing of title insurance in the State of Texas pursuant to the Texas Insurance Code, Articles 1.02, 1.04, 9.01, 9.02, 9.07, 9.21 and 9.30, and pursuant to Title 28 Texas Administrative Code, §9.1 and §9.401.

**Statutes and Rules Involved.** The Administrative Procedure and Texas Register Act (Texas Civil Statutes, Article 6252-13a) and the rules of practice and procedure before the State Board of Insurance (Title 28 Texas Administrative Code, Chapter 1, Subchapter A) set forth the nature

and requirements of procedures available for the consideration of proposed rates and rules to be presented to the State Board of Insurance at the public hearing.

Reference is further made to the statutes and rules cited in other paragraphs of this notice of hearing and to Chapter 9 and other articles of the Texas Insurance Code, to Chapter 9 and other sections of Title 28 Texas Administrative Code, and to the *Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas* (the Basic Manual) to the extent of specific provisions which are applicable to any proposed rule, rate or other matter asserted.

**Matters Asserted.** The matters asserted under Docket Number 1863 are any rate and procedural rules, any related forms, and such other amendments or additions to the *Basic Manual*, on matters and subjects relative to the regulation of the business of title insurance as the board shall determine necessary or proper, including, but not limited to, the following.

1. Rate Rule R-8, pertaining to the credits allowed upon the premium for a Mortgagee Policy issued on a loan to fully take up, renew, extend or satisfy a lien or liens already covered by a Mortgagee Policy;
2. Rate Rule R-12, pertaining to the premium permitted for a Commitment for Title Insurance under certain limited rules;
3. Procedural Rule P-12, pertaining to the definition and minimum requirements for an abstract plant, and the method of establishing leased abstract plants and joint abstract plants;
4. Procedural Rule P-18, pertaining to the issuing of a Commitment for Title Insurance;
5. Procedural Rule P-24, pertaining to the portion of premium to be paid by a title insurance company, title insurance agent or direct operation to another title insurance company, title insurance agent or direct operation for services rendered in connection with furnishing title evidence, furnishing title evidence and examining title, examining title and closing a transaction, or closing a transaction; and
6. Rate Rule R-\_\_\_\_, pertaining to an application premium to be collected by a title company on any application for an owner or mortgagee policy of title insurance prior to commencement of a title search and examination.

**Procedure at the Hearing.** Items considered at the hearing concerning rule changes with rate implications will be considered on a contested case basis as provided in the Administrative Procedure and Texas Register Act. Other rules changes will be considered under the rulemaking provisions of the Administrative Procedure and Texas Register Act. The rules of practice and procedure before the State Board of Insurance and the commissioner of insurance will apply in all cases. Different rules will apply depending on whether the matter under consideration is ratemaking or rulemaking

Please note §1.9 of the rules of practice and procedure before the State Board of Insurance and the commissioner of insurance: §1.9. Failure to Appear at Hearing. Even though some or all of the parties fail to appear in person or through their duly authorized representatives, the board, the commissioner, or the fire marshal may consider fully and dispose of the matter pending if notice has been given

in accordance with law. Such consideration and decision shall be on the basis of the entire record in the proceedings.

Each page of any exhibit offered in evidence must be numbered and on 8 1/2-inch by 11-inch paper, three-hole punched along the left margin. The front page of each exhibit should indicate that it would be part of the record of a public hearing before the State Board of Insurance and should identify the subject of the hearing, the docket number, the hearing date, and the party offering the exhibit. The front page of an exhibit should also provide a description of the exhibit and a space for numbering the exhibit. For example: Public Hearing before the State of Insurance, Subject of Hearing: Amendments or additions to Rate Rules and Procedural Rules for Title Insurance, Docket Number 1863, Date: April 6, 1992, Party:\_\_\_\_\_; Exhibit #\_\_\_\_\_; Description of Exhibit: \_\_\_\_\_.

Each prospective party shall file with the general counsel of the State Board of Insurance, no later than noon, March 27, 1992, nine copies of each exhibit that will be offered at the hearing. Address all filings to Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701.

A party offering supplemental or revised exhibits into evidence at the hearing should be prepared to furnish the following: the original exhibit and five copies. The original shall be marked and retained for the official record, and the parties shall thereafter use an exact photocopy of such marked exhibit in the examination of witnesses; one copy for each other party admitted to the hearing.

After identification of the exhibit and any use of it by a witness, the original of each exhibit should be returned to and retained by the general counsel as a part of the record in the hearing.

All deadlines in this notice and the deadlines established in the procedural calendar are subject to change by and at the board's discretion except for items requiring statutory notice.

Please direct inquiries regarding this hearing to Gloria Leal, General Counsel, Mail Code 113-2A, Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701, or telephone (512) 463-6331 or to Fabian S. Gomez III, Director of Title Insurance, Mail Code 104-1C, or telephone (512) 322-3470.

The State Board of Insurance will defer any decisions on the matters asserted under Docket Numbers 1840 and 1841 until all deliberations have been completed under Docket Number 1863.

Issued in Austin, Texas, on February 25, 1992.

TRD-9202767 Linda K. von Quintus-Dom  
Chief Clerk  
Texas Department of Insurance

Filed: February 25, 1992

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

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**Commission on Jail Standards**  
**Consultant Proposal Request**

Pursuant to the Texas Civil Statutes, Article 6252-11c The Commission on Jail Standards invites request for proposal (RFP) to provide internal auditing services as described following.

**Description of Work:** The selected accounting firm or individual(s) will perform internal auditing meeting the requirements of the Texas Internal Auditing Act. The internal auditor shall report directly to the Texas Commission on Jail Standards, Executive Director and Audit Committee and be free of any operational or management responsibilities. Detailed specifications are contained in the RFP available February 28, 1992, from the Fiscal and Support Service Office, Second Floor, Suite 200, 611 South Congress, Austin, between the hours of 8:30 a.m. and 4:30 p.m., Monday-Friday. For detail information, contact Howard Allen, Staff Services Officer, (512) 463-5505.

**Closing Date:** Responses will be accepted only if actually received in writing in the Fiscal Support Services Office no later than March 20, 1992, no later than 5 p.m. Central Standard Time on this date. All proposals should be submitted one original and five copies. The Texas Commission on Jail Standards reserves the right to reject any or all proposals.

Issued in Austin, Texas, on February 19, 1992.

TRD-9202533      Jack E. Crump  
Executive Director  
Texas Commission on Jail Standards

Filed: February 19, 1992

For further information, please call: (512) 463-5505

◆      ◆      ◆  
**Texas State Library and Archives  
Commission**

**Local Government Records Committee**

Notice is hereby given, pursuant to the Texas Government Code, Chapter 441, Subchapter J, for the purpose of making an appointment to the Local Government Records Committee.

Dr. Frances Noll has been appointed to serve on the committee for a term to expire February 1, 1993.

Dr. Noll is appointed to fill the vacancy arising from the resignation of Dr. Kay Stansbery.

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

TRD-9202576      Raymond Hitt  
Assistant State Librarian  
Texas State Library and Archives  
Commission

Filed: February 20, 1992

For further information, please call: (512) 463-5440

◆      ◆      ◆  
**Public Utility Commission of Texas  
Notice of Applications**

Notice is given to the public of the filing by GTE Southwest, Inc. for an exception from and an extension of time to comply with certain provisions of Public Utility Commission Substantive Rule 23.45.

**Docket Number and Style.** Docket Number 10822. Petition of GTE Southwest, Inc. for an Exception from and an Extension of Times to Comply with Substantive Rule 23.45.

**The Application.** GTE Southwest, Inc. filed a petition for an exception from certain requirements of Substantive Rule 23.45(f), related to the itemization of charges for optional Extended Metro Service (EMS), and an extension of time, until August 1992, for compliance with other requirements of that subsection.

Persons who wish to intervene must do so by filing a motion to intervene by 4 p.m. Monday, March 9, 1992, at the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 19, 1992.

TRD-9202537      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 19, 1992

For further information, please call: (512) 458-0100

◆      ◆      ◆  
Notice is given to the public of the filing by United Telephone Company of Texas, Inc. for a temporary waiver from the requirements of Public Utility Commission Substantive Rule 23.45(f)(1).

**Docket Number and Style.** Docket Number 10835 Application of United Telephone Company of Texas, Inc. for Temporary Waiver from Requirements of Substantive Rule 23.45(f)(1).

**The Application.** United Telephone Company of Texas, Inc. filed an application for a temporary waiver, until May 1, 1992, of certain billing information required by Public Utility Commission Substantive Rule 23.45(f)(1).

Persons who wish to intervene must do so by filing a motion to intervene by 4 p.m. Monday, March 9, 1992, at the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 19, 1992.

TRD-9202538      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 19, 1992

For further information, please call: (512) 458-0100

◆      ◆      ◆  
**Notice of Application to Amend  
Certificate of Convenience and  
Necessity**

Notice is given to the public of filing with the Public Utility Commission of Texas of an application on January 31, 1992, to amend a certificate of convenience and necessity pursuant to the Public Utility Regulatory Act, §§16(a), 17(e), 50, 52, and 54. A summary of the application follows.

**Docket Title and Number:** Application of Gulf States Utilities to amend certificate of convenience and necessity for proposed transmission line within Montgomery Coun-

ty, Docket Number 10935 before the Public Utility Commission of Texas.

**The Application:** In Docket Number 10935, Gulf States Utilities Company requests approval of its application to construct approximately 2.7 miles of 138-kV transmission line in Montgomery County.

Persons who wish to intervene in the proceeding or comment upon action sought, should contact the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Public Information Division at (512) 458-0223, or (512) 458-0227 within 15 days of this notice.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202678      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 21, 1992

For further information, please call: (512) 458-0100

◆      ◆      ◆

### Notice of Intent To File Pursuant To PUC Substantive Rule 23.27

Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific PLEXAR-Custom Service for American Airlines, Fort Worth.

**Tariff Title and Number:** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for American Airlines Pursuant to PUC Substantive Rule 23.27(k). Tariff Control Number 10950.

**The Application:** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for American Airlines. The geographic service market for this specific service is the Fort Worth area.

Persons who wish to comment upon action sought should contract the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 20, 1992.

TRD-9202676      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 21, 1992

For further information, please call: (512) 458-0100

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Notice is given to the public of the intent to file with the Public Utility Commission of Texas an application pursuant to PUC Substantive Rule 23.27 for approval of customer-specific PLEXAR-custom Service for IBM, Austin.

**Tariff Title and Number.** Application of Southwestern Bell Telephone Company for approval of Plexar-Custom Service for IBM Pursuant to PUC Substantive Rules 23.27(k). Tariff Control Number 10951.

**The Application.** Southwestern Bell Telephone Company is requesting approval of Plexar-Custom Service for IBM.

The geographic service market for this specific service is the Austin area.

Persons who wish to comment upon action sought should contract the Public Utility Commission of Texas, at 7800 Shoal Creek Boulevard, Suite 400N, Austin, Texas 78757, or call the Public Utility Commission Public Information Section at (512) 458-0256, or (512) 458-0221 for teletypewriter for the deaf.

Issued in Austin, Texas, on February 20, 1992.

TRD-9202677      Mary Ross McDonald  
Secretary of the Commission  
Public Utility Commission of Texas

Filed: February 21, 1992

For further information, please call: (512) 458-0100

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### Texas Department of Transportation Public Notice

In accordance with notices published in the *Texas Register* on February 14, 1992, (17 TexReg 1357) and February 21, 1992, (17 TexReg 1478), the Texas Transportation Commission conducted a public hearing on Tuesday, February 25, 1992, at 1:30 p.m., and received data, comments, views, and/or testimony concerning the commission's highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions as required by Texas Civil Statutes, Article 6673k.

The original deadline for submitting comments as specified in the public notices was 5 p.m. on March 3, 1992. In order to assure that all interested parties have adequate opportunity to comment, the deadline has been extended to 5 p.m. on March 16, 1992.

Comments, either oral or written, may be submitted to William A. Lancaster, P. E., Director of Highway Design, 125 East 11th Street, Austin, Texas 78701, (512) 465-6201.

Issued in Austin, Texas on February 26, 1992.

TRD-9202817      Robert E. Shaddock  
General Counsel  
Texas Department of Transportation

Filed: February 26, 1992

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

◆      ◆      ◆

### 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 Mobay Corporation (SWR 32107) on February 3, 1992, assessing \$21,280 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Bob Warneke, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas

78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 12, 1992.

TRD-9202517      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 19, 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 Chemtreat, Inc. (SWR 38941) on February 7, 1992, assessing \$18,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Alvarado, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 12, 1992.

TRD-9202520      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 19, 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 Lanson, Inc. (Permit 11949-01) on February 7, 1992, assessing \$3,840 in administrative penalties with \$1,200 deferred and possibly foregone pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Sharon Smith, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 12, 1992.

TRD-9202518      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 19, 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 Hertel, Earl on February 4, 1992, assessing \$1,470 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Mark Alvarado, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 12, 1992.

TRD-9202519      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 19, 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 City of Clarksville (Permit 10148-01) on February 11, 1992, assessing \$8,200 in administrative penalties with \$1,500 deferred and possibly waived pending compliance. Stipulated penalties were also imposed.

Information concerning any aspect of this order may be obtained by contacting Margaret Ligarde, Staff Attorney, Texas Water Commission, P.O. Box 13087, Austin, Texas 78711-3087, (512) 463-8069.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202719      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 24, 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 Rockwool Industries, Inc. (Permit SWR 30086) on February 19, 1992, assessing \$2,400 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 February 21, 1992.

TRD-9202718      Laurie J. Lancaster  
                         Notices Coordinator  
                         Texas Water Commission

Filed: February 24, 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 February 10, 1992-February 14, 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.

B. L. Helm; wastewater treatment facilities; are approximately 1,000 feet south of FM Road 1960, approximately 4,500 feet east-southeast of the intersection of FM Road 1960 and Wilson Road in Harris County; renewal; 13264-01.

Bammel Utility District; the wastewater treatment facilities, are on the south bank of Cypress Creek, approximately 6,400 feet downstream of the crossing of Cypress Creek by Stuebner-Airline Road in Harris County; renewal; 11105-01.

Harris County Municipal Utility District Number 182; the wastewater treatment facilities are on the east bank of Greens Bayou and approximately 0.5 mile south of FM Road 525 in Harris County; renewal; 12273-01.

Jasper County Water Control and Improvement District Number 1; the wastewater treatment facilities; are located approximately 2,000 feet due south of the intersection of U.S. Highway 96 and State and State Highway 62 in Jasper County, renewal; 10808-01.

Lakeview Methodist Assembly doing business as Lakeview Methodist Conference Center; the wastewater treatment facilities; are approximately one mile north of State Highway 294 and approximately three miles east of the intersection of State Highway 294 and U.S. Highway 79 in Anderson County; renewal; 10578-01.

City of La Vernia; wastewater treatment facilities; are located in the City of La Vernia, approximately 2,000 feet east of the FM Road 775 on River Street in Wilson County; renewal; 11258-01.

Charles C. Munson; The Oak Creek Mobile Village Wastewater Treatment Facilities; are approximately 1,000

feet west and 1,800 feet north of the intersection of FM Road 1417 and FM Road 691 in Grayson County; renewal; 13325-01.

Porter Municipal Utility District; wastewater treatment facilities; are approximately 7,000 feet south of the intersection of FM Road 1314 and U.S. Highway 59; approximately 4,300 feet east of the intersection of Wallis Drive and U.S. Highway 59 in Montgomery County; renewal; 12242-01.

Portland Enterprises; wastewater treatment facilities; are located approximately 200 feet north of U.S. Highway 181 and approximately 3/4 mile southwest of the intersection of FM Road 893 (Portland Road) and U.S. Highway 181 in the City of Portland, San Patricio County; renewal; 11096-01.

Saint Francis Village, Inc.; the wastewater treatment facilities; are located approximately 2.5 miles south of the Benbrook Dam, approximately one mile north of Rocky Creek Park in Tarrant County; renewal; 10612-01.

Stephen F. Austin State University; the Piney Woods Conservation Center Wastewater Treatment Facilities; the plant site is approximately 5,000 feet south-southwest of the intersection of FM Roads 705 and 3127 in San Augustine County; renewal; 13161-01.

Tarkington Independent School District; wastewater treatment facilities, are located approximately 1.5 miles east of the intersection of FM 163 and State Highway 321 and 8.0 miles southeast of the City of Cleveland in Liberty County; renewal; 11377-01.

City of Trinity; wastewater treatment facilities; are approximately 1,500 feet east-southeast of the intersection of Pegoda Road (FM Road 356) and Ramey Street in southeast Trinity in Trinity County; renewal; 10617-01.

Fina Oil and Chemical Company; facility manages both non-hazardous and hazardous industrial solid wastes generated on site; the facility is located on a 1167.91-acre tract of land five miles east of the Howard County Courthouse near the intersection of IH 20 and Refinery Road in the City of Big Spring, Howard County; amendment; HW50140; 45 days.

Intercontinental Energy Corporation, doing business as IEC Corporation; the Lamprecht and Zamzow Mining Projects; these waste disposal wells WDW-156 is located approximately 2,500 feet from the north line and approximately 2,600 feet from the east line of Section 150, R. Tripplett Survey, A-458, Live Oak County, Texas (29 degrees 30 feet 21 inches north latitude, 98 degrees 03 feet 30 inches west longitude). WDW-159 is located approximately 200 feet from the east line and approximately 5,250 feet from the north line of the Louis Romero Survey, A-395, Live Oak County, Texas (28 degrees 29 feet 06 inches north latitude, 98 degrees 03 feet 48 inches west longitude); amendment; WDW-156 and WDW-159.

Safety-Kleen Corporation; operation of a Class I hazardous waste storage and processing facility; facility is located on the north side of FM Highway 1845, at 202 Michael Place, in the City of Longview, Gregg County; New; HW50223; 45 days.

Western Waste Industries of Texas, Inc.; Class I, II, and III non-hazardous industrial solid waste the facility and from off-site sources. The facility is located on a 237-acre tract of land at 1750 Loop 336 East, immediately south of the Montgomery County Airport. The facility is accessed by private driveway and is further described as

being on the north side of Loop 336, approximately 3.9 miles east of IH 45 in Montgomery County; New; SW39001.

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

TRD-9202521      Laurie J. Lancaster  
Deputy Chief Clerk  
Texas Water Commission

Filed: February 19, 1992

For further information, please call: (512) 463-7906



Notice is given by the Texas Water Commission of public notices of waste disposal permit applications issued during the period of February 17, 1992-February 21, 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.

City of Lockhart; the wastewater treatment plant; is located at the end of Larremore Street in the eastern part of Lockhart, approximately 1/2 mile east of the intersection of U.S. Highway 183 and State Highway 142 in Caldwell County; amendment; 10210-01.

M. N. Mauritz, Trustee for T.N. & S.E. Mauritz Trust Estate; the wastewater treatment; facilities are located immediately east of the intersection of Canal Road and the Missouri Pacific Railroad, approximately 3,000 feet in a southwesterly direction from FM Road 404 (U.S. Highway 185) and northwest of Bloomington in Victoria County; renewal; 13235-01.

Sandia Agricultural Enterprises, Inc.; the dairy; is on the southwest side of FM Road 70, at the intersection of FM Road 70 and FM Road 1540 in Jim Wells County; new 03435.

Shell Oil Company; the wastewater treatment facilities; are located approximately 200 feet southwest of the intersection of Interstate Highway 45 North and West Mount Houston Road (State Highway 249) in the City of Houston in Harris County; renewal; 12244-01.

Southern Montgomery County Municipal Utility District; the wastewater treatment facilities; are located at 854 Rayford Road, approximately 4,000 feet east of Interstate Highway 45 and approximately 3,500 feet north of Spring Creek in Montgomery County; renewal; 11001-01.

Issued in Austin, Texas, on February 21, 1992.

TRD-9202726      Laurie J. Lancaster  
Deputy Chief Clerk  
Texas Water Commission

Filed: February 24, 1992

For further information, please call: (512) 463-7906



## 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

Please use this form to order a subscription to the *Texas Register*, to order a back issue, or to indicate a change of address. Please specify the exact dates and quantities of the back issues requested. Each copy of a back issue is \$5 including postage. You may use your Mastercard or Visa to purchase back issues or subscription services. To order by credit card, please call the *Texas Register* at (512) 463-5561. All purchases made by credit card will be subject to an additional 1.9% service charge. For more information, please write to the *Texas Register*, P.O. Box 13824, Austin, TX 78711-3824 or call (512) 463-5561.

**Change of Address**  
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**Back Issues Requested**  
(Please specify dates)

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